The Eviction Process

The following is a general overview of the Eviction Process.  It will help you understand what the procedures are to carry out an eviction on your tenant.

Steps are: Summary Ejectment Filing, Tenant Served Summons, Court, Appeal, Writ of Possession Filing, Eviction – Possession by Landlord, Disposal of Tenant Personal Property

**Summary Ejectment Filing**

– A landlord (or their representative) must file to take a tenant to court to evict them.

– Your lease with the tenant has a section to cover rent payments due on the first (1st) day of the month and court action can be started ten (10) days after that day if no rent is paid.

– The landlord (or their representative) begins the court process by filing a Complaint in Summary Ejectment with the Small Claims Court. The filing fee to be paid to the Clerk of Court Office is $96 and is due at filing, as well 30.00 per defendant payable to the Cumberland County Sherriff’s department

– Landlord (or their representative) takes the complaint process to the Sheriff Office, along with a separate stamped envelope for each address to be served. There is a $30.00 processing fee for every tenant named on the Summons.

**Tenant Served Summons**

– The tenant must be served with the Complaint in Summary Ejectment and the Summons by the Sheriff Office before the court date. The summons will state the date, time and place for the Small Claims Court hearing.

 **Court**

– Landlord (or their representative) and tenant will appear in court. Both can have an attorney; can present evidence, and even subpoena witnesses. This is all done before a Magistrate.

**Appeal**

– Once the Magistrate makes a decision, the losing party has ten (10) days to appeal for a new trial. During that ten day time period the landlord cannot force the tenant to move.

**Writ of Possession Filing**

– If the tenant does not appeal within ten (10) days, the landlord must obtain a Writ of Possession of Real Property signed by the Clerk of the Court and pays a filing fee of $25.00 to the clerk, $30.00 for Sherriff for each defendant. The landlord (or their representative) takes the Writ to the Sheriff Office and pays the processing fee of $30. This Writ directs the Sheriff Office to physically remove the tenant and the personal property from the premises.

– The Writ is assigned to a Deputy in the Civil Unit of the Sheriff Office. The Deputy Sheriff will call the landlord to set a date and time to carry out the eviction. The date set for the eviction will be no later than seven (7) days. Some holidays may interfere with this schedule.

– The tenant is notified by the Sheriff Office of the eviction.  A copy is mailed to the address, and a copy is either served personally, or posted at the address.

**Eviction – Possession by Landlord**

– The landlord (or a representative) must be present at the eviction. On the day of eviction, the tenant is removed from the residence. The locks can be changed at this time.

– Tenants are no longer allowed in the home and can legally be charged with trespassing should they return at a later time without landlord permission. The door will be posted with a No Trespassing sign by the Sheriff Office.

**Disposal of Tenant Personal Property**

– If property is left behind, the landlord must not dispose of the property for at least ten (10) days, and must comply with all the statutory requirements. The property can be moved, but stored in a secure place, if the Writ is executed. After the ten (10) days, the landlord can dispose of the property, if he/she has complied with all the statutory requirements.

Should landlord decide to not proceed with this process for whatever reason and elects to allow tenant to stay in the home and continue renting, a Notice of Voluntary Dismissal filing is required to stop the process. Should landlord need to evict this same tenant in the future, process starts all over again from the beginning with filing a Complaint in Summary Ejectment.