

Professional apartment owners and managers are sensitive to both the emotional and financial impact of the eviction process. While a necessary part of the rental housing business, eviction is utilized only as a last resort when all efforts have been made to reach an agreement to obtain payment or cure other lease violations. When personal financial circumstances lead to a resident's inability to pay rent on time, apartment owners and managers work to provide their residents with options, information and available resources to assist in avoiding or mitigating the eviction action.

Prior to the COVID-19 Pandemic, less than 10 percent of eviction filings actually resulted in an executed writ or physical removal of personal property. Over the past two years, that number was less than 1 percent.

This document describes the legal eviction process and timeline prior to the COVID-19 crisis and related court closures and moratoria. Despite moratoria being lifted last year, local courts and law enforcement have not returned to pre-pandemic levels of service. Notably, if payment of rent due and any associated late fees is received at any point during the dispossession process the case is considered satisfied and is dismissed, resulting in minimal impact on the resident's rental history going forward.

Legal Eviction Process Overview

- 1) Notice.** Before a legal eviction proceeding may begin, proper preliminary notice must be given to the resident. In Georgia this is known as a Demand for Possession. The notice is sent after the grace period expires, i.e. the 5th of the month, giving the resident 3 to 5 additional days to pay with late fees.
- 2) Service of Dispossession Warrant.** If no action is taken by the resident within 3 days after notice is given, the property owner will file a Dispossession Warrant for non-payment with the clerk of court. The Dispossession Warrant is physically served to the Resident by the County Marshal or a Private Process Server. Personal service is attempted first, but if unsuccessful, service is perfected by "Tack and Mail," which means the warrant is mailed to the resident and simultaneously tacked to the front door of the rental home on the same day.
- 3) Opportunity to Answer.** After receiving the warrant, the resident has seven days from the date of service to answer to the Court. If an answer is received, a court date will be scheduled generally within one to two weeks, sometimes longer. The resident may settle by paying rent due and any late fees (and a reimbursement of filing fees if provided for in lease). If payment is made in full, the case is dismissed and the resident will not be evicted.
- 4) Court Proceedings.** If the resident appears in court and proof of non-payment is apparent without asserting a valid defense, the Judge will likely grant a writ of possession in 7 days from the date of court. If resident answers but does not show up for court, Judge may issue an immediate (instant) writ of possession. The resident may settle by paying rent due and any associated fees. If payment is made in full, the case is satisfied or dismissed if no judgement issues.
- 5) Writ of Possession.** If a writ of possession is granted by a judge, the property owner must apply or request the execution of the writ through the clerk which is sent to the Marshal or Sherriff (depending on jurisdiction) to carry out the eviction. Many cases settle or the resident vacates even after the writ of possession issues before the actual set out.
- 6) Marshal or Sheriff Removes Property from Rental Unit.** Georgia law requires that any eviction in the state must be overseen by an officer of the court (Marshal or Sheriff) in order to keep the peace. Once the Marshal or Sherriff oversees the removal of any personal property from the rental unit, it is considered legally abandoned. The property is usually placed in a designated space so that it can be retrieved by the resident. **Very few cases that are filed result in an actual physical set out.**

ILLEGAL EVICTIONS —

If a resident believes they are being illegally evicted and the legal procedures described above are not being followed, they should reach out to their County Marshal or Sheriff's office immediately. Landlords cannot evict a tenant without receiving a court order. It is illegal for a landlord to try to evict a tenant through any other means, such as shutting off utilities ([OCGA § 44-7-14.1](#)) or changing the locks at the rental unit. Such actions are called self-help evictions. If the landlord does try to evict the tenant using self-help procedures, they could end up owing the tenant monetary damages.

Legal (Non-Payment) Eviction Process in Georgia

Minimum Timeline: 30 Days

Typical (Pre-Pandemic) Timeline: 65 Days

2020-2022 Timeline: 300+ Days

