

What Can I Do After I Am Served With A 72-Hour Warrant Of Eviction

Why have I been served with a 72 hour notice to vacate?

If you have been served with a 72 hour warrant notice from a civil officer (usually someone from the Marshals' office or the Sheriff's Department), it is generally because your landlord started an eviction action against you and a judge has awarded your landlord a warrant of eviction. The judge may have also awarded your landlord a money judgment against you. You have now been provided notice that you have 72 hours or three days to move voluntarily. If you are still in your apartment when the civil officer returns, you will be forced to leave (often without your possessions), and you will not be able to re-enter your apartment without the landlord's permission.

I did not receive any court papers or any other notices telling me that an eviction had been started against me. I do not have a new apartment to go to. What should I do now?

In order to stop your eviction at this point, you will need legal assistance. To stop your eviction, a judge must sign an order and the order must be given to the civil officer before your 72 hours is up. Because 72 hours is a short period of time, you must act quickly. As soon as you are made aware of the situation, you should contact the court in the city or town where you live to see if they have any record that an eviction was filed against you. You should also get a copy of the court papers from the court and contact a legal services office immediately. If an attorney is available to take your case, it may take that person a day or more to help you. It may be that the attorney will not be able to stop your eviction.

I received court papers telling me to go to court for an eviction case, but I showed up late. Now I have been served with a 72 hour notice. What should I do?

In order to stop your eviction, you will need legal assistance. Contact your local legal services office immediately. You should know that there is the possibility that your eviction can not be stopped.

I did receive court papers telling me to go to court, but I did not go. Now I have been served with a 72 hour notice. What should I do?

Again, in order to stop your eviction, you will need legal assistance. Contact your local legal services office immediately. You should know that there is the possibility that your eviction can not be stopped.

My landlord told me I did not have to appear in court. Now I have been served with a 72 hour notice. What should I do?

Again, in order to stop your eviction, you will need legal assistance. Contact your local legal services office immediately. You should know that there is the possibility that your eviction can not be stopped.

I have the money I owe my landlord. If I pay him, will that stop my eviction?

Not necessarily. Your landlord could accept the money you owe and still have you evicted. If you decide to offer your landlord the money you owe to try to stop your eviction, you should ask your landlord to write a statement and date it indicating that you have paid him money, indicating the amount of money you have paid AND stating that because you have paid this money your landlord will not evict you. You should tell your landlord to call the civil officer who is scheduled to put you out to tell him that you will not be evicted. You may want to call the civil officer yourself to make sure your landlord has cancelled the eviction. If you find out your landlord plans to evict you anyway, you should contact a legal services office.

My landlord will not agree to let me stay. What will I need to do to stop my eviction?

Once you have been served with a 72 hour notice from a civil officer, only a judge can prevent your eviction. If you have found an attorney willing to take your case, he or she will prepare an order "staying" or temporarily preventing your eviction and ask a judge to sign it. The judge does not have to sign the order and will base his or her decision on a number of factors including your reason for not being in court, whether you owe your landlord money and whether you have the money you owe, and whether you have any defenses to the eviction case. If the judge does sign the order, you will have to appear in court at a later date and the judge will make a final decision at that time as to whether you can stay in your apartment.

What will happen if I cannot find a lawyer to take my case, or the judge will not sign the order preventing my eviction?

Approximately three to five days after the date on your 72 hour warrant of eviction notice, the civil officer will return. If you have not moved by then, you will be forced to leave your apartment and your landlord will be allowed to change the locks on the doors. Outside of the City of Buffalo, evictions may take place exactly 72 hours from the time that the 72-hour notice is posted on the door (excluding weekends and Holidays). Generally, the civil officer will not give you extra time to move your belongings. You can contact the civil officer to find out when they plan to remove you.

What will happen to my belongings if I have to leave them?

Legally a landlord is not allowed to keep a tenant's personal possessions. However, you should remove all your possessions, especially your valuable ones, before you are evicted.

What are my rights if I am properly evicted and my belongings are still in the apartment?

It is unlawful for your landlord to legally evict you and then refuse to give you back your possessions. You should contact the police and your local legal services office if your landlord refuses to return your possessions to you.

Is my landlord responsible for my personal possessions if I move or I am evicted and they get left behind?

Your landlord is only under a duty not to intentionally damage or destroy your possessions. For that reason, you should remove all your possessions before you are evicted. If that is not possible, you should contact your landlord as soon after your eviction as possible to make arrangements to move your things.

Your landlord may decide to put your possessions in storage if they are still there after you are evicted, and you may have to pay the storage fee before the storage company will release them to you.

What can I do if my landlord loses, damages, or destroys my belongings?

You can take your landlord to Small Claims Court for the value of your belongings. For information on the Small Claims Court process, you may contact the Housing Unit of Neighborhood Legal Services at 847-0650.

Is there any other available assistance?

Yes, the Erie County Department of Social Services (ECDSS) may be able to help you pay for moving and storing your possessions. They can also help you find a temporary place to stay. You can also contact Neighborhood Legal Services at 847-0650.