

# THE EVICTION PROCESS



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This brochure is intended only as a general guide regarding tenant evictions and the role of the Mesa County Sheriff's Office. Please note that all Mesa County Sheriff's Office employees are prohibited by law from giving legal advice (C.R.S. 30-10-520). All statutes (i.e. Title 38 Article 12 and Title 13 Article 40) and forms are available at [www.courts.state.co.us](http://www.courts.state.co.us). For any legal advice you should consult an attorney.

### **Step One: Notice**

Most eviction proceedings are due to a tenant failing to make rent payments, although other circumstances may apply.

When the landlord decides to proceed with an eviction action, he/she must complete a written notice to the tenant such as a **Demand for Compliance, Right to Possession, or Notice to Quit**. This notice must set forth the grounds for the landlord's demand for possession of the property, the date/time that the tenancy will terminate, the name(s) of all tenants or occupants needing to vacate and must be signed by the landlord or his agent/attorney. The amount of time between the time of service and the termination varies based on the type and length of tenancy or reason for termination. The most common length of time is 3 days for failure to pay rent. The notice may be served on the tenant, other occupant, or a relative over the age of 18 living at the residence. If no one is present, the Notice may be posted in a conspicuous place (i.e. front door). It is recommended that wording such as **"and all other occupants"** be included on all paperwork, in addition to known tenants or persons known to live there.

### **Step Two: Summons in Forcible Entry and Unlawful Detainer (FED)**

If the tenants do not move out by the date specified in the written notice, the landlord or their attorney must file an action at the Mesa County Court requesting recovery of the premises. Past-due rent and other specific claims may also be included as part of the complaint. The court clerk will issue a summons to be served on the tenant(s). The summons will command their appearance in court. Personal service or service by posting shall be made no more than 14 days from its issuance and no less than 7 days before the day for appearance.

The summons is served on the tenants (now referred to as Defendants). A proper legal service must be made on each tenant. If there are multiple tenants, the court will not have jurisdiction over tenants that are not served. The documents may be served by the Sheriff's Office, a private process server, or a person over the age of 18 and not a party to the action. Service must be made at least 7 days prior to court date (including weekends and holidays). If service cannot be made "after having made all diligent effort" to make personal service, the process may be posted. You must also mail a copy of the summons to the defendant no later than the next day following your filing date. If the landlord is also trying for a money judgment, personal service must be obtained.

**Step Three: Court Hearing**

If the court finds in favor of the plaintiff, a judgment will be entered for possession of the premises. The defendant may file an answer contesting the claim. If personal service was made, the court may also award a money judgment. If the service was by posting, the money judgment may be obtained later through a separate action (i.e. small claims court), or a continuance to try to obtain personal service. If the court rules in favor of the defendant, he may be entitled to a judgment for his costs.

**Step Four: Writ of Restitution**

If the plaintiff is awarded the judgment and no appeal is filed, the court will issue the Writ of Restitution after 48 hours. If the tenants move out on their own during this period, the plaintiff does not have to obtain the Writ of Restitution.

When the Writ of Restitution (valid for 49 days) has been obtained, it must be brought to the Mesa County Sheriff’s Office. Only a Sheriff’s Deputy can execute the Writ of Restitution. A date/time will be scheduled for the execution of the Writ. The deputy has the authority to reschedule an eviction. Prior to the eviction day a courtesy notice will be posted at the premises informing that they must vacate **IMMEDIATELY**. (We do not give the date/time of the eviction for the safety of our deputy.)

On the day of the eviction the deputy will meet the plaintiff at the premises. The plaintiff must provide sufficient physical labor (all **must** be over the age of 18) and supplies to remove all belongings from the residence in approximately one hour (the deputy does not assist in the moving of property) and placed on the edge of the property (unless otherwise agreed upon by the plaintiff/defendant and approved by the supervising deputy). The statute does not specify how long the property is to remain after being removed to the edge of the property. The municipality (code enforcement) usually determines when the property must be moved. Locks can be changed after all belongings have been removed from the premises. Abandoned pets will be turned over to Animal Control. All vehicles, operable or inoperable, are required to be moved from the property by the plaintiff.

If you are completing an eviction of a mobile home please contact the Mesa County Civil Unit for specific instructions.

If a crime has been committed by a tenant, or if rental property is intentionally being damaged, report it to your local law enforcement agency. If you have a life-threatening situation, call 911.

**Fees for Service:**

Written Notice/Demand:

\$35 + mileage

Summons & Unlawful Detainer (FED):

\$35 per Defendant + mileage

Writ of Restitution:

\$143.50 Zone 1 / \$169.00 Zone 2

(These include posting, mileage & one hour move out time for two deputies.)