

Know about Eviction Procedures In Ohio

Q: My wife and I formed an LLC for a property rental business, and we manage the properties ourselves. Are we allowed to file eviction actions against tenants and sue them for damages, or must an attorney do that?

A: Yes and no. You can only file evictions if you own the rental property yourselves. Because the corporation (LLC) technically owns the rental property, only an attorney can file an eviction action or sue for damages.

Due to a recent Supreme Court of Ohio ruling, however, you now may file a complaint in small claims court on behalf of the LLC for damages against the tenants, as long as you do not act as a lawyer would at trial by arguing or cross-examining witnesses, or engaging in other acts of advocacy. Note, though, that in small claims court, you can seek no more than \$3,000 in damages.

Q: When may a landlord collect attorney fees or punitive damages in an action against a tenant?

A: A landlord generally is not entitled to collect punitive damages (a fine intended as punishment). A landlord also is not entitled to collect attorney fees in an eviction action for non-payment of rent. However, Ohio law says that a landlord may collect actual damages and attorney fees if the tenant does not:

- 1) keep his or her unit safe and sanitary;
- 2) dispose of all garbage in a safe and sanitary manner;
- 3) keep all unit plumbing fixtures as clean as their condition permits;
- 4) operate all electrical and plumbing fixtures properly;
- 5) comply with state and local housing, health, and safety codes;
- 6) refrain from and forbid any guest from intentionally or negligently destroying, defacing, damaging, or removing any fixture, appliance, or other part of the premises;
- 7) maintain in good working condition any appliance (e.g., range or refrigerator) supplied by the landlord;
- 8) behave in a way that will not disturb the neighbors and require guests to do the same; and
- 9) allow the landlord reasonable access (upon 24 hours' notice) to enter the premises to inspect, make repairs, deliver parcels, supply necessary or agreed-upon services, or show the unit to prospective or actual buyers, mortgagees, tenants, workers, or contractors.

Q: Assuming we get a writ of restitution from the court to forcibly remove a tenant from his unit, how can we enforce that order? Also, do we have any responsibility for the tenant's belongings?

A: Generally, you may ask the same court that ordered the writ of restitution to also issue a writ of execution by filing a precipe with the clerk of courts, along with a filing fee. Within 10 days after receiving a writ of execution, depending on jurisdiction, the sheriff, police officer, constable, or bailiff must execute the writ to restore your property to you. Generally, the sheriff or another court officer will allow you to open the unit, remove all of the tenant's belongings, and then place them next to the curb or street. Even though the sheriff (or other appointed officer) is technically

responsible for restoring your property, in actuality, you as the landlord will need to arrange and obtain your own movers to physically move the tenant's belongings in a reasonable amount of time on the move-out date. Because you are helping the sheriff execute a court order, you would not be liable to the tenant for anything that happens to the belongings, during or after the move, as long as you do not intentionally damage the belongings. For example, you would not be responsible if the tenant's belongings were accidentally damaged during the move, or stolen after having been placed on the curb.

Q: Where can I get more information about evictions?

A: The Ohio State Legal Services Association (OSLSA) provides information about evictions and other landlord/tenant issues through www.ohiolegalservices.org.

5/1/2013

This "Law You Can Use" legal information column was provided by the Ohio State Bar Association (OSBA). It was prepared by Neil P. Agarwal, Esq., an attorney with the Akron firm of Agarwal & Agarwal.

Articles appearing in this column are intended to provide broad, general information about the law. Before applying this information to a specific legal problem, readers are urged to seek advice from an attorney.