

I Haven't Paid the Rent

I can't pay my rent. Can my landlord ask me to leave?

If you don't pay your rent, your landlord can ask you to move. Your landlord must first ask for the rent in writing by certified mail within five days from the due date and must then give you a separate written notice to pay rent or move within 14 (fourteen) days. If you try to pay your landlord before the 14 days are up, your landlord must accept the rent.

If your landlord tells you to pay or move and you don't have the money, your landlord must take you to court and have a judge order you to move from the apartment. Only a judge can order you to move.

What will happen if I still don't have the money after 14 days?

If you haven't paid your rent or moved from the apartment after the 14 days, your landlord may take you to court. You will receive court papers called a NOTICE OF PETITION and PETITION.

What will the court papers tell me?

The court papers will tell you when to go to court and why the landlord is taking you to court. Usually, you will get the papers 10 to 17 days before your court date. NEVER IGNORE COURT PAPERS. TALK TO A LAWYER IF YOU CAN. You can call the **Western New York Eviction Prevention Hotline** at **844-230-7376** to get referred to a free lawyer.

What should I do after I get court papers?

If you don't have money to pay the rent, you can ask your local Department of Social Services for emergency housing assistance to stop your eviction (see attached listing). It is best to be there as early in the morning as possible. When you go, be sure to bring your court papers or a letter from your landlord saying exactly how much rent you owe. You also need to bring proof of the identity of your household members and proof of income.

You also may be able to get help paying your rent from one of the organizations listed on the attached page.

What will happen when I go to court?

Be sure to get to court on time. Most City Courts have an "Attorney of the Morning" program or an organization providing free legal assistance to low-income tenants. This attorney can review your court papers, and may be able to represent you. There is no charge for this service. You can also call the **Western New York Eviction Prevention Hotline** at **844-230-7376** to get referred to a free lawyer.

What will happen next?

If this is your first time in court, the court clerk or judge will call out your landlord's name and your name. You should go up in front of the judge. Your landlord might not be there. The judge will give you a paper with a new court date on it. This is so you have a chance to get a lawyer. A lawyer will talk to you about your legal options and help you to decide whether to negotiate with your landlord, move out, or gather evidence and prepare for a hearing.

If this is the second time in court, the court clerk or judge will call out your landlord's name and your name. You should go up in front of the judge with your landlord. If you have a lawyer, make sure they are with you. Your landlord will then tell the judge why he or she is there. After your landlord talks, you will have a chance to tell the judge your side of the story.

What happens after my landlord and I tell our sides of the story to the judge?

The judge will make a decision based upon what you and your landlord have said. The judge may decide to grant your landlord a judgment of eviction and order you to move. Or, the judge may dismiss your landlord's case so that you are not evicted. The judge may also try to work out a settlement agreement between you and your landlord, or schedule a new hearing and make you come to court again.

What happens if the judge tells me I have to move?

After court, a civil officer (usually from the Marshal's or Sheriff's office) will post a 14-day notice on your door. The notice should tell you the earliest date that the civil officer can return to put you out. You can call the phone number on that notice to ask exactly how much time you have before you will be put out.

What if I have all the rent I owe with me in court?

If you are being evicted for not paying the rent, you may be able to pay the rent you owe in court on the court date. Bring, in cash or money order, all the rent you owe plus \$45.00 for court costs to the court. Tell the judge you have all the rent you owe with you. Show the judge the money. If you are able to pay the back rent in full on the day of court, your landlord cannot refuse it. Be sure to get a rent receipt if you pay the rent. If you have all of your rent in court, and the judge will not make the landlord take the rent, call the Housing Unit at Neighborhood Legal Services at (716) 847-0650.

If you pay all the rent and court costs you owe in court on the court day, by New York State Law, your eviction should be stayed (stopped) and you should not be evicted.

What if I don't have all the rent with me in court on the court date?

If you don't have **all** the rent with you on the court date, you should first ask if your landlord will agree to a payment plan. If you and your landlord agree to work things out with you paying the rent at some other time, you should tell the judge what the agreement is. Make sure you get a receipt when the rent is paid.

If you do not pay in court and the landlord gets a warrant of eviction, **you can still stop the eviction** if you deposit the total rent owed with the court before the warrant executes (before the police officers get there), as long as you did not delay payment in bad faith. Warrants can execute as early as 14 days after the court appearance.

What happens if I'm still in the apartment when the Marshal or Civil Officer comes back?

If you are still in the apartment when the Marshal appears, he will make you leave the apartment. Your landlord then has the right to change the locks on the apartment door. If you still have things in the apartment, you must contact the landlord to arrange to remove them. Your landlord must hold on to your belongings or store them for a reasonable amount of time, and it is illegal for your landlord to sell or keep any of your property because you owe rent. If this should happen, you should contact a lawyer for further advice and assistance.

You can call the Housing Unit at Neighborhood Legal Services at (716) 847-0650, or your local office at the phone number listed below.

* PLEASE SEE ATTACHED FOR LIST OF LOCAL AGENCY/ORGANIZATION PHONE NUMBERS

Local Agency & Organization Phone Numbers

BUFFALO

Erie County Department of Social Services: (716) 858- 8000

Salvation Army: (716) 883-9800

Community Action Organization (CAO): (716) 881-5150

Catholic Charities: (716) 856-4494

Restoration Society: (716) 832-2141

Gerard Place: (716) 897-9984 x 108

NIAGARA FALLS & LOCKPORT

Niagara County Department of Social Services: (716) 278-8400

Salvation Army Niagara Falls: (716) 283-7697

Salvation Army Lockport: (716) 434-1276

Niagara Community Action Program (NIACAP): (716) 433- 6632

Heart, Love and Soul: (716) 282-5687

Catholic Charities Niagara Falls: (716) 282-4991

Catholic Charities Lockport: (716) 433-0246

BATAVIA

Genesee County Department of Social Services: (585) 344-2580