

**STRAIGHT  
TALK  
ABOUT**

# Eviction Procedure

Michigan law provides an expedited court proceeding to recover possession of premises from the current occupants after their right to occupancy has been lawfully terminated. This procedure, known as "summary proceedings," is quick, inexpensive and easy to use without the assistance of an attorney, though either party may have an attorney present. Forms and instructions for utilizing this process are available from the district court clerk's office in the county where the property is located. The "filing fee" is minimal. In addition to receiving an order for restitution of the premises, it is also possible to recover monetary damages, court costs and a court order to prevent any further damage to the premises.

One reason for allowing this quick and inexpensive method for recovering property is to discourage unlawful "self-help" repossessions which sometimes result in violence between the parties or other disruptions of the peace. It works like this: the property owner files a complaint and the court issues a summons commanding the parties to appear for a trial to be held within five to 10 days. After trial or the defendant's failure to appear, the court may enter a judgment for possession and issue a "writ of restitution" commanding that the owner be immediately restored possession of the premises by the sheriff or other officer of the court. In some cases (such as where a serious and/or continuing health hazard exists), the writ issues immediately upon entry of the court's judgment; in others (including evictions for failure to pay rent), issuance of the writ does not occur for 10 days. If the defendant was not represented by an attorney, the judgment cannot be enforced until three business days after the order was entered.

Summary procedure, which is used widely by landlords throughout the state, requires that the occupants' legal right to occupy the premises be properly terminated before bringing the court action to regain possession. This means that the tenancy must have either ended according to the express terms of the labor housing agreement, or proper written notice must have been given to terminate a tenancy of "month-to-month" or other periodic duration, such as "week-to-week." An employee whose length of occupancy is expressly made coextensive within the agreed period of employment could be treated as a "tenant" for purposes of terminating the tenancy at the end of the employment relationship. In such a case, lawful termination of both the employment and the tenancy could allow immediate recourse to summary proceedings for eviction.

Eviction is a legal process. The existence of the expedited and user-friendly court process known as "summary proceedings" provides a fair, fast and inexpensive method for lawful resolution of disputed claims for possession and restitution of the premises to the rightful person. Other legal procedures may be appropriately considered after consultation with an attorney. "Self-help" and other attempts at illegal eviction, such as retaliation, are strictly prohibited by law and carry monetary penalties. To be safe, court action should be initiated through the appropriate process without attempting any forcible actions (such as shutting off utilities, changing locks, or removing an occupant's property). Illegal evictions can result in the assessment of monetary damages and court costs.

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