

EVICTON PROCESS

STEPS IN THE EVICTION PROCESS

In All cases an attorney should be consulted for additional information.

1. **NOTICE TO VACATE** – Written three (3) day notice to vacate, given to the tenant from the landlord notifying the tenant to leave the premises. Notice must be given at least three days prior to initiation of the lawsuit for rent and possession. KSA (Kansas Statutes Annotated) 61-3803 and 58-2540
2. **FORCIBLE DETAINER** – This is an official court document consisting of a Summons and Petition. The petition outlines the particulars or facts of the action filed by the landlord (plaintiff) against the tenant (defendant) and will list what the plaintiff is asking the court to do (judgment). This document is filed with the Clerk of the District Court. The Clerk of the District Court will assign a case number and court date. KSA 61-3804 and 61-3805
3. **Trial** – The judgment will depend upon what was listed in the Petition. Usually this will be for any back rent (money) and possession of the specific premises. The defendant has five (5) days after judgment is entered to file an appeal. KSA 61-3902. A supersedeas bond must be posted with the appeal. KSA 61-3906. If after the expiration of the five days and no appeal and supersedeas bond have been filed a Writ of Restitution may be issued by the court.
4. **Writ of Restitution** – This is an official court document that directs and orders the Sheriff's Office to immediately remove the occupants of the specific premises, inventory the property located therein and turn possession of the property to the Plaintiff*. Entry may be by whatever means necessary to affect the court order including the use of a locksmith. Cost for entry will be paid by the plaintiff. All property on the premises will be inventory by court order. The Sheriff's Office will also video tape the property. When filing the Writ of Restitution a Journal Entry must also be filed. The Journal Entry is a summary of the judgment entered at the trial (court hearing). KSA 61-3808 Note: Johnson County District Court does not use the state form. This form is unique to Johnson County. Copies of this form can be obtained from the Johnson County Sheriff's Office – Field Operations Unit located in the Courthouse.
 - a. The Sheriff's Office has **ten (10) calendar** days from the date the Writ of Restitution is received to complete the eviction.
 - b. Prior to the Sheriff executing the Writ of Restitution a notice is delivered to the defendant or posted to the premises stating that the Sheriff's Office has a court order to evict the defendant. The notice states a specific date that the Sheriff's Office will affect the Court Order. This is a **courtesy only** as a notice is *not* required by law. This notice is given to allow the defendant one last chance to move on their own.
 - c. The Eviction or Writ of Restitution can only be canceled by the Courts, the plaintiff or the plaintiff's attorney. The defendant cannot cancel the action.

* The landlord is responsible to move and store the tenant's property. The landlord should check with their attorney for the length of time they are required to store the property.

Eviction Laws are in Kansas Statutes Annotated Chapter 60 Article 38.
Landlord and Tenant Laws are in Kansas Statutes Annotated Chapter 58 Article 25.

08/27/2004