

Housing Court Judge Raymond L. Pianka presents:

## **FREQUENTLY ASKED QUESTIONS ABOUT EVICTIONS**

### **1. My tenant has not paid the rent. Do I have to file an eviction with the Court?**

Yes. In Ohio, a landlord of residential premises cannot physically remove the tenant from the premises, terminate utilities, or change the locks to encourage a tenant to move from the premises. This is called “**self-help**,” and is **illegal** in Ohio. A landlord must file a complaint against the tenant, go to court, be granted a judgment, and follow the court-instituted eviction procedure to remove the tenant from the premises.

### **2. Is it true that the Court does not do move-outs in the winter?**

No. The Court may limit the number of move-outs, which may take place around the Christmas and New Year holidays, because of staff limitations. The Court, however, performs court-supervised move-outs five days a week, all twelve months of the year.

### **3. I understand it may take 60 to 90 days to evict a tenant. Is that true?**

For a simple non-payment case, a tenant may be evicted within less than five weeks: The landlord must serve the three-day notice, then wait three business days. The landlord then files the complaint with the Clerk of Courts. The court date is set for three weeks from the date of filing. Then, if the eviction is granted, the move-out may take place within seven days from the date of hearing. The process in that case would be completed in approximately five weeks.

### **4. My tenant has not paid rent for eight months. Can I get an immediate move-out date?**

No. Tenants who are evicted generally are given seven days to move from the premises. Under very limited circumstances, the Court may shorten that time: when there has been significant police activity at the premises, evidence of drug activity, or evidence that the tenants pose an immediate threat to the health and safety of the landlord or other tenants.

### **5. In Court, the magistrates ask if a tenant is a “Section 8 tenant.” Is the eviction procedure different for “Section 8” or subsidized tenants?**

Yes. Tenants who participate in federal subsidy programs, including the Section 8 programs, are afforded special protection under Federal law. As a general rule, subsidized housing tenants are

entitled to written notice of their opportunity to meet with the management, and an opportunity to meet with the management. They also may be entitled to an opportunity to correct their conduct before the landlord may file an eviction action. The specific requirements vary with each of the subsidized or “Section 8” programs. A landlord interested in evicting a Section 8 tenant should first know the type of Section 8 or subsidy involved. Second, the landlord should read carefully the lease and contract, which has been signed. Finally, because both federal and state laws apply to Section 8 evictions, the court recommends that Section 8 landlords obtain legal advice from an attorney before filing an eviction against a tenant in a federal subsidy program.

**6. My landlord has refused to make repairs to my apartment. Can I withhold my rent?**

**No.** In Ohio, a tenant whose landlord refuses or fails to make repairs cannot withhold their rent. However, the tenant may deliver to the landlord written notice of the defective conditions or repairs requested. Then, if the landlord does not make the repairs in a reasonable amount of time, the tenant may deposit her rent with the Court. You can get more information about rent deposit from the Housing Court Specialists on the 13th Floor of the Justice Center.

**7. Are move-outs delayed if tenants have children?**

As a general rule, move-outs may be scheduled as early as seven days from the date of the court hearing. The magistrate may, under extreme circumstances, extend the move-out by a few days. However, there is not automatic extension because the tenant has children, an elderly parent, etc.

**8. My elderly parent is being evicted. Are there any special services available for elderly tenants who are being evicted?**

There is no automatic extension of time for move-outs for elderly tenants. The Housing Court does work with the City of Cleveland Department of Aging to assist senior citizens in finding new housing. Seniors interested in this assistance should let the Judge, magistrate or a housing court specialist know of their interest *no later than* the day of their court hearing. They may also contact the Department of Aging directly at (216) 664-2833.

**9. In Court, the magistrate recommended that the parties in my case try mediation. What is mediation and would I agree to try it?**

Mediation offers parties an opportunity to resolve their dispute without the intervention by the Court. In mediation, the parties sit down with a mediator, who is a neutral third party, and try to reach an agreement regarding their dispute. The mediator will help the parties put the agreement

in writing. Many parties find that they can abide by an agreement they help write. In most cases, if the parties wish, the agreement may be enforceable by the Court.

By its nature, the Court, when deciding cases, must decide that one party wins and one party loses. The parties, however, may be able to reach middle ground, or resolution, which would give both parties some of the relief they are seeking. The Court may recognize from the testimony of the parties that an agreement may be possible. The Court may recommend mediation to those parties. In addition, the Court may suggest mediation when it appears that the parties would be better served by an agreement than a Court judgment. Both parties must agree to send their case to mediation.

Mediation is available to landlords and tenants upon request. The Court's mediation office is located on the 15th Floor of the Justice Center, and can be reached at (216) 664-4926. It is not necessary to file a court case to request mediation.

#### **10. What if I have questions about Housing Court procedure?**

The Housing Court employs Housing Court Specialists to assist landlords and tenants with questions about housing court procedure. The specialists also provide the public with general information about the Ohio Landlord Tenant Act and the City of Cleveland codified ordinances. The specialists are not attorneys, and cannot give parties specific advice about pleadings or defenses. They do, however, provide the parties with valuable information, and are a good place to start if you have questions. The specialists are located on the 13th Floor of the Justice Center. They are available on a first come, first served basis, from 8:30 a.m. until 3:30 p.m., Monday through Friday.