

Presented by the
Boulder County
Combined Court
Information Center

How To Navigate The Eviction Process



Eviction action checklist

▶ **Is the Property located in Boulder County?**

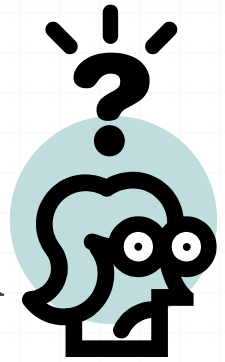
▶ Is the allegation for rent/damages less than \$15,000. if not, and it is in excess of \$15,000, the action must be filed in District Court.

▶ An FED action can only be brought by (1)the property owner, (2)an attorney representing the owner, (3)an officer of a closely held entity that owns the property, or (4) a person with a written assignment of the claim.

*A Power of Attorney is NOT an assignment of the claim.

▶ When a problem arises in a roommate situation, eviction can only be undertaken by the landlord.

What is the Difference between Demand for Compliance or Possession and Notice to Quit?



Demand for Compliance or Possession: tenant has the option of correcting the problem within 3 days or leaving the rental unit.

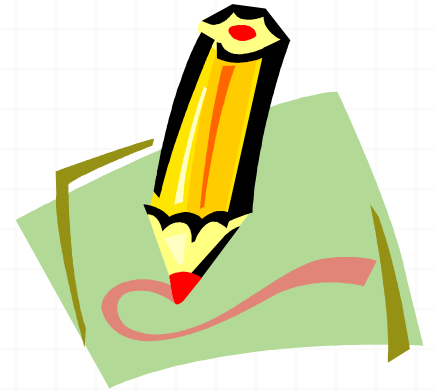
Notice to Quit: tenant does not have the option to correct the problem and the landlord is requesting the tenant leave within three days.

Both Notice and Demand must be posted for (3) **THREE FULL days**, beginning with the day after the date of posting.

-- If the third day falls on a Saturday, Sunday, or Holiday, then the three-day count is continued to the next day.

-- Make a copy of your Demand/Notice – (a photo of you posting it will not work as your copy).

NOTICE TO QUIT



A tenancy may be terminated by a notice in writing, served not less than the respective period fixed before the end of the term of tenancy (i.e. at the end of the lease term or as a result of mutual agreement to terminate the lease prior to the end of the lease term). For a term of tenancy of...

- ▶ one year or longer – 91 days notice
- ▶ six months or longer but less than one year – 28 days notice
- ▶ one month or longer but less than six months – 7 days notice
- ▶ one week or longer but less than one month – 3 days notice
- ▶ less than one week – 1 day notice

DEMAND FOR COMPLIANCE OR RIGHT TO POSSESSION NOTICE



Colorado Revised Statutes

Default in the payment of rent –

C.R.S. 13-40-104 subsection (1)(d)

Violation of a Condition or Covenant of the agreement

C.R.S. 13-40-104 subsection (1)(e)

Public Trustee Sale – C.R.S. 13-40-104 subsection (1)(f)

Substantial Violation – violent or antisocial criminal acts - C.R. S. 13-40-107.5

WRITTEN DEMAND REQUIREMENTS



- ▶ The three (3) day written demand must be in writing
- ▶ The demand must state specifically the grounds for the right to possession of the property, a description of the property, and when the property will be delivered up/possession given to the landlord
- ▶ Must be signed by the person claiming possession, their agent, or an attorney.

Step #1 – Post



The property owner seeking eviction must post either Demand for Compliance or Right to Possession Notice (JDF 101) or a Notice to Quit (JDF 97). These two forms are on the state website

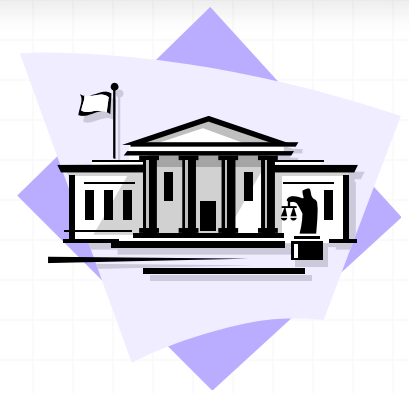
**www.courts.state.co.us → FORMS → all Court
Forms → Evictions & Foreclosures**

Step #2 - Filing



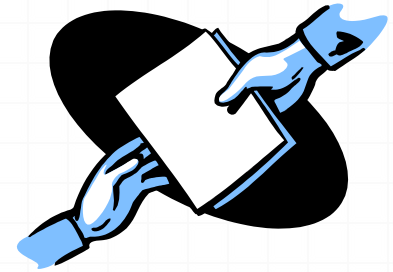
- ▶ Once three FULL days have passed, you, the owner, are ready to file.
- ▶ In order to file, you must complete the entire form of the Complaint (JDF 99) and the captions only of the Summons (CRCCP 1A) and Answer(CRCCP 3).
- ▶ A copy of the lease or rental agreement and a copy of the Demand for Compliance or Right to Possession Notice or Notice to Quit must be filed with the Complaint and served on the Defendant.

STEP #2 FILING - CONT



- ▶ File your completed documents at either the Boulder County Justice Center or the Longmont Courthouse.
- ▶ The cost to file is \$97.00. If you cannot afford the filing fee, you may motion the court to waive the fee by completing JDF 205.
- ▶ Clerk will issue the Summons. Return date to Answer – Not less than 7 days and not more than 14 days from the issuance date of the summons.

Step #3 - Service



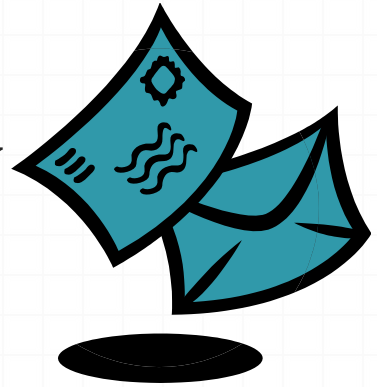
Service of Process – The owner **MUST** arrange to have the documents served on the other party.

Service can be obtained through a private process server, the sheriff's department, or someone over the age of 18 who is not a party to the case who understands the Rules of Service.

For information as to what constitutes proper service see the Rules of Service.

Service must be at least 7 days before the date of the Court appearance. Proof of service must be filed with the Court on or before the date of appearance on the Summons.

SERVICE BY POSTING AND MAILING



If the Plaintiff is unable to obtain personal service but did accomplish service by posting and mailing, the Court can enter an Order of Possession and Writ of Restitution but may not award money damages.

The Plaintiff may request an ALIAS SUMMONS if they want to follow up with money damages.

If you are the Defendant



The defendant must be prepared to file an answer the day of court hearing. **The answer must state a reason or reasons why the Owner is not legally entitled to possession of the property.**

The answer form is served to the defendant along with the summons, complaint, and any supporting documentation.

COUNTERCLAIM

- A Defendant can file a counterclaim and pay an additional filing fee to the Court.
- If a jury trial is requested, there is an additional jury demand fee. **NOT ALL CASES MAY BE ENTITLED TO A JURY TRIAL.**
- **If a counterclaim is filed, the Defendant must have the Plaintiff(s) personally served with the counterclaim.**
- Upon the filing of the counterclaim, the first hearing date may be vacated and a new hearing date set. Both parties must appear on the new date.

Step #4 - Court



- o Eviction hearings are conducted on Friday mornings at 9am at the Boulder County Justice Center and at 10am at the Longmont Courthouse
- o **Be prepared for your court date.**
- o Have copies of your exhibits (i.e. proof): one for you, one for the defendant(s) and one for the Judge.
- o The defendant must be prepared to file an answer the day of court hearing. **The answer must state a reason or reasons why the Owner is not legally entitled to possession of the property.**

MEDIATION



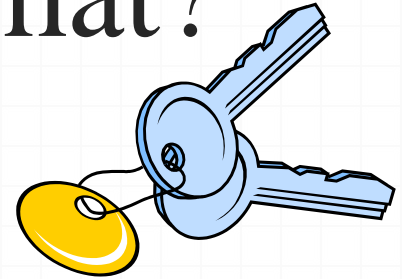
If the defendant appears at the hearing and files an answer, the judge may direct the parties to mediate with a trained mediator immediately prior to the hearing commencing.

Mediation is an informal process in which a neutral third party helps people in conflict to negotiate a mutually acceptable agreement.

Additional Information

- ▶ If the defendant does not appear for his/her court date, the Judge can determine the outcome of the case without the defendant's input if there is proof of service.
- ▶ If money damages and possession of the property are both awarded, the judge may grant an extra 28 days for the petitioner to file a motion for additional damages.
- ▶ Keep ALL receipts and documents throughout your entire case.
- ▶ If the owner is **only** seeking money damages (i.e. back rent), then starting an eviction action would not be appropriate and opening a different type of civil case may be.

Court is over. Now what?



o **If possession has been granted...**

- o A Writ of Restitution is the court order that allows a tenant to be removed from a home. It can be issued 48 hours after judgment for possession enters. At that time, the Sheriff must serve the Writ on the defendant.
- o Once the Writ has been served, the Sheriff will schedule a “stand by” for a time period of not more than 1 hour so the Plaintiff can remove the defendant’s property.

Money Damages Award



If money damages have been awarded...

- It is NOT the responsibility of the Court to collect any money judgment.
- It is the Plaintiff's responsibility to collect any judgments they are owed.
- Money judgments can be collected in a variety of ways, including wage or bank account garnishment.
- Instructions for Garnishments & Judgments is available online <http://www.courts.state.co.us/Forms/SubCategory.cfm?Category=Garnishments>