

# EVICTION BASICS

## The eviction process has two parts:

- 1) Possession hearing — the Court decides which party will be given possession of the premises.
- 2) Damages hearing — the Court decides the amount of money owed, if any, by each party to the other. Includes past due rent, late fees, attorneys' fees, repairs, etc.

## If you go into Court for a hearing:

- 1) Be courteous; limit comments to necessary facts; be as brief as possible.
- 2) If the Judge orders you to move out, ask the Judge to put these words in your Order: "**VOLUNTARY VACATE INSTEAD OF EVICTION.**"

## Move out best practices:

- 1) Clean and take pictures — Clean thoroughly; remove all belongings and trash. Take pictures of every room—floors, ceilings, windows, etc.—so you can show the condition when you moved out.
- 2) Turn in your keys — Be sure to turn in your keys to the landlord. If you do not turn in the keys, the landlord can charge you for changing the locks and for rent until the locks are changed.
- 3) Leave a forwarding address — The landlord has a legal duty to send you a statement showing the amount of money they claim you owe them. They must send you this statement within 45 days of the day you move out, or at least 10 days prior to a damages hearing.

## What it means if the Court issues a "Writ":

- In some cases, a Judge includes a Writ in the Court Order. The Writ is only executed (used) if you fail to move out on the date Ordered by the Court.
- The Writ allows the landlord to come to your home with a Constable (like a Sheriff) who will **make** you leave the premises. In this situation, you are allowed a few minutes to gather a few personal, essential items, and then you must leave.
- Any property of yours left in the home will be moved to a storage unit and you will have to pay the moving and storage fees to get the property back.
- NOTE THAT THE CONSTABLE ONLY COMES TO EXECUTE A WRIT IF YOU HAVE FAILED TO MOVE ON THE DATE YOUR COURT ORDER REQUIRES YOU TO VACATE.

## Steps required to file a request to have your EV case sealed from the public record:

- 1) Get a court Order that resolves the issue of possession of the premises. This Order may state either that (a) you agree to voluntarily vacate or (b) the landlord agrees that you may continue to live in the home.
- 2) Pay the balance owed to the landlord before the date of the damages hearing.
  - If you have already moved out of the home, you may be able to negotiate a reduced payment. Landlords will often accept a reduced amount in exchange for getting paid right away. You can try to negotiate a reduced payment directly with the landlord or with their attorney.
  - It is important to pay off the debt *before* the damages hearing. If you cannot get the debt paid before the damages hearing, you may ask the judge for a continuance of the damages hearing to give you a little more time to pay off the debt.
  - When you pay off the full amount owed (or the agreed-upon reduced amount), ask the landlord for a written statement saying that you have satisfied the debt in full, and also ask them to dismiss the court case.

- If you pay the agreed upon amount and the landlord does not dismiss your case, you should file a request with the court to dismiss the case. Be sure to attach the landlord's written statement that you've paid the debt in full.

3) **Ask the court to seal the case** — This is the step that removes your case from the public record! AFTER your case has been dismissed and you have paid the balance owed to the landlord, you are ready to file a Motion to Seal the eviction case (instructions and form available at [IndianaLegalHelp.org](http://IndianaLegalHelp.org)).

If you are unable to manage these steps on your own, or if the Court denies your Motion to Seal, you may contact one of the following legal services providers for help with having your case sealed:

- Indiana Legal Services at <https://www.indianalegalservices.org/applyonline> and phone 1-844-243-8570 Monday - Friday from 10 am - 2 pm;
- The Neighborhood Christian Legal Clinic at <https://www.nclegalclinic.org/intakes> and phone [317-429-4131](tel:317-429-4131);
- The Indianapolis Legal Aid Society, phone number 317-635-9538.