

The Eviction Process in Philadelphia County

Notice to Vacate

In order to evict a tenant in Philadelphia, a landlord is required to give the tenant a [written notice](#). If the tenant has a written lease, there may be a clause in the lease stating precisely how much notice is required. If a tenant is being evicted for non-payment of rent, unless otherwise specified in the lease, the landlord must give a ten (10) day written notice. However, sometimes the lease "waives", or sets aside, the right to a notice. The same is true if there is a word of mouth lease agreement. All tenants have a lease of some kind; if the lease is not in writing, the law assumes the tenant to have an oral lease, or a lease created by the action of the landlord and tenant. For example, the action of paying rent to live in a property.

If a tenant is being evicted for any reason other than non-payment of rent, and the lease does not say how much notice is required, the written notice must be 15 days if the lease is for one (1) year or less; if the lease is for more than one year, thirty (30) days written notice is required.

Landlord must file a Complaint in Court

After the time period in the written notice to vacate expires, the landlord must file an Eviction Complaint against the tenant in Landlord-Tenant Court. The Court will send a copy by U.S. mail to the tenant. The Complaint will state the date and time the tenant must appear in court, as well as the reasons the landlord is asking for an eviction.

Service of the Complaint

The law also requires that the landlord give a copy of the Complaint directly to the tenant, or post [attach] a copy of the Complaint at the leased premises. [see Philadelphia Municipal Court Rule 111(A) and (B) which reads:

...the plaintiff has the option of serving statements of claims either:

(A) by writ servers and first class mail. The court shall serve the Complaint by mailing a copy of it to the defendant by first-class mail and by delivering a copy of it for service to a writ server. The writ server receiving the copy shall serve it by handing it to the defendant or to an adult person in charge for the time being of the premises possession of which is sought to be recovered or, if none of the above is found, by posting it conspicuously on those premises; **OR**

(B) by any competent adult in the manner prescribed in Chapter 400 of the Pennsylvania Rules of Civil Procedure.

Hearing in Landlord Tenant court

The tenant must attend the court hearing to defend against any claims made by the landlord. If the tenant does not appear for the hearing at the time specified in the Complaint, the tenant automatically loses the case and a [default judgment](#) will be entered against the tenant. (If the tenant arrives late- even by only a few minutes- the court can enter a default judgment. It can be very difficult to open a default judgment) Even if the tenant and landlord reach an agreement before the court hearing, the tenant **must** go to the hearing.

At court, and before the actual hearing begins, the tenant may choose to enter into mediation, or attempt to negotiate a settlement, with the landlord. The Philadelphia Landlord-Tenant Court currently will provide a mediator if both parties agree to mediation. However, a mediator is not required for the parties to negotiate. A landlord and tenant may choose to negotiate without the help of a court provided mediator.

All agreements created at court are written and binding, and **cannot be appealed**. If the tenant-or landlord- does not understand any part of the agreement, they can and should ask a mediator, or

the Trial Commissioner, for an explanation of any confusing terms or language- **before signing the agreement**. Once the agreement is signed it becomes permanently binding on all parties. Only those obligations written in a court agreement are enforceable. Any verbal agreement outside of the written agreement is usually not recognized or enforced by the court.

If the tenant chooses not to enter into mediation, or if mediation fails, the tenant may contest the landlord's Complaint. A contest means the tenant will defend against the landlord's claims before a judge, therefore, allowing a judge to decide the case. The tenant should have all related documents, such as Licenses and Inspections reports, photos, letters, notices, lease, and rent receipts ready for presentation when they go before the judge. Any witnesses must also be prepared to testify at this point.

Petitions to Open Default Judgments

If a tenant was served with a Landlord and Tenant Complaint but arrived late or missed the scheduled court hearing, the tenant may lose his or her case even if the landlord had no grounds for eviction. Failure to appear, or late arrival, will lead to what is called a [default judgment](#). If a default judgment is entered against the tenant, but, the tenant disagrees with the terms of this judgment, a Petition to Open must be filed as soon as possible.

Appeal from Landlord Tenant Court

After the hearing in Landlord Tenant Court, if the tenant did not make an agreement with the landlord, and the judge rules against the tenant, the tenant may be able to appeal the case to a higher court. In Philadelphia the higher court is the Common Pleas Court of Philadelphia. ***The appeal must be filed within 10 days of the judge's decision or it can never be filed. There are no extensions available if the tenant does not file within the 10 day appeal period.***

The appeal prevents the tenant from being evicted, as long as all rules governing the appeal process are followed. One of the most important rules is the requirement that the tenant begin depositing all monthly rent into an escrow account with the court at the time the appeal is filed. Failure to open the escrow account, or deposit the money in full and on time, can lead to an eviction of the tenant and the eventual dismissal of the appeal. The Notice of Appeal and other documents are filed with the office of the Prothonotary of the Court of Common Pleas in Philadelphia City Hall.

Judgment and Writs of Possession

If a judge rules against the tenant, a judgment for possession is given to the landlord. This judgment does not mean the landlord is entitled to the tenant's personal property. Instead, the judgment means that possession of the space rented by the tenant will return to the landlord after an eviction or the tenant voluntarily moves out of the rented property.

After the ten (10) day appeal period has expired, the landlord may file for a Writ of Possession. The Writ will be served on the tenant or posted on the leased premises. The Writ of Possession notifies the tenant that an eviction will take place on or after 11 days from the day the Writ of Possession is served. As a result, no eviction can take place until 21 days after the court judgment- (10 day appeal period + 11 day Writ of Possession).

Eviction

After the eleven (11) days specified in the Writ of Possession have expired, the landlord must return to Court and file for an **Alias** Writ of Possession. A Landlord-Tenant Officer, or a Sheriff, may deliver the **Alias** Writ of Possession to the tenant's address. When the **Alias** is delivered or served, if the tenant is inside or at the leased premises, the tenant will be physically evicted from the premises. The locks will be changed and/or a padlock will be placed on the entrance to the tenant's home. The tenant may not gain access again without permission of the landlord. An Alias Writ of Possession may be served, or executed, **even if the tenant is not at home at the time of the eviction**. If

the tenant returns home to find the Alias posted on a door or window, the tenant may not enter the property without first contacting the landlord to gain access.