

# **What To Do If Your Landlord Locks You Out Or Shuts Off Your Utilities**



**Legal Services of Greater Miami, Inc.**

**Tenants' Rights Project**

**Renters' Education and Advocacy Legal Lines (REAL)**

<https://sites.google.com/site/reallsgmi>

[www.lsgmi.org](http://www.lsgmi.org)

## **HOW THE LANDLORD CAN GET POSSESSION OF YOUR UNIT**

In Florida, there are only 3 ways your landlord can get possession of the unit he rents to you:

1. If you abandon the unit. A landlord can assume the unit is abandoned if:
  - a. You are absent from your unit for a period of time equal to one half the time of your rental period AND you did not pay the rent; or,
  - b. You are absent from your unit for a period of time equal to one half the time of your rental AND you did not notify your landlord of your absence.

For example, you have abandoned your unit if you pay rent monthly, are behind in your rent, and have been gone more than 15 days. However, this does not apply if the rent is current or you have informed your landlord, in writing, of your absence.

2. You voluntarily allow your landlord to take possession of the unit by moving out.
3. Your landlord files an eviction lawsuit with the Court and the judge has ordered you to move out of your unit.

### **LANDLORD CANNOT LOCK YOU OUT!!!**

If you live in the rental unit and you want to stay there, the landlord CANNOT order you to leave or lock you out.

- Even if you have not paid your rent or you have violated the rental agreement, the landlord cannot make you leave.
- This applies whether you rent an apartment, house, duplex, room, condo, and even applies if your rental agreement is an oral agreement.
- The only way a landlord can get you to move out is by filing a lawsuit for an eviction and having a judge order you to move.

### **LANDLORD MUST FILE AN EVICTION IN COURT**

If your landlord brings a lawsuit to evict you, you have the right to defend yourself, with or without an attorney. Please refer to our "How to Answer Your Eviction" brochure for more information.

- If the Judge agrees with the landlord, the Judge will sign an order directing the Sheriff to evict you.
- Only the Sheriff can legally force you to leave the rental unit, NOT the landlord.

### **PROHIBITED PRACTICES**

- Sometimes a landlord will try to get around the law by turning off the electricity or water, changing the locks, removing the doors, or doing something else to make you leave. **THIS IS AGAINST THE LAW.**
- If your landlord does anything like this, you can sue the landlord for 3 times the rent or actual and consequential damages, whichever is more, and also recover your attorney's fees and costs. This applies to each time the landlord commits a prohibited practice.
- You can sue the landlord in Small Claims Court without an attorney if your damages are less than \$5,000.00. You should see our brochure on "How to Sue in Small Claims Court."
- You can also ask the Court, by filing a complaint in County Court, to order the landlord to let you back in, or turn on the utilities. This is called an injunction. You may also seek damages. A sample Complaint is included with this brochure.
- If your landlord tries to force you to leave without going through the Court, you should call the police. Show the police this brochure and ask for their assistance. They will not arrest your landlord, but they may tell the landlord to let you back in or to restore the utilities.

## SEND A LOCKOUT LETTER TO YOUR LANDLORD

Sometimes a landlord will reconsider and let you back into the unit if you explain the law to him. The best way to do this is to write the Landlord a letter. Keep a copy of the letter you give your Landlord. A sample letter is included in this brochure.

### FILING A COMPLAINT IN COUNTY COURT FOR INJUNCTIVE RELIEF

- **Steps:**

*Step 1:* File complaint.

*Step 2:* Serve complaint.

*Step 3:* Wait 20 days for the landlord to respond.  
-OR-

Contact the Judicial Assistant and request an Emergency Hearing (in cases where your water or electricity is shut off, or you have been locked out). Go to hearing and tell the Judge you want the utilities back on. Bring any evidence or witnesses you may have.

*Step 4(a):* Attend mediation, **if ordered**.

- One of 2 things will occur:

- I. Come to an agreement with the other party and settle the case.
- II. Fail to come to an agreement with the other party and go to trial.

*Step 4(b):* Attend trial, **if ordered**.

- One of 2 things will occur:

- I. Lose trial and do not recover damages.
- II. Win and recover damages.

*Step 5:* Submit Final Judgment Form, if prevailing party.

*Step 6:* Collect judgment by following post-judgment procedure.

- **Fees**

The filing fees for your complaint are based on how much money you are suing for.

If your claim is for:

**\$1.00 - \$99.99**, you pay \$55.00      **\$100.00 - \$500**, you pay \$80.00

**\$500.01 - \$2,500**, you pay \$175.00      **\$2,500.01 - \$5,000**, you pay \$300.00

If you are low income, you can have the filing fee waived by filling out the Application for Determination of Civil Indigent Status. That form is included with this brochure. You need to turn this in to the Clerk when you file your complaint.

- **Service**

You should know precisely who you are suing - the correct legal name of the person or business you are suing and where they can be served because your lawsuit cannot proceed until the defendant has been served. "Serve" means having the sheriff or process server personally hand a copy of your lawsuit to that person.

If you are suing a corporation, you can serve the registered agent. You may get the name of the registered agent by calling “Corporate Information” at the Florida Secretary of State, 1-850-488-9000 or from the Subiz website [www.sunbiz.org](http://www.sunbiz.org). If you cannot serve the registered agent, then you can serve any corporate officer.

You have 2 service options:

1. You may use the Sheriff to serve the Summons and it will cost you \$40.00. This fee will not be waived.
2. You may use a court approved process server to serve the defendant (sometimes quicker than the Sheriff). Cost may vary depending on provider. You may obtain a list of process servers, by calling the Clerk at (305)349-5543.

- **What to File**

At the clerk's office you must submit a Summons and Complaint. A sample Complaint has been included with this brochure. The clerk's office will provide you with the proper Summons. You must also pay the filing fees or file your Applicant for Determination of Civil Indigent Status. There will be clerks available to assist you in filling out the form, but they cannot give legal advice.

Bring all the information and papers concerning your Complaint with you to one of the court locations. For example, if your Complaint is based on your landlord locking you out and you called the police, you should attach a copy of the police report you received as proof that you were actually locked out by your landlord, if you have it.

- **Where to File**

You can file your small claim at any of the court locations listed below:

<b>Dade County Courthouse (05)</b> 73 W. Flagler Street, Room 137 Miami, Florida 33130	<b>Coral Gables District Court (25)</b> 3100 Ponce de Leon Blvd. Coral Gables, Florida 33134
<b>South Dade Justice Center (26)</b> 10710 S.W. 211 <sup>th</sup> Street, Room 1200 Miami, Florida 33189	<b>Miami Beach District Court (24)</b> 1130 Washington Avenue , Room 200 Miami Beach, Florida 33139
<b>Hialeah District Court (21)</b> 11 E. 6th Street, Room 100 Hialeah, Florida 33010	<b>North Dade Justice Center (23)</b> 15555 Biscayne Boulevard, Room 100 Miami, Florida 33160

### **AFTER YOU FILE YOUR COMPLAINT**

After you have filed your complaint, the landlord will have 20 days to respond. If it is an emergency, such as no water, you should call the Judicial Assistant and request an emergency hearing so that your complaint is seen by a judge immediately.

If it is not an emergency, a judge may order that you and the landlord go to **MEDIATION**. The advantage of mediation is that your case is over right away and you are sure of the result, instead of taking a chance with a trial. The disadvantage is that you must pay for mediation and you may not get everything you want. If you and the landlord cannot agree to any terms at mediation, then the judge may order a trial.

### **WHAT WILL HAPPEN AT YOUR TRIAL**

The trial is the final hearing in your case. At the trial all the witnesses testify and both sides present whatever documents or other evidence they have. If you have filed the complaint, you are the plaintiff and you present your case first. You can start with an “opening statement,” where you explain to the court what the case is about, what you are going to prove and how you will prove it.

After the plaintiff has presented everything necessary to prove the case, then the defendant has the opportunity to present his side of the case. They both can call witnesses and introduce documents and other evidence. They can each also ask questions of the other party's witnesses.

After both sides have presented their cases, then both the plaintiff and defendant can make a "closing argument." In the closing argument, each party tries to persuade the court to rule in his favor. You can restate to the Judge what you have proved and why you should win.

The Judge then decides the case and issues a decision. This is called the **JUDGMENT** and will be written. Usually the Judge rules immediately after the trial; sometimes the judge will take additional time to rule.

If the Judge makes a decision in your favor, you will receive a **FINAL JUDGMENT** in the mail or be instructed to go to the Clerk's Office to obtain a Final Judgment form. You are required to submit the Final Judgment form to the Judge for signature. You must complete it and provide copies to the judge and the defendant(s), along with addressed stamped envelopes for all parties. You should also keep a copy for yourself. A Final Judgment is a legal document stating that one party is entitled to recover damages in a specified amount from another party.

If the Judge makes a decision in favor of your landlord, you could be liable to your landlord for attorney's fees and costs.

Note: At any time during this process, the defendant may pay you and settle the claim. However, obtaining a judgment against a party is NOT the same as collecting that judgment, and can be difficult. Post-judgment legal procedures are often required prior to any collection. You may find it necessary to hire an attorney to assist you with the post-judgment procedure. You can call the Dade County Bar's Lawyer Assistance Program at (305)371-2646 for a referral to an attorney who does collection work.



## **Legal Services of Greater Miami, Inc.**

### **Main Office**

3000 Biscayne Boulevard, Suite 500  
Miami, FL 33137  
Telephone: (305) 576-0080  
TTD: (305) 573-1578

### **South Dade**

11285 SW 211 Street, Suite 302  
Miami, Florida 33189  
Telephone: (305) 576-0080  
TTD: (305) 573-1578

### **Monroe County**

Telephone: (877) 715-7464  
TTD: (877) 715-7461

***Passionately Committed to Equal Justice***

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**IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff,

vs.

\_\_\_\_\_  
Defendant.

\_\_\_\_\_ /

**COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES**

Plaintiff, \_\_\_\_\_ (hereinafter the “Plaintiff”), sues Defendant, \_\_\_\_\_  
\_\_\_\_\_ (hereinafter the “Defendant”), and as grounds states:

**FACTS**

1. This is an action for declaratory and injunctive relief and for compensatory damages not exceeding \$15,000.00.
2. The Plaintiff is a “tenant” within the meaning of Fla. Stat. § 83.43(4).
3. The Defendant is a “landlord” within the meaning of Fla. Stat. § 83.43(3).
4. The Plaintiff resides at the dwelling unit located at \_\_\_\_\_  
\_\_\_\_\_ (hereinafter the “premises”).
5. At all relevant times, the Plaintiff has resided at the premises.
6. The Defendant is the landlord of the premises where the Plaintiff lives.
7. Plaintiff’s monthly rent is \$ \_\_\_\_\_.

8. On \_\_\_\_\_, the Defendant did the following acts to force the Plaintiff out of the premises:

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9. Plaintiff has not surrendered possession of the premises to the Defendant.

10. Plaintiff has not abandoned the premises.

11. Plaintiff is entitled to reasonable costs pursuant to Fla. Stat. § 83.67(6).

**CLAIMS FOR RELIEF**

**COUNT I**

**(Declaratory and Injunctive Relief)**

12. Plaintiff realleges and reincorporates paragraphs 1 through 11 as if fully stated herein.

13. This is an action for declaratory relief, and for temporary and permanent injunctive relief, pursuant to: Fla. Stat. § 83.67; and, other applicable Florida law.

14. The Defendant's acts, as alleged in Paragraph 8, constitute "prohibited practices" as defined in Fla. Stat. § 83.67(1).

15. The Defendant's acts, as alleged in Paragraph 8, constitute "irreparable harm" within the meaning of Fla. Stat. §§ 83.67(1)-(2) and 83.67(6).

16. The Plaintiff is indigent and unable to post bond for the issuance of a temporary injunction.

**COUNT II**

**(Damages Pursuant to Fla. Stat § 83.67)**

17. Plaintiff realleges and reincorporates paragraphs 1 through 11 as if fully stated herein.

18. This is an action for compensatory damages pursuant to Fla. Stat. § 83.67.

19. The Defendant's acts, as alleged in Paragraph 8, constitute "prohibited practices" as defined in Fla. Stat. § 83.67(1).

20. Pursuant to Fla. Stat. Fla. Stat. § 83.67(6), “a landlord who violates any provision of this section shall be liable to the tenant for actual and consequential damages or 3 months’ rent, whichever is greater, and costs, including attorney’s fees.”

21. On \_\_\_\_\_, the Defendant was given notification concerning the nature of the Defendant’s illegal actions and was given ample warning to cure its illegal actions. However, Defendant has ignored this warning. *See* Exhibit “\_\_\_\_.”

WHEREFORE, Plaintiff respectfully requests this Court to:

A. Declare that Defendant has unlawfully and directly terminated Plaintiff’s

\_\_\_\_\_

in violation of Fla. Stat. §§ 83.67 and 83.51;

B. Award Plaintiff compensatory damages pursuant to Fla. Stat. § 83.67(6);

C. Award Plaintiff costs pursuant to Fla. Stat. §§ 83.67 and 83.48; and,

D. Grant such further relief as the Court deems necessary and proper.

Dated this \_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

Respectfully submitted,

By: \_\_\_\_\_

Plaintiff

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

IN THE CIRCUIT/COUNTY COURT OF THE \_\_\_\_\_ JUDICIAL CIRCUIT  
IN AND FOR \_\_\_\_\_ COUNTY, FLORIDA

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff/Petitioner or In the Interest Of  
vs.

\_\_\_\_\_  
Defendant/Respondent

**APPLICATION FOR DETERMINATION OF CIVIL INDIGENT STATUS**

Notice to Applicant: If you qualify for civil indigence you must enroll in the clerk's office payment plan and pay a one-time administrative fee of \$25.00. This fee shall not be charged for Dependency or Chapter 39 Termination of Parental Rights actions.

1. I have \_\_\_\_\_ dependents. (Include only those persons you list on your U.S. Income tax return.)  
Are you Married? Yes No Does your Spouse Work? Yes No Annual Spouse Income? \$ \_\_\_\_\_

2. I have a net income of \$ \_\_\_\_\_ paid weekly every two weeks semi-monthly monthly yearly other \_\_\_\_\_  
(Net income is your total income including salary, wages, bonuses, commissions, allowances, overtime, tips and similar payments, minus deductions required by law and other court-ordered payments such as child support.)

3. I have other income paid weekly every two weeks semi-monthly monthly yearly other \_\_\_\_\_.  
(Circle "Yes" and fill in the amount if you have this kind of income, otherwise circle "No")

Second Job.....	Yes \$ _____	No	Veterans' benefits.....	Yes \$ _____	No
Social Security benefits			Workers compensation.....	Yes \$ _____	No
For you.....	Yes \$ _____	No	Income from absent family members.....	Yes \$ _____	No
For child(ren).....	Yes \$ _____	No	Stocks/bonds.....	Yes \$ _____	No
Unemployment compensation.....	Yes \$ _____	No	Rental income.....	Yes \$ _____	No
Union payments.....	Yes \$ _____	No	Dividends or interest.....	Yes \$ _____	No
Retirement/pensions.....	Yes \$ _____	No	Other kinds of income not on the list.....	Yes \$ _____	No
Trusts.....	Yes \$ _____	No	Gifts.....	Yes \$ _____	No

I understand that I will be required to make payments for fees and costs to the clerk in accordance with §57.082(5), Florida Statutes, as provided by law, although I may agree to pay more if I choose to do so.

4. I have other assets: (Circle "yes" and fill in the value of the property, otherwise circle "No")

Cash.....	Yes \$ _____	No	Savings account.....	Yes \$ _____	No
Bank account(s).....	Yes \$ _____	No	Stocks/bonds.....	Yes \$ _____	No
Certificates of deposit or money market accounts.....	Yes \$ _____	No	Homestead Real Property*.....	Yes \$ _____	No
Boats*.....	Yes \$ _____	No	Motor Vehicle*.....	Yes \$ _____	No
			Non-homestead real property/real estate*.....	Yes \$ _____	No

\*show loans on these assets in paragraph 5

Check one: I DO DO NOT expect to receive more assets in the near future. The asset is \_\_\_\_\_.

5. I have total liabilities and debts of \$ \_\_\_\_\_ as follows: Motor Vehicle \$ \_\_\_\_\_, Home \$ \_\_\_\_\_, Other Real Property \$ \_\_\_\_\_, Child Support paid direct \$ \_\_\_\_\_, Credit Cards \$ \_\_\_\_\_, Medical Bills \$ \_\_\_\_\_, Cost of medicines (monthly) \$ \_\_\_\_\_, Other \$ \_\_\_\_\_.

6. I have a private lawyer in this case..... Yes No

A person who knowingly provides false information to the clerk or the court in seeking a determination of indigent status under s. 57.082, F.S. commits a misdemeanor of the first degree, punishable as provided in s.775.082, F.S. or s. 775.083, F.S. I attest that the information I have provided on this application is true and accurate to the best of my knowledge.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Date of Birth                      Driver's License or ID Number

\_\_\_\_\_  
Signature of Applicant for Indigent Status  
Print Full Legal Name \_\_\_\_\_  
Phone Number: \_\_\_\_\_

\_\_\_\_\_  
Address, P O Address, Street, City, State, Zip Code

**CLERK'S DETERMINATION**

Based on the information in this Application, I have determined the applicant to be ( ) Indigent ( ) Not Indigent, according to s. 57.082, F.S.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Clerk of the Circuit Court by \_\_\_\_\_

This form was completed with the assistance of: \_\_\_\_\_  
Clerk/Deputy Clerk/Other authorized person.

**APPLICANTS FOUND NOT TO BE INDIGENT MAY SEEK REVIEW BY A JUDGE BY ASKING FOR A HEARING TIME. THERE IS NO FEE FOR THIS REVIEW.**

Sign here if you want the judge to review the clerk's decision \_\_\_\_\_

**IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff,

vs.

\_\_\_\_\_  
Defendant.

\_\_\_\_\_ /

**SUMMONS**

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and a copy of the Complaint in this action on the Defendant, at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant is required to serve its answer and written defenses to the Complaint on Plaintiff, whose address is \_\_\_\_\_, within 20 days after service of this summons on that Defendant, exclusive of the date of service, and to file the original answer and defenses with the clerk of this court either before service on the Plaintiff or immediately thereafter. If the Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the complaint.

DATED on \_\_\_\_\_

HARVEY RUVIN  
As Clerk of the Court

By: \_\_\_\_\_  
As Deputy Clerk

Date: \_\_\_\_\_

\_\_\_\_\_  
Landlord's Name

\_\_\_\_\_  
Landlord's Address

**RE: Property at** \_\_\_\_\_

Dear \_\_\_\_\_:

On \_\_\_\_\_, I believe you did the following illegal acts to force me out of my unit:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Under Florida law as contained in Statute §83.67, if you want me out of the unit, then you must file an eviction in the Miami-Dade County Court. **Self-help evictions are prohibited in the State of Florida.** If the Judge in the eviction case orders me evicted, then the Miami-Dade County Sheriff's Department will put me out.

The actions you have taken may have violated Florida's landlord/tenant law and may make you liable to me for 3 times the rent or actual damages, whichever is greater, and my attorney's fees and costs. I am attaching a copy of this law. I suggest you consult with your attorney who can confirm this.

I demand that you cease your illegal activity within 3 hours of receiving this letter. That should give you sufficient time to confirm that what I have said is true.

Sincerely,

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

**2011 Florida Statutes**  
**83.67 – Prohibited Practices**

- (1) A landlord of any dwelling unit governed by this part shall not cause, directly or indirectly, the termination or interruption of any utility service furnished the tenant, including, but not limited to, water, heat, light, electricity, gas, elevator, garbage collection, or refrigeration, whether or not the utility service is under the control of, or payment is made by, the landlord.
- (2) A landlord of any dwelling unit governed by this part shall not prevent the tenant from gaining reasonable access to the dwelling unit by any means, including, but not limited to, changing the locks or using any bootlock or similar device.
- (3) A landlord of any dwelling unit governed by this part shall not discriminate against a service member in offering a dwelling unit for rent or in any of the terms of the rental agreement.
- (4) A landlord shall not prohibit a tenant from displaying one portable, removable, cloth or plastic United States flag, not larger than 4 and 1/2 feet by 6 feet, in a respectful manner in or on the dwelling unit regardless of any provision in the rental agreement dealing with flags or decorations. The United States flag shall be displayed in accordance with s. 83.52(6). The landlord is not liable for damages caused by a United States flag displayed by a tenant. Any United States flag may not infringe upon the space rented by any other tenant.
- (5) A landlord of any dwelling unit governed by this part shall not remove the outside doors, locks, roof, walls, or windows of the unit except for purposes of maintenance, repair, or replacement; and the landlord shall not remove the tenant's personal property from the dwelling unit unless such action is taken after surrender, abandonment, recovery of possession of the dwelling unit due to the death of the last remaining tenant in accordance with s. 83.59(3)(d), or a lawful eviction. If provided in the rental agreement or a written agreement separate from the rental agreement, upon surrender or abandonment by the tenant, the landlord is not required to comply with s. 715.104 and is not liable or responsible for storage or disposition of the tenant's personal property; if provided in the rental agreement, there must be printed or clearly stamped on such rental agreement a legend in substantially the following form:

**BY SIGNING THIS RENTAL AGREEMENT, THE TENANT AGREES THAT UPON SURRENDER, ABANDONMENT, OR RECOVERY OF POSSESSION OF THE DWELLING UNIT DUE TO THE DEATH OF THE LAST REMAINING TENANT, AS PROVIDED BY CHAPTER 83, FLORIDA STATUTES, THE LANDLORD SHALL NOT BE LIABLE OR RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE TENANT'S PERSONAL PROPERTY.**

For the purposes of this section, abandonment shall be as set forth in s. 83.59(3)(c).

- (6) A landlord who violates any provision of this section shall be liable to the tenant for actual and consequential damages or 3 months' rent, whichever is greater, and costs, including attorney's fees. Subsequent or repeated violations that are not contemporaneous with the initial violation shall be subject to separate awards of damages.
  - (7) A violation of this section constitutes irreparable harm for the purposes of injunctive relief.
  - (8) The remedies provided by this section are not exclusive and do not preclude the tenant from pursuing any other remedy at law or equity that the tenant may have. The remedies provided by this section shall also apply to a servicemember who is a prospective tenant who has been discriminated against under subsection (3).
- History.—s. 3, ch. 87-369; s. 7, ch. 88-379; s. 3, ch. 90-133; s. 3, ch. 96-146; s. 2, ch. 2001-179; s. 2, ch. 2003-30; s. 4, ch. 2003-72; s. 1, ch. 2004-236; s. 2, ch. 2007-136.