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EVICTIIONS: WHY THEY HAPPEN & DEFENSES

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The Virginia Eviction Crisis & Its Causes

Virginia cities lead the nation in eviction rates

Virginia has 5 of the **top 10** highest eviction rates among **large U.S. cities**:



Richmond
(11.44%)



Hampton
(10.49%)



Newport News
(10.23%)



Norfolk
(8.65%)



Chesapeake
(7.90%)

Virginia has 3 of the **top 5** highest eviction rates among **mid-size U.S. cities**:



Petersburg
(17.56%)



Hopewell
(15.69%)



Portsmouth
(15.07%)

Virginia's high eviction rates are driven by a number of factors



**Lack of
affordable
housing**



Poverty



**Unfavorable
landlord-
tenant laws**



**Archaic legal
terminology**



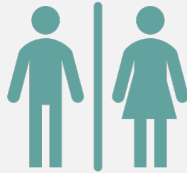
**High cost of
living**



Gentrification



**Older housing
stock**



**Government
sponsored
segregation**



**Foreclosure
aftermath**



**Little support
for tenants**

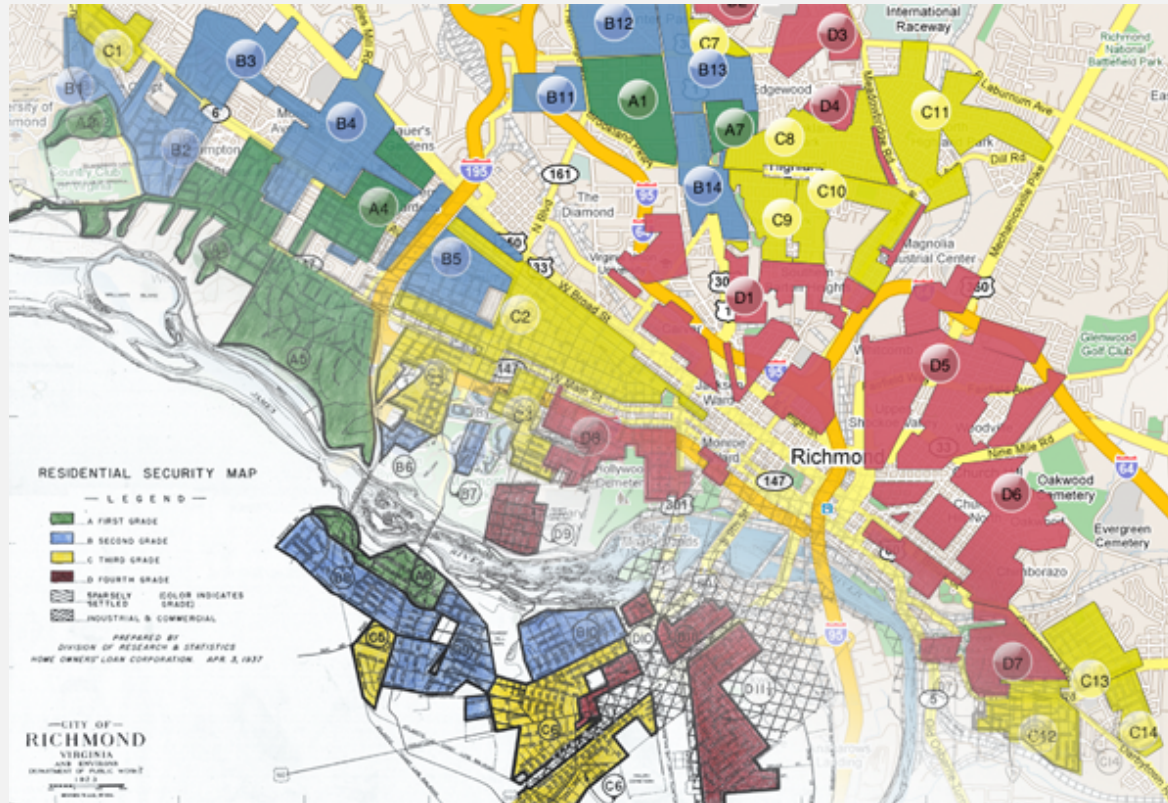


**5 years without
Medicaid
expansion**

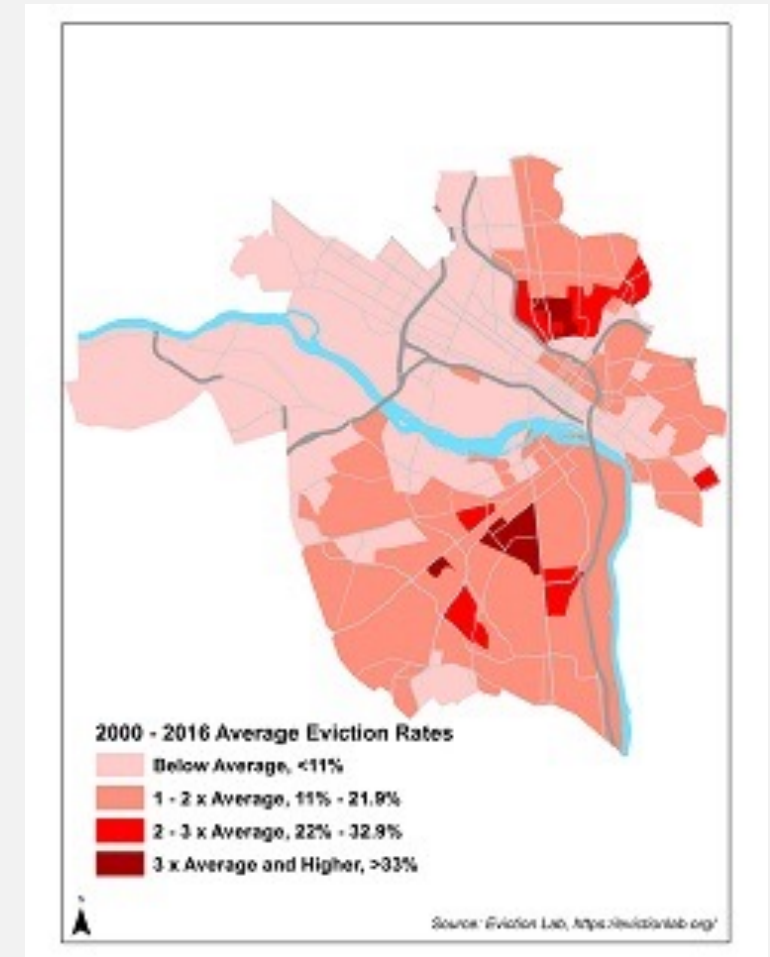


Low wages

1937 Richmond Residential Security Map



2016 Richmond Eviction Map



Where to find the law to help fight our eviction crisis?

- Virginia Residential Landlord Tenant Act (VRLTA) starts at § 55.1-1200. Most of landlord/tenant law is statutory since Virginia lower courts are not courts of record.
- Virginia procedural law is located under Title 8.01 for civil remedies and procedure, but also under Title 16.1 for courts not of record.
- Federally subsidized properties and tenants have additional protections, but are also governed by the VRLTA. The best resource for the additional protections is “the green book” published by the National Housing Law Project. The more tenant-protective law governs if Virginia law conflicts.

*FYI: VRLTA statute numbers may show up as 55-200+ when googling.

The statute numbers were renumbered in October 2019.



Five Steps of an Eviction

Each type of eviction, whether non-payment of rent or another type, follows the same general process:



There are two general categories of evictions

Each type of eviction has different defenses. It is important to understand which issue led to your client's eviction so you can formulate an effective defense:

1

Non-payment of rent

2

Other types of evictions:

- ☐ Criminal activity
- ☐ Lease violations (i.e. pets, smoking, guests)
- ☐ Foreclosure
- ☐ Sale
- ☐ Health and safety

















Eviction Process

Non-payment of Rent

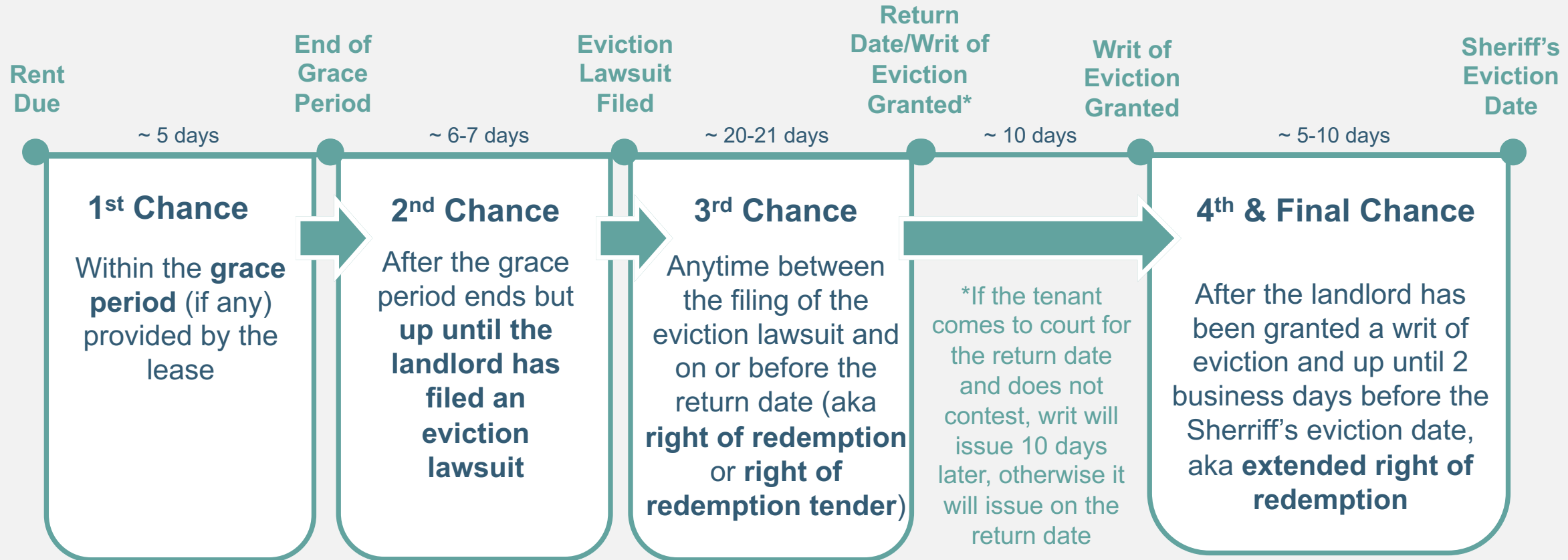
General Timeline for Evictions in Virginia

Non-payment of rent evictions

	Month 1				Month 2			
	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8
Day 1 - Rent is due								
Day 5 - Last day to pay to avoid late fee								
Day 6 - Landlord gives <i>written</i> 5 day Pay or Quit notice.								
Day 12 or 13 - Landlord files Summons for Unlawful Detainer (eviction lawsuit).								
Day 33 or 34 - First court date (return date). <ul style="list-style-type: none"> • If tenant pays all rent, late fees, court costs and attorney's fees – on or before return date – case dismissed. • Tenant may do this only once in a 12 month period of time. • If tenant does not come to court, judgment for possession and rent. Writ of Eviction may issue immediately. • If tenant comes to court and no contest, judgment for possession and rent. Writ of Eviction after 10 days. If contest, trial set for 5-10 days later. 								
Day 38-44 - Trial. <ul style="list-style-type: none"> • If landlord wins, judgment for possession and rent. • Writ of Eviction may issue after 10 days. • Tenant may appeal within 10 days, but only by posting appeal bond. 								
Day 33-55 - Writ of Eviction. Sheriff gives Writ stating eviction date to Tenant. Must give at least 72 hours before eviction. Usually gives 5-10 days.								
Day 38-60 - Last day for tenant to move or be put out by Sheriff (unless extended redemption) <ul style="list-style-type: none"> • Only the Sheriff may actually evict the tenant. • Payments to LL after court date not stop eviction, unless extended redemption. 								

This is a typical eviction timeline. Number of days can vary depending on court's schedule and local practice. 11

Under Virginia law, **tenants get four chances** to pay rent late and stay



There are different rules that govern tenant outcomes depending on when the tenant pays

1 st Chance	Grace Period <ul style="list-style-type: none">• Tenant pays rent between the initial due date and the final payment date, per the lease agreement• Tenant may do this any number of times
2 nd Chance	Before Eviction is Filed <ul style="list-style-type: none">• Usually this is the time during which the landlord has given tenant a 5 day pay or quit notice• Tenant must pay rent and late fee• Tenant may do this any number of times
3 rd Chance	Right of Redemption or Redemption Tender <ul style="list-style-type: none">• Redemption: Lawsuit must be dismissed as paid if tenant pays landlord, landlord's attorney or court all amounts owed as of the court date: all rent (including new month's rent if due), all late fees in a written lease (including new month's late fee if due), court costs and reasonable attorney's fees (if any)• Redemption Tender: Tenant comes to court on first court date and shows judge a written commitment from a local government or non-profit agency to pay all or part of redemption amount• Judge must postpone case ten days and allow tenant to come back with the full redemption amount on that day• Whether redemption or redemption tender is used, tenant must get receipts and come to court with them to be sure case dismissed as "paid"
4 th & Final Chance	Right of Extended Redemption <ul style="list-style-type: none">• If landlord wins the lawsuit, judge issues an order of possession• Next, the landlord may ask the court to issue a Writ of Eviction which authorizes the Sheriff to evict the tenant on a specific date• The Writ of Eviction is sent to the both the Sheriff and the tenant• Sheriff must give tenant at least 72 hours advance notice of the eviction, but usually gives about 7-10 days• Tenant can pay landlord, landlord's attorney or court all amounts owed as of two business days before Sheriff's scheduled eviction date: all rent (including new month's rent if due), all late fees in a written lease (including a new month's late fee if due), court costs, Sheriff's fees, and reasonable attorney's fees (if any).• Payment can be made by cashier's check, certified check or money order• If completed, Sheriff's eviction is cancelled• Confirm with both landlord and Sheriff that the eviction is cancelled

Redemption, Redemption Tender, or Extended Right of Redemption:

Tenant may do a **redemption**, a **redemption tender**, or an **extended redemption**, *only once* in any 12 month period of time that the tenant lives in the same place.

Code of Virginia § 55.1-1250

One Case at a Time and Required Evidence – Code of Virginia § 8.01-126

If nonpayment of rent is the only issue, a landlord may file **only one lawsuit** at a time

On request of landlord, judge **must allow lawsuit to be amended** to cover all rent and fees claimed as of the trial date

To get judgment of possession and start the Sheriff's eviction process, **landlord must present court with a proper termination notice** that the court enters into evidence

Failure to do so may be grounds **to set aside a judgment of possession**

Defenses Against Evictions

Non-payment of Rent

Five Steps of an Eviction



Defenses at Step 1: Written notice from landlord to tenant

In a non-payment of rent case, the first written notice from the landlord to the tenant is a 5 day Pay-or-Quit Notice (14 days for public housing).

Notice Errors



Notice was not received. There is a presumption of receipt only if notice was properly addressed and mailed. *Johnson v. Goldberg*, 207 Va. 487 (1966)- no jurisdiction to hear UD if no notice.



If tenant receives tenant-based rental assistance, the notice must include the statewide legal aid telephone number. Termination notices are not effective without this information (§ 55.1-1202).



Landlord's initial notice (i.e. Pay-or-Quit Notice) gave the tenant less than 5 days to respond (§ 55.1-1245).



The 5 Day Pay-or-Quit notice did not give tenant the option of paying instead of leaving (§ 55.1-1245).



Notice was not for "the precise sum due." The notice must state exactly how much is owed and cannot have incorrect amounts on the notice of termination. *Johnston v. Hargrove*, 81 Va. 118 (1885), see also District Court Judges' Benchbook.

Defenses at Step 1: Written notice from landlord to tenant, cont'd

Fees & Payments



Notice included late fees that were not authorized by lease and/or were more than 10% of *amount owed*. (§ 55.1-1204).



Notice included court costs which had not yet been incurred. A 5-day pay or quit that includes court costs prior to the landlord filing should be defective under *Johnston v. Hargrove* (see prior slide).



Notice included attorneys' fees that were not authorized by lease and/or were not earned. Once again, a landlord should not charge attorney fees on the initial pay or quit since the tenant needs to have the 5-day period to redeem without having to pay court related fees.



Tenant paid to landlord all sums due (§ 55.1-1250).



Any fee unauthorized by the lease and/or law can be remedied under the *Virginia Consumer Protection Act*. Each unauthorized fee constitutes a separate violation, entitling the tenant to recover either actual damages, or \$500, whichever is greater. If "willful," the penalty is \$1,000. (§ 59.1-204).

Defenses at Step 2: Unlawful detainer filed

Proper Party



Assumed name defense - landlord improperly sued under assumed name (§ 59.1-69).



Proper party did not sue. Suit must be filed in the name of a plaintiff who is entitled to possession of the premises (not the property manager for example).

Other



Either the landlord or tenant did not sign the statement of tenants' rights and responsibilities that the landlord was required to give the tenant according to (§ 55.1-1204).



Landlord filed unlawful detainer prior to expiration of notice period and had no present right to possession at the time of commencement of action- even if the landlord gave a proper 5 day pay or quit, the landlord cannot file a case until *after* the 5th day. (§ 55.1-1245).

Defenses at Step 3: Judgement of possession, i.e. landlord goes to court

Rent Payments



Landlord refused tender of rent or other payment (§ 55.1-1250).



Tenant has redeemed tenancy by paying all rent and arrears due as of the return date, including late fees, other charges, reasonable attorney's fees in the lease and court costs (§ 55.1-1250).



Tenant presents a redemption tender – a written commitment from a local government or nonprofit entity to pay all rent due and owing as of the return date including late fees, attorney's fees and court costs within 10 days of the return date (§ 55.1-1250).



Tenant has properly withheld rent from landlord due to poor housing conditions (tenant must have full amount claimed by the landlord and pay into court) (§ 55.1-1241).

Defenses at Step 3: Judgement of possession, i.e. landlord goes to court

If the tenant **has a voucher**, they may be covered by these additional defenses:

Vouchers



Landlord did not properly calculate federally subsidized housing tenant's share of rent. Changes in income entitles voucher recipient to change rent portion.



Landlord is suing for subsidized portion of rent (the housing authority is at fault) (**24 CFR § 982.310**).



Landlord is suing federally subsidized housing tenant for rent that is unauthorized (suing for “under the table” payments). Rent is based on income, so the landlord is not authorized to charge higher rent than what was authorized in the “HAP contract” with the housing authority.

Defenses at Steps 4 & 5: Post-Judgment

Rent



- Landlord **accepted rent** without giving a proper notice, i.e. accepting rent “with reservation.” (This creates a new lease, see below). Notice must say two things:
 - ☒ Payment accepted with reservation
 - ☒ Payment does not constitute a waiver of the landlord's right to evict the tenant from the dwelling unit (§ 55.1-1250). (This argument works at unlawful detainer hearing too).
- Tenant has **redeemed tenancy** by paying current rent, damages, late charges, costs of court, any civil recovery, attorney fees, and sheriff fees, no less than two business days before the date scheduled by the officer (§ 55.1-1250). Even if notice of reservation was given.

New Lease



Landlord entered new written lease post-judgment. Automatic renewals constitute a new lease. (§ 55.1-1250). You can file a motion to quash the writ.

See *Mullins v. Sturgill*, 192 Va. 653 (1951): any recognition by LL of tenancy after notice of termination waives right to terminate.



Default Judgment



- Within **10 days** of judgment, tenant may appeal to circuit court, but must post full appeal bond if the judgment is for nonpayment of rent (§ 16.1-107).
- Within **30 days** of judgment, tenant may file a motion to rehear. The judge has the discretion to determine whether it is worth reopening (§ 16.1-97.1).
- If tenant is **outside of 30-day** window, the only way to set aside judgment is by challenging service or arguing that the judgment was void (§ 8.01-428).

Expired



- No writ can issue if the **judgment** is more than **180 days old**. (§ 8.01-471). You can file a motion to quash the writ if it was issued past that deadline.
- Likewise, a **writ** must be executed by a sheriff within **30 days** of issuance and otherwise automatically is vacated as a matter of law. (§ 8.01-471).

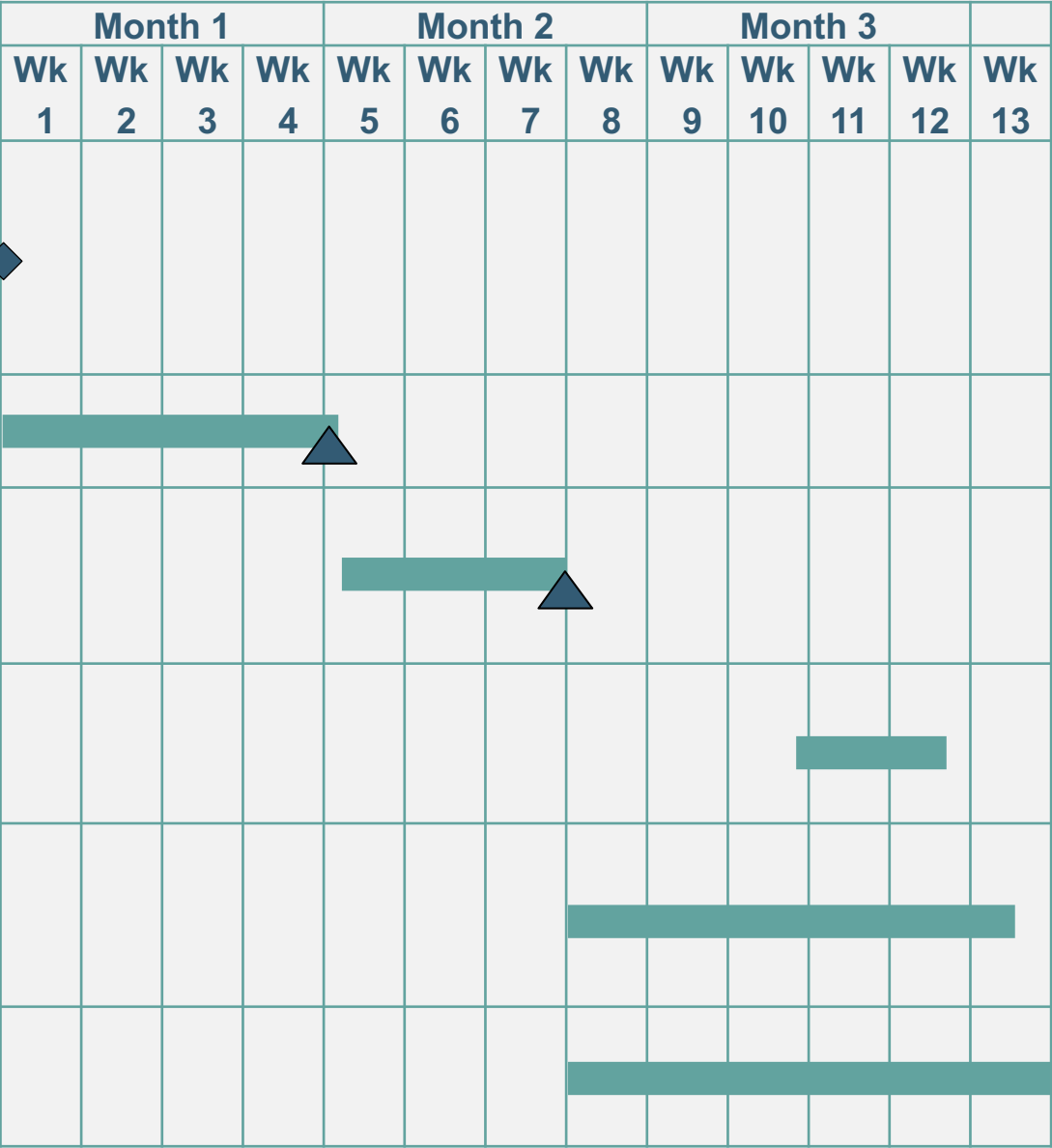
Eviction Process

Other Types

The Eviction Process in Virginia

Other types of evictions

Day 1: Landlord gives <i>written</i> 21/30 day Notice to Vacate. If tenant fixes problem, lease continues. If not, lease ends in 30 days.
Landlord also may give <i>written</i> 30 day Notice to Vacate if problem cannot be fixed. Lease ends in 30 days.
Notice period may be shorter if threat to health or safety.
Day 32 or 33: Landlord files Summons for Unlawful Detainer (eviction lawsuit).
Day 53 or 54: Return date. If tenant does not come to court, judgment for possession (and rent, if sued for). Writ of Eviction may issue immediately. If tenant comes to court and no contest, judgment for possession (and rent). Writ of Eviction after 10 days. If contest, trial set for 20-30 days later.
Day 73 to 84: Trial. If landlord wins, judgment for possession (and rent). Writ of Eviction may issue after 10 days. Tenant may appeal within 10 days, by posting appeal bond, unless indigent.
Day 53 to 95: Writ of Eviction. Sheriff gives Writ stating eviction date to Tenant. Must give at least 72 hours before eviction. Usually gives 5-10 days.
Day 58 to 100: Last day for tenant to move or be put out by Sheriff, unless extended redemption. Only the Sheriff may actually evict the tenant.



This is a typical eviction timeline. Number of days can vary depending on court's schedule and local practice. Payments to landlord after court date do not stop eviction, unless extended redemption is used

Defenses Against Evictions

Other Types

Different defenses occur based on the type of property being rented.



- House- Governed by the VRLTA, but also subject to foreclosure and sale concerns (the VRLTA used to distinguish small landlords that only rented 4 or less units, but that distinction no longer exists).



- Mobile Home- Governed by the Manufactured Home Lot Rental Act. There are distinctions between people who own their trailer but rent the lot vs rent their trailer.



- Hotel- Governed by the VRLTA if stayed there longer than 90 days. Otherwise, five day notice still required before self help.



- Apartment- Governed by the VRLTA



- Subsidized Housing- Governed by the VRLTA and Federal Statutes

Guidelines for rental units that are FORECLOSED

The Protecting Tenants at Foreclosure Act



- New owners must honor existing leases
- Tenants with more than 90 days remaining on the lease may not be evicted until the end of their lease
- The sole exception is for a new owner who seeks to occupy the unit as a primary residence and may end the lease with at least 90 days notice
- For tenants with less than 90 days remaining on the lease, 90 days notice is also required
- Tenants must keep paying rent and should deposit rent into a separate bank account to use later
- ***Tenants do not have to vacate at foreclosure!***

12 USC § 5220 note

Guidelines for rental unit that are SOLD



- Sale only affects who owns property, not who occupies property
- Lease runs with the land and not with the property owner
- Lease is as binding on new owner as it was on old owner
- New owner takes ownership subject to the lease with prior owner
- New owner steps into the shoes of the old owner and has the same rights and duties under the lease that the old owner had
- If new owner wants possession, new owner must file unlawful detainer in court
- ***Tenants do not have to vacate at sale!***

See § 55.1-1216 for disclosure of sale requirements

Five Steps of an Eviction



Defenses at Step 1: Written notice from landlord to tenant

Timing



- Violation of a Lease Term that Can be Corrected: requires notice that gives **21 days** to fix the problem, and **30 days** for the lease to terminate if the the violation is not fixed.
- Violation that Cannot be Corrected: requires a **30-day** notice prior to filing.
- If the activity is drug related or threatens health or safety, landlord can terminate **immediately**.
(§ 55.1-1245)

Missing Information



Notice was not received. There is a presumption of receipt only if notice was properly addressed and mailed. *Johnson v. Goldberg*, 207 Va. 487 (1966)- no jurisdiction to hear UD if no notice.



If tenant receives tenant-based rental assistance, the notice must include the statewide legal aid telephone number. Termination notices are not effective without this information (§ 55.1-1202).



Notice of termination not specific enough (§ 55.1-1245). If the notice just cites to lease provisions without specifying the acts that constitute violations of those provisions, it is deficient.

Defenses at Step 1: Written notice from landlord to tenant, cont'd

Wrong Type of Notice



Landlord gave “non-remediable violation” notice when violation was fixable (§ 55.1-1245).



Notice for immediate termination for threat to health or safety was not actually a threat to health or safety, thus the notice should have been a 30-day notice (§ 55.1-1245).



Hotel did not give proper notice to tenant in a hotel/motel staying there less than 90 days (§ 55.1-1201).



Hotel did not give proper notice to tenant in a hotel/motel staying there more than 90 days (§ 55.1-1201).

Defenses at Step 2: Unlawful detainer filed

Proper Party



Assumed name defense - landlord improperly sued under assumed name (§ 59.1-69).



Proper party did not sue. Suit must be filed in the name of a plaintiff who is entitled to possession of the premises (not the property manager for example).

Other



Either the landlord or tenant did not sign the statement of tenants' rights and responsibilities that the landlord was required to give the tenant according to (§ 55.1-1204).



Landlord filed unlawful detainer prior to expiration of notice period and had no present right to possession at the time of commencement of action- even if the landlord gave a proper 5 day pay or quit, the landlord cannot file a case until *after* the 5th day. (§ 55.1-1245).

New Lease



Landlord waives the right to evict if a new lease is created after notice of termination. A new notice must be issued after new lease is created. (§ 55.1-1250). You can file a motion to quash the writ. See *Mullins v. Sturgill*, 192 Va. 653 (1951): any recognition by LL of tenancy after notice of termination waives right to terminate.

Defenses at Step 3: Judgment of possession, i.e. landlord goes to court

Lease Violations



Alleged remediable breach has been cured (§ 55.1-1245).



Lease breach is not material noncompliance with the lease or a noncompliance materially affecting health or safety (§ 55.1-1245).



“Innocent tenant defense” for criminal activity: the landlord shall prove any such violations by a preponderance of the evidence. However, where the illegal drug activity or any activity that involves or constitutes a criminal or willful act that also poses a threat to health and safety is engaged in by an authorized occupant or a **guest** or invitee of the tenant, the tenant shall be **presumed to have knowledge** of such activities unless the presumption is **rebutted** by a preponderance of the evidence (§ 55.1-1245).



Tenants are responsible for their guest’s activities, but if you can show that the tenant could not have known about the guest’s actions, you may be able to rebut the presumption of knowledge.

Step 1
Written notice

Step 2
Unlawful detainer

Step 3
Judgment of
possession

Step 4
Writ of possession

Step 5
Sheriff evicts

Defenses at Step 3: Judgment of possession, i.e. landlord goes to court, cont'd

Virginia Fair Housing Law (Va Code § 36-96.1 et seq.)

Discrimination



Landlord's eviction is discrimination based upon race, color, religion, national origin, gender, age (elderliness), familial status (having minor children) or disability.



Landlord is not accommodating a disability and is not making a reasonable accommodation in rules, policies, practices, or services, necessary to afford equal opportunity to use and enjoy a dwelling. A reasonable accommodation request must be made first.



Landlord is not accommodating victim of domestic violence.

Defenses at Steps 4 & 5: Writ of possession and sheriff eviction

Rent



- Landlord **accepted rent** without giving a proper notice, i.e. accepting rent “with reservation.” (This creates a new lease, see below). Notice must say two things:
 - ☒ Payment accepted with reservation
 - ☒ Payment does not constitute a waiver of the landlord's right to evict the tenant from the dwelling unit (§ 55.1-1250). (This argument works at unlawful detainer hearing too).

New Lease



Landlord waives the right to evict if a new lease is created after notice of termination. A new notice must be issued after new lease is created. (§ 55.1-1250). You can file a motion to quash the writ. See *Mullins v. Sturgill*, 192 Va. 653 (1951): any recognition by LL of tenancy after notice of termination waives right to terminate. Can file a motion to quash.



Default Judgment



- Within **10 days** of judgment, tenant may appeal to circuit court, but must post full appeal bond if the judgment is for nonpayment of rent (§ 16.1-107).
- Within **30 days** of judgment, tenant may file a motion to rehear. The judge has the discretion to determine whether it is worth reopening (§ 16.1-97.1).
- If tenant is **outside of 30-day** window, the only way to set aside judgment is by challenging service or arguing that the judgment was void (§ 8.01-428).

Expired



- No writ can issue if the **judgment** is more than **180 days old**. (§ 8.01-471). You can file a motion to quash the writ if it was issued past that deadline.
- Likewise, a **writ** must be executed by a sheriff within **30 days** of issuance and otherwise automatically is vacated as a matter of law. (§ 8.01-471).

Evictions & Mobile Homes

The Manufactured Home Lot Rental Act governs mobile home eviction cases

§55.1-1300 – §55.1-1319

- Unlike apartments, rental homes, hotels and motels that are governed by the Virginia Residential Landlord-Tenant Act (VRLTA), mobile homes have their own set of rules.
- Generally speaking, most mobile home renters own their mobile home, but rent the plot of land and hook up utilities to a centralized utility generator that the landowner provides.



- Refer to Virginia Code §55.1-1300 – §55.1-1319 for information regarding lease termination, eviction procedures, injunctive relief and more for mobile home cases

Notice of Sale to Mobile Home Park Residents

§§ 55.1-1308,
55.1-1308.1



Before posting park for sale, MHP Owner must give 90 days advance written notice to residents and DHCD (to post on website)



If owner receives offer, must provide 60 days written notice before accepting offer and must consider offer from resident group representing at least 25% of park residents



Notice must include the asking price/proposed purchase price

Rent out Mobile Home after Eviction

§ 55.1-1316(B)



Currently, when MHP resident is evicted, resident only has 90 days to move or sell the home



Resident can rent the home to someone else



Contingent upon landlord's approval of the subtenant's rental application



Resident must also pay all accrued rent

Relocation Expenses for Mobile Home Owners

§ 55.1-1308.1



MHP Owner who sells or redevelops the park for another use must—within the 180 notice period—give each resident home owner \$2,500 in relocation expenses



In Planning District 8 (NOVA), the amount is \$3,500



Relocation expenses are subject to agreement between owner and resident that the resident will remove the home from the park

Five Steps of an Eviction



There are some defenses that are unique to mobile homes

Defense at Step 1: Written notice from landlord to tenant



Landlord did not give 60 day notice to tenant in mobile home park with lease of 60 days or longer (§ 55.1-1308).

Defense at Step 3: Judgment of possession, i.e. landlord goes to court



Tenancy in mobile home park not terminated for one of five statutory reasons: **(1)** nonpayment of rent; **(2)** violation of building and housing code caused by tenant; **(3)** violation of federal, state or local ordinance detrimental to health, safety or welfare of other residents; **(4)** violation of any rule materially affecting health, safety or welfare; **(5)** two or more violations of lease or rule within a six month period (§ 55.1-1315).

General guidelines that
apply to ALL evictions



Landlords cannot resort to certain tactics to force an eviction § 55.1-1243



Lock tenant out



Cut off utilities



Use self-help

If the landlord takes any of these actions, the tenant can submit a **Petition for Relief from Unlawful Exclusion (Form DC-431)** – tenant may ask for recovery of possession, resumption of interrupted utility, termination of rental agreement, actual damages and reasonable attorney's fees.

When a tenant files as the *plaintiff*, the petition must name the true owner:

- Fill in name and physical address of true owner of the property as “Defendant-Landlord”
- You may need to conduct a real property search → Google “real property search and county/city name”
- If true owner is not a natural person (i.e. the owner is a corporation or a limited liability company (LLC)), you should instead provide the name and physical address of the registered agent of the company
 - Fill in the name of the company as the “Defendant-Landlord” and the name and physical address of their registered agent
 - If you need assistance finding this information, call VA State Corporation Commission at 804-371-9733 or 866-722-2551.

Court Proceedings & the Unlawful Exclusion hearing

§ 55.1-1243



The judge has the discretion to hear lock-out cases *ex parte*.



Tenant can get temporary relief when filing a Petition for Relief from Unlawful Exclusion even if the landlord is not in court



Tenant must make good faith effort to notify landlord of the petition.



If temporary relief granted, judge must hold full hearing within 5 days

Appeal: The Rule, the Exception, the Exception to the Exception § 16.1-107



Appealing party must post appeal bond

Indigents do not have to post appeal bond

In nonpayment of rent cases, even indigents must post appeal bond

To appeal an eviction judgment based on nonpayment of rent, tenant still must post an appeal bond for the money judgment for rent, within 10 days of judgment. But after that, tenant must only pay ongoing rent as it comes due

Expunging Dismissed Eviction Lawsuits

§ 8.01-130.01



Starting January 1, 2022, the tenant can petition the court to expunge the court record.

Virginia Supreme Court to develop the form

Tenant will file petition in the General District Court where the underlying UD filed

Upon finding that the UD nonsuited or dismissed and action expired (180 days) and no order of possession granted, court is to expunge the record without a hearing.

“Low-income tenants do not have any right to counsel in civil courts, unlike in criminal courts. So in many housing courts, potentially 90 percent of tenants are unrepresented while landlords by and large have attorneys. If we invested in a public legal service for indigent tenants in housing court facing the rich, that would curb frivolous evictions, make sure that we stopped illegal evictions and allow a tenant's case to be made — unlike in the majority of cases today”

— Matthew Desmond, Associate Professor of Sociology, Princeton University



Appendix

Sample Eviction Forms & Documents

5 Day Pay-or-Quit Notice

PAY OR QUIT NOTICE

Tenant's Name

TAKE NOTICE, THAT YOU ARE JUSTLY INDEBTED TO **Property Manager/Landlord**

IN THE SUM OF \$1,554.00 DOLLARS, FOR THE RENT OF THE FOLLOWING PREMISES
IN THE COUNTY OF CHESTERFIELD TO-WIT:

Tenant's Address

Charges Due Summary

Due Date	Description	Amount	Amount Due
09/01/2019	Rent Income	\$895.00	\$480.00
10/01/2019	Rent Income	\$895.00	\$895.00
09/02/2019	Late Fee	\$89.50	\$89.50
10/06/2019	Late Fee	\$89.50	\$89.50
Total			\$1,554.00

Monthly Charges

Rent Income	\$895.00
Total	\$895.00

BEING THUS IN DEFAULT MORE THAN FIVE DAYS PAST DUE.

I HEREBY REQUIRE AND DEMAND POSSESSION OF THE AFORESAID
PREMISES OR THE PAYMENT OF SAID RENT WITHIN FIVE DAYS AFTER SERVICE
OF THIS NOTICE: IN DEFAULT OF WHICH WE SHALL PROCEED BY DUE PROCESS
OF THE LAW TO RECOVER POSSESSION OF SAID PREMISES.

GIVEN UNDER MY HAND THIS 10/07/2019

I CERTIFY THAT I DELIVERED THIS NOTICE ON 10/07/2019 TO THE ABOVE
TENANT.

21/30-Day Notice Remediable Breach

VIRGINIA 21/30-DAY NOTICE TO QUIT

To: _____

All residents (tenants and subtenants) in possession and all other in possession

The premises herein referred to are located in the City of _____,
County of _____ State of _____, Zip Code _____
designated by the number and street as _____

Apt. _____. In accordance with your lease agreement signed on the _____ day of _____, 20____ and the laws in the State of _____

WITHIN TWENTY-ONE (21) DAYS after service on you of this notice, you are hereby required to remedy the violation described as _____

as it is in non-compliance with your lease agreement. You shall notify the landlord within the notice period that the violation has been cured or quit and deliver the possession of the premises. If the violation has not been cured within the initial twenty-one (21) day period, then the lease shall terminate with the tenant required to vacate along with all their possessions within thirty (30) days ending on the the _____ day of _____, 20____.

YOU ARE FUTHER NOTIFIED THAT, the owner/landlord does hereby elect to declare that forfeiture of your lease or rental agreement under which you hold possession of the above described premises and if you fail to perform or otherwise comply, will institute legal proceedings to recover rent and possession of said premises which would result in a judgment against you including costs and necessary disbursements together with possible statutory damages as allowed by law for such unlawful detention.

Landlord/Agent Signature _____

CERTIFICATE OF SERVICE

I certify that on the _____ day of _____, 20____ I served this notice to _____ by _____

- ☐ - delivering it personally to the person in possession.
- ☐ - delivering it on the premises to a member of his/her family or household or an employee of suitable age and discretion with a request that it be delivered to the person in possession.
- ☐ - first-class mail addressed to the person in possession.

30-Day Notice – Non-Remedial Breach

Virginia Lease Termination Letter

Notice Date: _____ Address of Premises: _____

To: _____

☐ - This notice is to inform my intentions as Landlord that the lease dated the _____ day of _____, 20____ will be terminated in accordance with § 55.1-1253(A). As Tenant, you shall have thirty (30) days to vacate the Premises along with all your possessions.

☐ - This notice is to inform my intentions as Tenant that the lease dated the _____ day of _____, 20____ will be terminated in accordance with § 55.1-1253(A). As Landlord, this request shall provide you with thirty (30) days for me to vacate the Premises along with all my possessions.

The Security Deposit, minus any deductions, shall be returned to the following address:

PROOF OF SERVICE

I, the undersigned, being at least 18 years of age, declare under penalty of perjury that I served the above notice, of which this is a true copy, on the following tenant(s) in possession in the manner(s) indicated below:

☐ - On _____, I handed the notice to the tenant(s) personally.

☐ - On _____, after attempting personal service, I handed the notice to a person of suitable age and discretion at the residence/business of the tenant(s), AND I deposited a true copy in the _____ [Name of Your Postal Service], in a sealed envelope with postage fully prepaid, addressed to the tenant(s) at his/her/their place of residence.

☐ - On _____, after attempting service in both manners described above I placed the notice in a conspicuous place at the residence of the tenant(s) AND I deposited a true copy in the _____ [Name of Your Postal Service] in a sealed envelop with postage fully prepaid, addressed to the tenant(s) at his/her/their place of residence.

Landlord's Signature: _____ Date: _____

Print Name: _____

Summons for Unlawful Detainer – page 1

Clear All Data	
SUMMONS FOR UNLAWFUL DETAINER (CIVIL CLAIM FOR EVICTION)	
Commonwealth of Virginia	VA. CODE § 8.01-126
CITY OR COUNTY	General District Court
STREET ADDRESS OF COURT	
TO ANY AUTHORIZED OFFICER: Summon the Defendant(s) as provided below:	
TO THE DEFENDANT(S): You are commanded to appear before this Court on	
RETURN DATE AND TIME	to answer this civil claim.
DATE ISSUED	[] CLERK [] DEPUTY CLERK [] MAGISTRATE
CLAIM AND AFFIDAVIT: That Defendant(s) unlawfully detains and withholds from Plaintiff(s):	
ADDRESS/DESCRIPTION OF DETAINED PROPERTY	
and that the Defendant should be removed from possession based on the following:	
<input type="checkbox"/> unpaid rent <input type="checkbox"/>	
and further that rent is due and owing and damages have been incurred as follows:	
\$ RENT	rent due for PERIOD and \$ late fee
\$	damages for with interest RATE(S) AND BEGINNING DATE(S)
\$	costs and \$ civil recovery and \$ attorney's fees.
<input type="checkbox"/> Plaintiff requests judgment for all amounts due as of the date of the hearing.	
<input type="checkbox"/> This summons is filed to terminate a tenancy <u>not</u> governed by the Virginia Residential Landlord and Tenant Act, § 55.1-1200 <i>et seq.</i> of the Code of Virginia.	
All required notices have been given.	
<input type="checkbox"/> PLAINTIFF(S) <input type="checkbox"/> PLAINTIFF'S ATTORNEY <input type="checkbox"/> PLAINTIFF'S AGENT	
Subscribed and sworn to before me this day of , 20	
My commission expires: NOTARY REGISTRATION NO. [] CLERK [] DEPUTY CLERK [] MAGISTRATE [] NOTARY PUBLIC	
[] City [] County of	
CASE DISPOSITION	
[] JUDGMENT that Plaintiff(s) recover against { [] named DEFENDANT(S).	
[] possession of the premises described above pursuant to § 8.01-128.	
[] A hearing shall be held on DATE AND TIME to establish final rent and damages.	
[] Immediate writ of eviction [] ordered pursuant to Va. Code § 8.01-129 upon request of Plaintiff.	
[] granted pursuant to Va. Code § 55.1-1250(C).	
DEFENDANT(S) PRESENT? [] YES [] NO	
DATE	JUDGE
[] Rent, in the sum of \$ and \$ late fee	
and \$ damages with interest and	
\$	costs and \$ civil recovery and \$ attorney's fees
[] and \$ costs for Servicemembers Civil Relief Act counsel fees.	
HOMESTEAD EXEMPTION WAIVED? [] YES [] NO [] CANNOT BE DEMANDED	
[] JUDGMENT FOR [] NAMED DEFENDANT(S) []	
\$	costs and \$ attorney fees
awarded to Defendant(s)	
[] NON-SUIT [] DISMISSED DEFENDANT(S) PRESENT? [] YES [] NO	
DATE	JUDGE
FORM DC-421 FRONT 10/19	

CASE NO.	HEARING DATE AND TIME
PLAINTIFF(S) NAME(S) (LAST, FIRST, MIDDLE)	
TELEPHONE NUMBER	
V.	
DEFENDANT(S) NAME(S) (LAST, FIRST, MIDDLE)	
TELEPHONE NUMBER	
TO DEFENDANT: You are not required to appear; however, if you fail to appear, judgment may be entered against you. See the additional notice on the reverse about requesting a change of trial location and your right to prevent this unlawful detainer action through payment of amounts owed.	
[] Redemption tender presented; continued to:	
HEARING DATE AND TIME	
[] To dispute this case, you <u>must</u> appear on the return date to try this case	
[] To dispute this case, you <u>must</u> appear on the return date for the judge to set another date for trial.	
If you fail to appear and a default judgment is entered against you, a writ of eviction may be issued immediately for possession of the premises.	
Bill of Particulars ordered	DUE DATE
Grounds of Defense ordered	DUE DATE
ATTORNEY FOR PLAINTIFF(S)	
TELEPHONE NUMBER	
ATTORNEY FOR DEFENDANT(S)	
TELEPHONE NUMBER	
DISABILITY ACCOMMODATIONS for loss of vision, hearing, mobility, etc. Contact the court ahead of time.	

MONEY JUDGMENT PAID OR SATISFIED PURSUANT TO ATTACHED NOTICE OF SATISFACTION
DATE
CLERK

Summons for Unlawful Detainer – page 2

To the Defendant(s):

- (1) The preferred location for an Unlawful Detainer (Civil Claim for Eviction) action is the city or county where the property is located. If the plaintiff has filed this case in a city or county other than where the property you rent is located, you may object to the location. The court may transfer the case to the preferred location, if the court agrees with you. The court may award costs and attorney's fees to you if the court agrees with your objection. To object to the location of the suit, you must do the following:
- Prepare a written request which contains (a) this court's name, (b) the case number and the "return date" as shown on the other side of this form in the left column under the words "TO THE DEFENDANT(S)," (c) Plaintiff(s)' name(s) and your name(s), (d) "I move to object to venue of this case in this court because" and state the reasons for your objection and also state in which city or county the case should be tried, and (e) your signature and mailing address.
 - File the written request in the clerk's office before the trial date (use the mail at your own risk) or give it to the judge when your case is called on the return date. Also send or deliver a copy to the plaintiff.
 - If you mail your written request to the court, the clerk will notify you of the judge's decision.
- (2) If you pay the landlord or the landlord's attorney or pay into court all (i) rent due and owing as of the court date as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, and (v) costs of the proceeding as provided by law, this unlawful detainer action will be dismissed pursuant to Virginia Code § 55.1-1250. You may exercise this right only once every 12 months that you continue to live in the same place, regardless of the term of the rental agreement or any renewal term.
- (3) You may tell your landlord that you want another person to receive a copy of this summons, and the landlord shall send a copy to that person. However, the person you identify will not, by receiving a copy of the summons, become a party to the case or be able to challenge the landlord's actions on your behalf. Virginia Code § 55.1-1209.

I certify that I mailed a copy of this document to the defendants named therein at the address show therein on

DATE

☐ PLAINTIFF ☐ PLAINTIFF'S ATTORNEY ☐ PLAINTIFF'S AGENT

Fi. Fa. issued on

Interrogatories issued on

Garnishment issued on

RETURNS: Each defendant was served according to law, as indicated below, unless not found.

Name	
Address	
<input type="checkbox"/> Personal Service	Tel. No.
<input type="checkbox"/> Being unable to make personal service, a copy was delivered in the following manner:	
<input type="checkbox"/> Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.	
<input type="checkbox"/> Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)	
<input type="checkbox"/> Served on the Secretary of the Commonwealth	
<input type="checkbox"/> Not found	SERVING OFFICER
for	
DATE	
Name	
Address	
<input type="checkbox"/> Personal Service	Tel. No.
<input type="checkbox"/> Being unable to make personal service, a copy was delivered in the following manner:	
<input type="checkbox"/> Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.	
<input type="checkbox"/> Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)	
<input type="checkbox"/> Served on the Secretary of the Commonwealth	
<input type="checkbox"/> Not found	SERVING OFFICER
for	
DATE	