



ESTABLISHED 1924

FARR LAW FIRM

FARR, FARR, EMERICH, HACKETT AND CARR, P.A.

e-law

Newsletter

WWW.FARR.COM

PERSONAL INJURY &
WRONGFUL DEATH

LITIGATION

ESTATE PLANNING

REAL ESTATE & TITLE
INSURANCE

MARITAL & FAMILY

ENVIRONMENTAL
& LAND USE

BUSINESS

TAXATION

ELDER LAW

ASSET PROTECTION

ATTORNEYS

EARL DRAYTON FARR, JR.
(Senior Counsel)

GUY S. EMERICH

JACK O. HACKETT II

MICHAEL P. HAYMANS

CHARLES T. BOYLE

DAROL H.M. CARR

DAVID A. HOLMES

GARY A. KAHLE

JENNIFER R. HOWELL

ROGER H. MILLER III

DOROTHY L. KORSZEN

WILL W. SUNTER

ABC'S OF RESIDENTIAL TENANT EVICTION

By: Will W. Sunter
July 2008



In the past few years, many residents of our community have purchased an additional house or condominium with the intent of selling it quickly for a profit, and many homeowners find they are now stuck holding it until the market improves. To keep up with the mortgage payments, it is absolutely essential to keep the property occupied and keep the rent coming in for as long as possible. One of the largest fears of a landlord is a tenant who does not pay rent and having to go through the eviction process to get possession of the premises. The following is an example of a typical residential eviction. If the tenant fails to make his/her monthly rental payment, you need to send out a three day demand letter pursuant to Florida Statute §83.56(3). This needs to be mailed via certified mail, delivered in person, or left on the subject premises. If after three days the tenant has failed to vacate the premises, or tendered the amount of the payment, you may file a lawsuit for eviction.

Pursuant to Florida Statutes, weekends and national holidays, do not count as days for the calculation of any of the dates listed herein. A lawsuit needs to be filed with the Clerk of Court, which needs to be served upon the tenant or left at the premises. It is advisable to hire a process server for the service of a lawsuit and the three day notice letter (this stops arguments by the tenant that he/she never received a copy of the documents).

The tenant has five days from when the complaint was served upon them to file their answer with the Clerk of Court. The tenant will have to file the answer within the five day period and additionally tender the full amount of the rent owed into the court registry. If the tenant fails to do either of these actions, the landlord would be entitled to a default judgment by the court.

If the tenant does file an answer or pay money into the court registry (or file a motion to dispute the amount of the rent owed), the case will be set for trial. Eviction cases are accelerated on the docket and your trial date will come very quickly. Though this is a simple proceeding, all the rules of evidence apply. After the tenant has vacated the premises, if you are intending to impose a claim for damages for the security deposit, notice needs to be provided pursuant to Florida Statute §83.49.



ESTABLISHED 1924

FARR LAW FIRM *Newsletter*

FARR, FARR, EMERICH, HACKETT AND CARR, P.A.

WWW.FARR.COM

PERSONAL INJURY &
WRONGFUL DEATH

LITIGATION

ESTATE PLANNING

REAL ESTATE & TITLE
INSURANCE

MARITAL & FAMILY

ENVIRONMENTAL
& LAND USE

BUSINESS

TAXATION

ELDER LAW

ASSET PROTECTION

The language of the notice is provided in the Statute. If the landlord fails to provide this notice, he/she forfeits the right to impose a claim on the security deposit.

The normal procedure for an eviction takes approximately thirty days if you are diligently filing the appropriate documents with the court. Before considering a residential eviction, it is advisable to consult with an attorney to expedite the process and assist you appropriately in removing the tenant.

Punta Gorda Office:
99 Nesbit Street
Punta Gorda, FL 33950
Phone: 941.639.1158
Fax: 941.639.0028

Englewood Office:
33 S. Indiana Avenue
Englewood, FL 34223
Phone: 941.460.9334
Fax: 941.460.9443

To subscribe to our monthly newsletters, please visit our website at www.FARR.com

This newsletter is for general information and education purposes only.
It is not offered as legal advice or legal opinion.

To the extent this message contains tax advice, the U.S. Treasury Department requires us to inform you that any advice in this letter is not intended or written by our firm to be used, and cannot be used by any taxpayer, for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code. Advice from our firm relating to Federal tax matters may not be used in promoting, marketing or recommending any entity, investment plan or arrangement to any taxpayer.