

EVICTION PROCEDURE GUIDELINES

THE RENTAL PROPERTY MUST BE LOCATED WITHIN EAST BATON ROUGE PARISH

I. To evict a tenant because of the termination of the lease by expiration of its term, nonpayment of rent, or for any other reason, the following actions are necessary.

A. Prepare a Notice to Vacate Premises which is properly addressed to the tenant that gives him/her five (5) days to move for expiration of its term, nonpayment of rent, or for any other reason.

1. The Notice to Vacate Premises should not contain a specific date to vacate but should simply state that tenant has five (5) days from date of delivery of notice. Do not include holidays or weekends when counting the five days. The notice to vacate should contain the posting or mailing date, tenant(s) name, and physical address of property to be vacated, along with the reasons for the eviction.
2. The Notice to Vacate Premises must be signed by you and your witness and should be handed to the tenant in front of your witness. If the tenant is not at home when you serve the Notice to Vacate Premises, either post it on the door (with your witness) or mail it to the tenant CERTIFIED MAIL - RETURN RECEIPT REQUESTED (shall be signed by lessee).
3. Retain a copy of the Notice to Vacate Premises for yourself. (Must be signed by you and your witness).
4. THE PERSON WHO ACTUALLY DELIVERED THE NOTICE TO VACATE SHOULD BE PREPARED TO PROVE SUCH DELIVERY.

B. If the tenant has not moved within five (5) working days after handing, posting, or receipt date of the certified mail notice, you may file a Rule to Evict. The procedure for filing an eviction suit follows:

1. Complete the Rule to Evict form, which is available through the Civil Section or online at www.brgov.com/dept/citycourt (Civil Suit Forms). Send that completed form to the Clerk of Court, Baton Rouge City Court, Civil Division, Room 251, P.O. Box 3438, Baton Rouge, LA 70821. ENCLOSE A COPY OF YOUR LEASE/RENTAL AGREEMENT AND A COPY OF YOUR SIGNED NOTICE TO VACATE PREMISES. IF THE NOTICE WAS SENT BY CERTIFIED MAIL, ALSO ENCLOSE THE GREEN CARD SHOWING RECEIPT OF THE NOTICE BY THE TENANT.
2. Enclose \$128.00 court cost for one (1) defendant (plus \$10.00 for each additional defendant.) If husband and wife, the court cost is \$138.00. Send money order or cashiers check made payable to Clerk of Court, Baton Rouge City Court.
3. If an agent will appear at the scheduled hearing, an affidavit must be signed by the owner/lessor and filed with the Civil Division of the Clerk of Court's Office that authorizes this individual to act in that capacity. That affidavit will be maintained in the Civil Division and will eliminate the necessity of filing additional affidavits on future cases.
4. This office will have notice served on the tenant by the City Constable which informs the tenant that you are suing him/her for eviction and giving him/her a date to appear in Court if he/she wishes to contest the case. The Court date will be approximately two (2) weeks from the date the suit is filed. The Court date will be given to you when you file your suit, or it will be mailed to you.
5. If the tenant or possessions continue to remain in the premises on the morning of the Court hearing, you MUST appear before the Judge at Baton Rouge City Court, Courtroom 309, 233 St. Louis Street, Baton Rouge, LA. Check-in with the bailiff when you arrive. If you handed the Notice to Vacate Premises to the tenant, or posted it, you MUST bring one of your witnesses with you. The Judge will ask your witness, under oath, to confirm that he/she saw you personally deliver or post the notice to the tenant.

II. If you are evicting a tenant in accordance with LA C.C.P. Art. 4701 and 4731 which authorizes waiver of the "Notice to Vacate" requirement, you must bring a copy of the lease when you file your eviction. When presenting this document, please highlight that waiver provision.

III. If the tenant remains on the premises twenty-four (24) hours after you are granted Judgment of Eviction, you can call the Constable's Office at 389-3004 to make arrangements for the execution of the Warrant of Possession.

Proper attire is required for Court appearances. No tank tops, muscle shirts, cutoffs, shorts, sagging pants, halter tops, or clothing that exposes the midriff. No gum chewing allowed in Court.
No cell phones allowed in the building.

*** See reverse side for Louisiana Code of Civil Procedure Articles Related to Evictions ***

**TITLE XI
EVICTION OF TENANTS AND OCCUPANTS
Louisiana Code of Civil Procedure**

Art. 4701. Termination of lease; notice to vacate; waiver of notice

When a lessee's right of occupancy has ceased because of the termination of the lease by expiration of its term, action by the lessor, nonpayment of rent, or for any other reason, and the lessor wishes to obtain possession of the premises, the lessor or his agent shall cause written notice to vacate the premises to be delivered to the lessee. The notice shall allow the lessee not less than five days from the date of its delivery to vacate the leased premises.

If the lease has no definite term, the notice required by law for its termination shall be considered as a notice to vacate under this Article. If the lease has a definite term, notice to vacate may be given not more than thirty days before the expiration of the term.

A lessee may waive the notice requirements of this Article by written waiver contained in the lease, in which case, upon termination of the lessee's right of occupancy for any reason, the lessor or his agent may immediately institute eviction proceedings in accordance with Chapter 2 of Title XI of the Louisiana Code of Civil Procedure.

Art. 4703. Delivery or service when premises abandoned or closed, or whereabouts of tenant or occupant unknown

If the premises are abandoned or closed, or if the whereabouts of the lessee or occupant is unknown, all notices, process, pleadings, and orders required to be delivered or served on the lessee or occupant under this Title may be attached to a door of the premises, and this shall have the same effect as delivery to, or personal service on, the lessee or occupant.

Art. 4731. Rule to show cause why possession should not be delivered; abandonment of premises

A. If the lessee or occupant fails to comply with the notice to vacate required under this Title, or if the lessee has waived his right to notice to vacate by written waiver contained in the lease, and has lost his right of occupancy for any reason, the lessor or owner, or agent thereof, may cause the lessee or occupant to be cited summarily by a court of competent jurisdiction to show cause why he should not be ordered to deliver possession of the premises to the lessor or owner. The rule to show cause shall state the grounds upon which eviction is sought.

B. After the required notice has been given, the lessor or owner, or agent thereof, may lawfully take possession of the premises without further judicial process, upon a reasonable belief that the lessee or occupant has abandoned the premises. Indicia of abandonment include a cessation of business activity or residential occupancy, returning keys to the premises, and removal of equipment, furnishings, or other movables from the premises.

Art. 4732. Trial of rule; judgment of eviction

A. The court shall make the rule returnable not earlier than the third day after service thereof, at which time the court shall try the rule and hear any defense which is made.

B. If the court finds the lessor or owner entitled to the relief sought, or if the lessee or occupant fails to answer or to appear at the trial, the court shall render immediately a judgment of eviction ordering the lessee or occupant to deliver possession of the premises to the lessor or owner. The judgment of eviction shall be effective for not less than ninety days.

Art. 4733. Warrant for possession if judgment of eviction not complied with

If the lessee or occupant does not comply with the judgment of eviction within twenty-four hours after its rendition, the court shall issue immediately a warrant directed to and commanding its sheriff, constable, or marshal to deliver possession of the premises to the lessor or owner.

Art. 4734. Execution of warrant

The sheriff, constable, or marshal shall execute a warrant rendered under Article 4733 in the presence of two witnesses, by clearing the premises of any property therein, in order to put the lessor or owner in possession of the premises.

If the sheriff, constable, or marshal finds the windows, doors, or gates of the premises locked or barred, he shall break open any of these when necessary to effect convenient entry into the premises.

Art. 4735. Appeal; bond

An appeal does not suspend execution of a judgment of eviction unless the defendant has answered the rule under oath, pleading an affirmative defense entitling him to retain possession of the premises, and the appeal has been applied for and the appeal bond filed within twenty-four hours after the rendition of the judgment of eviction. The amount of the suspensive appeal bond shall be determined by the court in an amount sufficient to protect the appellee against all such damage as he may sustain as a result of the appeal.