

Purpose

To establish guidelines and procedures for the execution of eviction writs.

Policy

It is the policy of the Cecil County Sheriff's Office to conduct evictions in accordance with the Annotated Code of Maryland, Real Property, and the Cecil County Sheriff's Office Policy and Procedures.

Definitions

Eviction: An actual expulsion of the tenant out of all or some part of the leased or rented premises, and involving a physical ouster or dispossession from the very thing granted. This process relieves the tenant of any further duty to pay rent.

Ejectment: A common law term for an action to gain the recovery of the possession of land, and for damages for the unlawful detention of its possession. For the purposes of this manual, the word eviction and ejectment will be one and the same.

Writ of Restitution or Ejectment: A writ issued by the District Court directing the Sheriff or his/her deputy to restore to the plaintiff real property held by a tenant. This writ is usually issued after the plaintiff has gained judgment against the tenant for non-payment of rent or for some other breach of the lease agreement.

Writ of Possession: A writ of possession stems from the common law and is similar to a writ of restitution in substance. This writ is usually issued by the Circuit Court and pertains to ejectment subject to a foreclosure or some other civil litigation pending in the Circuit Court.

Defendant: A person against whom relief or recovery is sought in an action or suit.

Plaintiff: A person who brings an action; the party who complains or sues in a personal action and is named on the record.

Third Party: A person who may not be named in the writ. In any circumstances in which a deputy is unsure as to whether or not to evict a third party, the proper course for the deputy would be to apply to the court for an order directing whether or not the writ should be executed.

Premises: Those lands and tenements described in the judgment. Premises will include a house, apartment, storage room or shed, garage and out buildings, if the structures are located on the premises described in the judgment.

Public Space: Space that is owned by, or right of way of the state, county, or city governments.

Personal Property: Property which is located on the premises and under the ownership or custody of the defendant, his family, agents, servants, or tenants. Any improvements on the premises that have become fixtures, and also growing crops, will not be considered as the property of the defendant but will be put in the possession of the plaintiff.

Procedure

A. Pre-Eviction

1. Deputies will inspect the writ before leaving the office to insure it is valid. They will also insure that the plaintiff and the defendant(s) have been notified of the eviction. In addition, the plaintiff will be instructed to provide necessary equipment and manpower to conduct the eviction.
2. When the possibility of below freezing temperatures exists, deputies will ascertain from the U.S. Weather Bureau, the forecast for the following day. If the forecast is for temperatures that **do not exceed 32 degrees**, all scheduled evictions for that day shall be cancelled. If on the other hand the temperature will, at some time during the next day, exceed 32 degrees, evictions scheduled for that day should be carried out.
3. Eviction writs will be executed by sworn deputies only. Deputies will report to the rental office or other pre-arranged location. If the eviction is being conducted due to non-payment of rent, deputies will ascertain the amount of rent due and if it has been paid. Only the amount covered in the writ will be considered due at the time. The tenant shall have the right to the redemption (if applicable) of the leased premises by tendering in cash, certified check or money order to the landlord or his agent all past due rent and late fees, plus all awarded court costs during the eviction.
 - i. If the tenant pays the past due rent, fees, and costs, the eviction will cease and the deputies will depart. It is the responsibility of the defendant to return the property, which has been set on public space, to the premises.
 - ii. The redemption of the leased premises for failure to pay rent may not apply to any tenant against whom three (3) judgements of possession have been entered for rent due and unpaid in the twelve (12) months before the initiation of the present action. Deputies must inspect the writ to see if the box has been checked "No Right of Redemption".
 - iii. If the eviction is being conducted due to a breach of the lease, or pursuant to a foreclosure, the eviction once started, will only be terminated at the request of the landlord.

B. Security and Search

1. Deputies will consider every person being evicted as potentially dangerous. ***The landlord or his/her designated agent will make entry to the premises.***

2. Deputies may only make forcible entry if the dwelling is occupied and the landlord or his/her agent is at risk. Forcible entry will only be attempted once a back-up unit has arrived on the scene.
3. Deputies making forced entry of any dwelling will complete and submit an Offense Report documenting the facts and details of the incident.
4. A thorough search of the premises will be conducted by the deputies for items listed in this sub-section. The landlord and his/her moving crew will remain outside until the search is completed.
 - i. All weapons and ammunition, illegal drugs and contraband will be removed from the premises.
 - ii. Items will be handled in accordance with the written directives concerning Evidence and Property Management.
5. If the defendant is not present during the eviction the following items along with any illegal items seized will be returned to the office in accordance with the written directive concerning Evidence and Property Management.
 - i. Weapons and ammunition
 - ii. Money of the value of \$5.00 or more
 - iii. Bonds, stocks and securities
 - iv. Prescription medicines
 - v. The landlord should be advised of this procedure, so that he/she can advise the defendant, upon his/her return, of the whereabouts of seized property.
6. The following items cannot be set on public space due to the health and safety hazards. If the defendant is not present, they will be properly disposed of by the landlord or his/her designated agent.
 - i. Food that is not in a sealed metal container.
 - ii. Cleaning solvents, paint, gasoline, alcoholic beverages, or any solutions, which may be flammable.
 - iii. Sharp kitchen utensils and razorblades.
 - iv. Refrigerators unless the doors are removed.
 - v. Pornography

C. Ejectment

1. After the search has been conducted and the premise is secure, the deputies will proceed to eject the defendant(s) and all personal property. Deputies may allow the defendant(s) to remain on the premises to assist in the removal of his/her property as long as he/she does not interfere with the eviction process and does not present a danger to anyone involved.

2. Deputies will contact a supervisor for assistance in the following circumstances:
 - i. A defendant, a member of his/her family, agent, servant, or a tenant claims or appears to be mentally or physically ill or disabled in any capacity, to the extent that the deputy feels it would be improper to eject the person(s).
 - ii. Children are present on the premises and their parents/guardians cannot be located.
3. If animals are present and the defendant is not there to take custody of them, the deputies will contact Cecil County Animal Control for assistance.
4. All personal property will be removed from the premises and set on public space in an orderly manner. The property should be packed in boxes or plastic containers to prevent unnecessary damage. The property will be set on public space that is closest to the premises in a way that does not present a hazard.
5. Deputies will supervise the removal of the property. The movers will be instructed to remove the property from the premises a room at a time, including all storage areas and out buildings. The movers will not be allowed to roam through the premises. After the deputies depart it becomes the duty of the defendant(s) to take the necessary steps to safeguard his/her property from damage or theft.
6. Deputies will insure that each and every item belonging to the defendant(s), his/her family, agents, servants, or tenants have been removed from the premises. When the eviction is completed, the landlord will take possession of the premises and secure them.
7. Deputies will complete and provide an Eviction-Tenant Responsibilities Form CCSO Form# SO-197 (Absent) or SO-198 (Present) upon completion of the eviction.

D. Returns

1. Record of Service - Deputies will complete the disposition section of the Record of Service.
2. Writ (District Court) - Deputies will check the appropriate box on the court copy of the writ to include signature, date and time.
3. Writ (Circuit Court) - Deputies will complete the Sheriff's Return on the court copy to include disposition, date, time and signature.