This brochure courtesy of Legal Services of Northern Virginia. If you have questions about this material or this subject, we would like to hear from you. <u>Sendus e-mail</u> or call at 703-778-6800.

## **EVICTIONS IN VIRGINIA**

## 1. WHAT ARE MY RIGHTS IN AN EVICTION CASE?

All landlords must go to court to evict a tenant. That means you will get a chance to tell your side of the story to a judge. You can have a lawyer to represent you, but the court will not pay for the lawyer. If you need witnesses to come, the court can order them to appear. The court can also make the landlord explain the reasons for eviction in writing. A lawyer could explain many other rights.

## 2. WHAT ARE THE MOST COMMON REASONS FOR EVICTION?

Nonpayment of rent and violating the lease (for example, loud parties or breaking the law) are two common reasons for eviction.

# 3. IF MY LANDLORD DOESN'T MAKE REPAIRS, CAN I HOLD BACK THE RENT?

No! In Virginia, you must always pay your rent. If you hold back the rent, you can be evicted, even if you thought you had a good reason.

If the landlord doesn't make repairs, you can pay your rent to the court. You and the landlord then tell the judge about the case. The judge can force the landlord to make repairs.

# 4. IS THE LANDLORD REQUIRED TO GIVE ME ANY WARNING IN AN EVICTION CASE?

The landlord must tell you in writing that he or she wants to evict you, and why. In Virginia, many tenants have month-to-month leases. That means the landlord can ask you to move in 30 days without giving a reason.

In a nonpayment of rent case, the landlord must give you a written notice asking you to pay the rent within five days or face eviction. Otherwise, the landlord must show that the lease has ended, or that you have violated the lease. In these cases, you will have 30 days notice before the landlord can file a court case to evict you. If you think the landlord is wrong, you have a right to go to court and let the judge decide.

#### 5. WHAT SHOULD I EXPECT IN COURT?

There will be a lot of cases. When yours is called, you should stand up and tell the judge you are there. If you have not been able to talk to a lawyer, you may want to ask for a "continuance" (a later court date).

If you don't understand the landlord's reason for evicting you, you can ask for a "bill of particulars" (a written statement from the landlord). You may have to write an "answer and grounds of defense," telling your side of the story. Be sure to write down all the dates the judge tells you.

On your court date, all witnesses will have to speak under oath. The landlord goes first. You will get a chance to question the landlord and any other witnesses. After that, you and your witnesses will testify. Then the landlord gets to ask questions. At the end, each side can make a short closing argument, telling all the reasons the judge should decide the case for the landlord or the tenant.

After hearing both sides, the judge will decide the case. If you win, you can stay on as if the case never came to court. If the landlord wins, the judge will tell you to leave the house or apartment within ten days.

## 6. DO I NEED A LAWYER?

Some tenants can win in court without a lawyer. But it makes sense at least to get a lawyer's advice before going to court. Often the landlord will have a lawyer, and will know the court procedure better than you will. Having a lawyer in court with you can help you feel more comfortable, and can also help you tell your whole story to the judge. See the back page for how to find a lawyer.

## 7. IS THERE OTHER HELP AVAILABLE?

Some cities and counties have Offices of Consumer Affairs (OCAs) and Tenant-Landlord Offices that provide free information, and try to help landlords and tenants settle their problems before they get to court. See the Resource List beginning on page 5 for OCAs and Tenant-Landlord Offices in Northern Virginia.

#### 8. WHAT IF I HAVE THE RENT BY THE COURT DATE: CAN I STAY?

Your landlord must accept rent up to the court date and let you stay; you can safely pay the money. But you must also pay late fees, court costs and attorney's fees. You can only do this once every 12 months, if you do not pay before, the landlord will be able to take the money and still ask a court to evict you.

# 9. CAN MY LANDLORD "RETALIATE" AGAINST ME?

Landlords cannot "retaliate" against (get back at) a tenant who is trying to protect his or her rights. Some tenants feel that landlords will try to evict them anyway, or raise their rents. If your landlord tries to do these things after you have complained about repairs, or testified against the landlord in court, or become part of a tenant group, you may be able to complain in court. A lawyer can tell you more about how to do this.

## 10. HOW MUCH TIME DO I HAVE AFTER THE COURT DATE?

The law automatically gives you ten days after the court date, to decide if you can appeal. If you do not appeal, after the ten days, the landlord can ask the court to tell the sheriff to come out to supervise the eviction.

#### 11. CAN I APPEAL IF I THINK THE JUDGE IS WRONG?

Yes, but it can be difficult. Virginia law gives you ten days to fill out the appeal form, and pay an "appeal bond" and court costs. The judge can make this amount as little as \$1.00 (or less) or as much as one year's rent paid in advance. The average is two or three months' rent. Usually, you do not have to pay rent to the landlord for any months that you have paid to the court. If you do not pay the appeal bond, you will lose your appeal.

# 12. WHAT SHOULD I EXPECT WHEN THE SHERIFF COMES?

The sheriff comes to keep the peace, and will not actually move you out. The landlord must take care of that. The law says that the landlord must protect your property, but many still put property out by the curb.

It is always best to move your things out before the sheriff arrives because then you can put them in storage or ask someone to hold them for you.

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#### LSNV OFFICES

If you need legal help, call the Legal Services Branch that serves the city or county in which you live to make an appointment. To be helped by Legal Services, you must meet financial eligibility requirements. These guidelines will be explained to you when you call.

LSNV serves disadvantaged individuals in the counties of Arlington, Fairfax, Loudoun and Prince William, and the cities of Alexandria, Fairfax, Falls Church, Manassas and Manassas Park.

LSNV Main Office 6066 Leesburg Pike, Suite 500 Falls Church , VA 22041 703-778-6800

Alexandria Office 603 King Street, 4<sup>th</sup> floor Alexandria, VA 22314 703-684-5566

Arlington Office 1916 Wilson BLVD, Suite 200 Arlington , VA 22201 703-532-3733

Fairfax City Office 4080 Chain Bridge Road Fairfax , VA 22030 703-504-9141

Leesburg Office 8A South Street SW Leesburg , VA 20175 571-482-2688

Manassas Office 9240 Center Street Manassas , VA 22110 571-482-2680

TTY 800-828-1140 or 711