



SHERIFF, JAMES VAN BEEK

SERVICE OF PROCESS FOR EVICTION PAPERWORK

It is the responsibility of the plaintiff (landlord/owner) to inform the defendant (tenant) of each step in the Civil Eviction process as described below.

The Civil Eviction Process has THREE basic steps.

NOTICE (DEMAND) TO VACATE
 SUMMONS AND COMPLAINT IN FORCIBLE ENTRY AND DETAINER
 WRIT OF RESTITUTION

The Sheriff's Office cannot give legal advice. If you have a landlord / tenant dispute, we recommend you call the Colorado Housing Connection at 844-926-6632, that you first personally research the statutes, or contact an attorney or the courts before relying on this information for legal purposes or proceeding with any action.

The following information is not intended to be legal advice and does not address the specific statutory and legal issues of evictions and Writs of Restitution. Our only intent is to provide the public with general guidelines to questions we are generally asked, related to the Eagle County Sheriff's Office policy and procedure for executing Writs of Execution.

The Eviction Process

An eviction occurs when the court enters an order for the tenant to vacate the property. This order is enforceable only by the Sheriff. It allows the Sheriff to monitor the removal of the tenant, his/her property from the premises, and keep the peace. It is never legal for a landlord to evict a tenant without a court order.

The proper eviction procedures are listed below:

Step 1: Notice (Demand) to Vacate:

The general eviction process begins when the landlord gives a written demand for the tenant to vacate (13-40-106). This can be a hand written, typed or a printed form notice (the form is called "**Notice to Quit/Demand for Payment of Rent or Possession**").

For clarification on requirements for **Notice to Quit/Vacate** postings please review information at: <https://www.courts.state.co.us/Forms/SubCategory.cfm?Category=Housing>.

The notice must be served upon the tenant **thirty days** (per Governor's Orders until further notice (13-40-122(1) (House Bill 21-1121) before the landlord can seek additional remedy in the courts. It is not possible for a waiver of the ten days notice to be included in any written agreement, (13-40-104(1)(d)-(e).

The written notice to vacate is used only when a tenant has failed to meet the obligations of agreement with the landlord (lease).

Ten days continually run and include Saturdays, Sundays, and Holidays. It is not possible for a waiver of the ten day notice to be included in any written agreement 13-40-104(1) (d).

The defendant (tenant) must keep a copy of the notice for yourself and note the date and time it was served or posted.

The Sheriff's Office can also be requested to serve this if necessary and a return will be provided. The cost of the service is \$35.00 plus mileage.

The notice must contain:

Specific grounds for the landlord's right to possession of the premises.

Description of the premises.

Specific time to deliver possession.

Signed by the plaintiff (landlord/owner), agent, or attorney.

Alternative of payment of rent (if applicable).

In the case of a mobile home eviction from a mobile home park for nonpayment of rent, 38-12-204(1) allows the tenant five days to remove the mobile home after the written notice is served or posted; there are no express requirements for the contents of this notice.

Step 2: Summons and Complaint in Forcible Entry and Detainer:

If the tenant has not vacated within the *ten days* after notice, the landlord can file a **Summons & Complaint in Forcible Entry & Detainer** (S.C.F.E.D.) with the appropriate court. Depending upon which court has jurisdiction and the applicable statutes it will either be District or County court.

At the time of filing, the court will request a copy of the ten day notice (13-40-108/110/111).

Service of the S.C.F.E.D. may be completed by either the Sheriff's Office or by a disinterested third party over the age of 18 years.

"Personal" service as outlined in Rule 4 of the Colorado Rules of Civil Procedure is required if you are seeking a money judgment along with the actual eviction. A copy of the complaint must be served with the summons (13-40-12).

If no money judgment is sought, the summons and complaint may be served by posting in a conspicuous place upon the premises after diligent effort to make "Personal" service (38-40-112).

Both types of service must be served/posted 7 days prior to the court date.

The court will set a court date between ten (10) and fourteen (14) days after you file.

A completed return of service must be supplied to the court (13-40-113).

At the court hearing, the plaintiff (landlord/owner) will have the opportunity to present their case and the defendant (tenant) will also have the opportunity to answer the complaint and present their case. If the judge rules in the plaintiff (landlord/owner) favor, the defendant (tenant) will have an additional **forty eight (48) hours** to move out.

The landlord may NOT lock the tenant out of the property, shut off utilities or forcibly move the tenant or his/her possessions out. Lock outs are not permissible; actions of physical contact or intimidation should be immediately reported to local law enforcement. If a tenant is locked out, he/she should seek legal advice prior to attempting a forced entry. By state law, the prevailing party in a S.C.F.E.D suit is entitled to an award of reasonable attorney's fees and costs incurred.

Step 3: Writ of Restitution:

If the tenant does not move out after the **ten (10) day** period following the court date, then you will go to the court and ask them to issue a "**Writ of Restitution.**"

A 'Writ of Restitution' is entered when judgment of the S.C.F.E.D.(step 2) is awarded to the plaintiff (landlord/owner).

The 'Writ' will be good for forty five (45) days after the judge signs it.

Only Sheriff's Deputies can execute a Writ of Restitution.

Two copies of the Writ of Restitution need to be supplied for service.

The issuing court must wait **10 days** after entry of a judgment before issuing a Writ of Restitution. (*The Sheriff's Office shall not post/execute a Writ of Restitution until at least 10 days after entry of Judgment.*) *New Law, 13-40-122(1) (House Bill 21-1121), which took effect on June 25, 2021.*

The Sheriff's Office will post the Writ of Restitution and Notice of Judgment (when applicable) with a date approximately **10 days** from the time of posting to return for eviction.

Mileage is charged for each round trip to the premises and a service fee is charged for the completion of the Writ of Restitution.

The cost for the *service* only = \$60.00 + [mileage](#)

The cost for the *execution* (mileage included) = \$125.00

Special circumstances or concerns (including concerns about anticipated tenant's reactions to being evicted) should be directed to the Civil Department prior to service or eviction by removal.

Sheriff's Office Requirements:

The Sheriff's Office requires the landlord to hire and be responsible for all necessary movers, towers, and locksmiths.

The Landlord must be present at the scheduled time of eviction.

If the landlord or agent fails to arrive, the eviction may be cancelled.

The landlord is required to provide enough manpower to remove all belongings within two hours (when possible) at his/her expense.

The Civil Officer will stand by to keep the peace while the premise is cleared.

Writ of Restitution (Facts/Details):

You must bring your Writ of Restitution (2 copies), and your Notice of Judgment (when evicting a mobile home from a mobile home park) to the Civil Division of the Sheriff's Office.

The Civil clerk will schedule the next available appointment to evict the tenants. Please be aware that there can be a waiting period of several weeks before the Civil Division can complete your eviction.

In the case of Writ of Restitution on mobile homes (38-12-208) the court can immediately issue the Writ of Restitution, but the Sheriff may not serve the Writ less than **10 days** after the Court's entry of judgment.

Special circumstances should be directed to the Administrative Manager of the Civil Division (including concerns about anticipated tenants' reactions to being evicted).

If tenants vacate the premises before the scheduled date for eviction, please contact the Sheriff's Office at 970-328-8500 to cancel the eviction. IF CANCELED AT LEAST 24 HOURS BEFORE your scheduled eviction time, this can save you the additional mileage costs of Sheriff's Deputies responding to the premises to restore it to you. The open time slot can be used in many cases.

The landlord is given the actual date which is the first available on our eviction schedule, which is scheduled at least 48 hours after the Writ of Restitution is posted. Simply put, the Writ of Restitution is executed at least 96 hours after the judge signs it. We feel that this enhances the possibility that tenants will vacate the premises in the first 48 hours to avoid removal by the Sheriff's office.

Sheriff's Civil Deputies will respond only on the eviction date given to the landlord.

Property removed from any residence deemed to be a danger to the public will be impounded by the Civil Deputy (firearms, fuels, etc.).

If tenants vacate the premises before the scheduled date for eviction, please contact the Sheriff's Office Civil Division at 970-328-8500 to cancel the eviction. IF CANCELED AT LEAST 24 HOURS BEFORE your scheduled eviction time, this can save you the additional costs of the execution part of the writ.

In the case of removal of a mobile home, the landlord is responsible for arranging transportation & qualified personnel to remove skirting & make the needed disconnection at the landlord's expense, if the tenant fails to do so, prior to eviction date.

No mobile home can be towed without meeting Colorado State Statutes applying to movement of mobile homes on public roadways.

The landlord is responsible for having a specific location to store the mobile home.

Mobile homes may not be placed on the side of public roadways.

NOTE: The total eviction process takes approximately three weeks from the date the first notice was posted. Should you have any questions or problems with this process, it might be advisable to contact an attorney of your choice. Eagle County Sheriff's Office Civil Division can be reached at 970-328-8500 ext 2.