

Unlawful Detainer “Eviction” Actions

Commencing an Unlawful Detainer Action

An Unlawful Detainer Action is required to evict a tenant from rental property. There are four common reasons for evicting a tenant:

1. Delinquent rent payments
2. Violations of lease provisions.
3. Failure to move after thirty-day written notice.
4. Landlord is notified by Law Enforcement of narcotics sales or activities on the tenant’s premises.

To commence an Unlawful Detainer action, the property owner (Plaintiff) must file a Complaint in Unlawful Detainer with the Todd County Court Administrator (Contact Information or Link). When a complaint has been filed, the Court Administrator will set a court date, issue a Summons, and provide the plaintiff with enough copies of the Summons & Complaint to serve each defendant. If the tenant has unknown parties living on the premises, the plaintiff can list “John Doe” and “Mary Roe” as additional defendants.

The Summons & Complaint must be served on each tenant/defendant not less than seven (7) days before the court date, exclusive of the court date. A third person who is NOT party to the court action must make the service. A notarized Affidavit of Service must be filed with the Court Administrator before the date of the court hearing. The Todd County Sheriff’s Office Civil Division can also serve the papers on the tenant/defendant. The original Summons, plus copies of the Summons & Complaint should be delivered to the Civil Division along with a completed Service Information Sheet (Link). The Sheriff’s Office requires a \$35.00 deposit for EACH person to be served (mileage will be billed after service has been completed).

If a Sheriff’s Deputy does not find the defendants at home after making attempts on at least two different days, one day before 6:00 p.m. and one day after 6:00 p.m., The Deputy will post the Summons & Complaint on the door of the premises involved in the Unlawful Detainer Action. The Deputy will complete the appropriate Affidavits of Service and the original

Summons and Affidavits will be filed with the Court Administrator's Office by the Sheriff's Office.

The plaintiff should mail a copy of the Summons & Complaint to each defendant by first class mail immediately after giving the original to the Sheriff. The plaintiff must complete and file a notarized Affidavit of Mailing with the Court Administrator. If posting is required, the court file will be checked to ensure the Affidavit of Mailing is on file with the court at least three days before the hearing.