



Evictions and Writs of Restitution

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 intent is to provide the public with information and general guidelines regarding Sheriff's Office policy and procedure for executing Writs of Restitution. We recommend that you personally research the statutes, or contact an attorney or the courts before proceeding with any action.

Notice (Demand) to Vacate:

The general eviction process begins when the landlord provides a written demand for the tenant to vacate. The eviction notice must be personally served to the tenant, or posted in a conspicuous place upon the premises.

If the tenant is not out of the property by the end of the time set out in the eviction notice, or fails to meet certain terms outlined in the notice, you *must* then take a copy of this notice to the Delta Combined Courts located at 501 Palmer Street, Delta. There you will obtain an "eviction packet" which includes all the forms necessary for an eviction.

Summons and Forcible Entry Detainer

The landlord must then obtain a Summons and Forcible Entry and Detainer (F.E.D.) from the county or district court (depending upon which court had jurisdiction under the applicable statutes) to continue the eviction procedure. The court will request a copy of the three-day notice you provided to the tenant as well as a copy of the lease if one was given.

Service of the Summons can be completed either by the Sheriff's Office's *Civil Division*, disinterested party over the age of 18 years. "Personal" service as (outlined in Rule 4 of the Colorado Rules of Civil Procedure) is required if the landlord is seeking a money judgment along with the actual eviction. A copy of the complaint must be served with the Summons. If no money judgment is sought, the summons and complaint may be served by posting it in a conspicuous place upon the premises after a diligent effort to make "Personal" service. Both types of service must be completed at least seven days before the court date specified in the Summons and must be evidenced by completing the return of service to the court.

Evictions (Writ of Restitution)

The issuing court must wait 48 hours after entry of a judgment before issuing a Writ of Restitution (if they fail to do so, the Sheriff will wait the 48 hours before serving or posting the Writ). Landlords must bring the court-ordered Writ of Restitution (two-copies) and Notice of Judgment (when evicting a mobile home from a mobile home park) to the Sheriff's Office Civil Division. The Civil Division will schedule a date for the eviction with the landlord. Please be aware that there can be a waiting period of up to one week before the eviction can be accomplished. Only Sheriff's deputies are authorized to execute the Writ of Restitution (eviction order). Mileage and a *service fee* are charged at time of serving the Writ of Restitution.

Usually, a 48 hour notice is given prior to the actual move out date. This is done by posting a "Warning" notice at the same time of service of the Writ of Restitution.

The landlord is responsible for providing a sufficient number of movers to accomplish the actual, physical removal of property/vehicles from the premises within two hours and at his own expense. The landlord or his agent must be present at the scheduled time of eviction. The eviction may be cancelled if the landlord or their agent fails to attend. The Sheriff's deputy will stand by while the premises are cleared. No mobile home can be towed without meeting state statutes regarding the movement of mobile homes in public roadways.

Any animals left abandoned on the premises, the owners are subject to Colorado Revised Statutes that pertain to Animal Abandonment. Any property left at the premises that are deemed to be a hazard to the public (e.g. firearms, fuel, weapons, alcohol, medications, pornography) will be impounded by the Sheriff's deputies.

NOTE: CIVIL STANDBYS are not automatic; please contact the Civil Division with questions. Additional information can be found at www.courts.state.co.us