

## EVICTIION INFORMATION FOR PRO SE LITIGANTS

Other than specifically indicated in these procedures, the Clerk's Office cannot help you or provide assistance in preparation of any forms. Any further advice or assistance must come from private counsel. The Clerk's Office **CANNOT** recommend an attorney for you. If you do not have private counsel, you may contact the Florida Bar's Lawyer Referral Service, which offers limited consultations for a minimal fee, at 1-800-342-8011. Additionally, you may be eligible for services from the Community Legal Services of Mid-Florida, Inc., and may contact them for more information at 1-866-469-7444.

To check the progress of a case throughout the eviction process, please use eFACTS on the Clerk of Court's website at [www.brevardclerk.us](http://www.brevardclerk.us) > Public Records > Court Case Search > Logon > eFACTS.

## GENERAL INFORMATION

1. These instructions apply to residential eviction for nonpayment of rent only.
2. All landlords should read and become familiar with Chapter 83, Florida Statutes (F.S.), and Chapter 55, F.S.
3. The forms attached to these instructions have been approved by the County Court Judges in Brevard County for use in residential evictions for nonpayment of rent only. If you wish to pursue back rent or damages or eviction for reasons other than nonpayment of rent, you must either modify these forms to suit your needs, use the Simplified Forms developed by the Supreme Court, prepare your own documents or consult with an attorney.
4. When filling out the eviction forms, please print or type so that the forms are legible.
5. When filing your complaint, please ensure that you provide the appropriate number of copies for each document as indicated within these instructions. The deputy clerk will charge you a copy fee for each copy you require to complete your package if the copies are not submitted with your complaint. If you fail to advise the deputy clerk that you do not have the appropriate number of copies needed for mailing prior to the deputy clerk time-stamping and in effect filing your document, the fee will be \$1.00 per page. The fee is \$.15 per page for documents that have not yet been filed with the Clerk's Office and \$1.00 per page for documents that have been filed with the Clerk's Office.
6. When filing your complaint, please ensure that you provide the appropriate number of pre-addressed, pre-stamped business size envelopes as indicated within these instructions. The envelope should reflect the landlord's return address. The landlord will be responsible for insufficient postage or re-execution of returned mail. The Clerk's Office will not provide or sell envelopes to you. The Clerk's Office also does not sell postage.

7. The Clerk's Office will not refuse to accept any filing presented to them and will not review pleadings to determine whether the document is sufficiently prepared according to law. These determinations are made by the court.
8. Please note that the landlord should not accept any monies from the defendant(s) during the eviction process. Instead, the landlord should instruct the defendant(s) to deposit all monies into the Registry of the Court, i.e., the Clerk of Courts.

### FILING THE COMPLAINT

1. Prior to filing a Complaint for Eviction, the landlord must serve the proper notice on the defendant as required by Section 83.56, F.S. The three days are exclusive of the posting date, Saturdays, Sundays, and legal holidays. If the Three-Day Notice is not properly completed and served, the complaint seeking eviction may be dismissed by the court for lack of jurisdiction. The Three-Day Notice must be modified if the rental agreement or lease provides for more than three days' notice. A blank Three-Day Notice is available on the Clerk of Court's website at [www.brevardclerk.us](http://www.brevardclerk.us) > Forms > Eviction > 3 Day Notice to Tenant.
2. You must provide the following items to the deputy clerk at the time you file a Complaint for Eviction:
  - a. The \$185.00 filing fee payable in cash, check, cashier's check, money order, or credit card payable to the Brevard County Clerk of Court.
  - b. A \$10.00 summons issuance fee for each summons. If the Complaint lists multiple defendants, a summons issuance fee will be required for each defendant. A husband and wife are considered two defendants if two separate summonses are requested by the landlord.
  - c. Service may be perfected by either the Sheriff's Office or by a Certified Process Server.
    - i. There is a \$40.00 Sheriff's Service fee per summons to be served. If the Statement of Claim lists multiple defendants, a service fee will be required for each defendant. The Sheriff's fee must be remitted in cashier's check, money order, or business check payable to the Brevard County Sheriff. The Clerk's Office CANNOT accept cash for the Sheriff. If you wish to pay cash, you will be responsible for hand-delivering the summons to the Sheriff's Office – Civil Processing Unit. The Sheriff will not accept personal checks.
    - ii. If service is to be performed outside of Brevard County, the plaintiff must contact the Sheriff of that county to obtain service and fee information. If the defendant is out-of-state, the plaintiff must contact the Sheriff of that county to obtain service and fee information.
    - iii. If the plaintiff opts to have a Certified Process Server serve the summons, the plaintiff must contact the Certified Process Server to arrange service and obtain fee information. A listing of Certified Process Servers may be obtained from the Clerk of Court's website at [www.brevardclerk.us](http://www.brevardclerk.us) > Courts > Process Servers. Listings are available for both Brevard and Seminole Counties. Any reference to the Sheriff as it relates to service of a summons within this

procedure should be replaced with the Certified Process Server information if a Certified Process Server is selected by the landlord to provide service of process.

- d. Original complaint for Eviction plus two (2) copies of the complaint for each defendant.
  - e. One (1) copy of the rental agreement or lease plus two (2) copies of the rental agreement for each defendant.
  - f. One (1) copy of the Three-day Notice plus two (2) copies of the Three-day Notice for each defendant.
  - g. One (1) business size envelope with at least \$2.00 postage (more if the contents of the envelope require additional postage pursuant to postal standards) for each defendant pre-addressed to the defendant for mailing a copy of the summons and Complaint to the defendant. Please be advised a single “Forever” stamp does not represent sufficient postage. Multiple “Forever” stamps equaling sufficient postage will be accepted. The envelope should reflect the landlord’s return address. The landlord will be responsible for insufficient postage or re-execution of returned mail.
  - h. One (1) pre-stamped pre-addressed business size envelope addressed to the landlord for the Sheriff’s Office to mail a copy of the return of service advising the landlord of the date and time the defendant was served with the summons. The envelope should reflect the landlord’s return address. The landlord will be responsible for insufficient postage or re-execution of returned mail. If service is being performed by a Certified Process Server, the landlord must determine whether pre-stamped, pre-addressed business size envelopes are necessary for return of service.
3. If the landlord is seeking back rent and damages, the landlord must file a two-count complaint as described in these instructions. If the damages exceed \$5,000.00, the action is subject to the Florida Rules of Civil Procedure.

### SUMMONS

1. If the Complaint requests possession of the property only, a 5-Day summons will be issued.
2. If the Complaint requests possession of the property AND payment of back rent or damages, you may serve the defendant in two different ways:
  - a. Request a 5-Day summons and a separate 20-Day summons. The 5-Day summons may be either personally served or posted. The 20-Day summons must be personally served. There will be a \$40.00 Sheriff’s fee per summons per defendant. If separate 5-Day and 20-Day summons are requested, each summons will require the appropriate service fee per defendant. Please note that the separate 5-Day and 20-Day summons allows the Sheriff or Certified Process Server to post the 5-Day summons so that the possession portion of the eviction can proceed without delay.
  - b. Request a combination 5-Day and 20-Day summons. This summons must be personally served. If this summons is not personally served, the landlord will not be awarded a money judgment. There will be a service fee per defendant. If the Sheriff

or Certified Process Server is unable to post this summons, it could delay the possession portion of the eviction.

### DEFAULT, FINAL JUDGMENT, AND POSSESSION

1. If an Answer is not filed by the defendant within five (5) business days after service of the summons.
  - a. The landlord must present the Motion for Default to the Clerk's Office. This form is contained in the eviction form set. A blank form is provided on our website at [www.brevardclerk.us](http://www.brevardclerk.us) > Forms > Eviction > Motion for Entry of Default by Clerk.
  - b. The landlord must present a prepared proposed Final Judgment of Eviction with a sufficient number of copies of the proposed Final Judgment for mailing to the landlord and defendant. This form is contained in the eviction form set. A blank form is provided on our website at [www.brevardclerk.us](http://www.brevardclerk.us) > Forms > Eviction > Final Judgment of Eviction. The landlord must include two (2) pre-addressed, pre-stamped business size envelopes for each plaintiff and for each defendant for mailing the executed Final Judgment. The envelope should reflect the landlord's return address. The landlord will be responsible for insufficient postage or re-execution of returned mail. If the landlord does not provide a proposed Final Judgment, the assigned judge may not enter a Final Judgment, which will delay the progress of the case.
  - c. If the landlord is seeking additional costs as a result of the filing and service fees associated with the action, the landlord must file an Affidavit of Costs.
  - d. The landlord must present one (1) proposed Writ of Possession and one (1) pre-stamped/addressed envelope to return the Writ of Possession. This form is contained in the eviction form set. A blank form is provided on our website at [www.brevardclerk.us](http://www.brevardclerk.us) > Forms > Eviction > Writ of Possession.
  - e. After entry of the Default, the deputy clerk will forward the proposed Final Judgment of Eviction to the assigned Judge. After entry of the Final Judgment of Eviction, the Clerk's Office will execute the Writ of Possession and forward it as indicated in section (f) of this section of these instructions.
  - f. If a proposed Writ of Possession was not provided to the Clerk's Office, the landlord must monitor the progress of the case to determine when a Final Judgment has been entered, at which point the landlord may request issuance of a Writ of Possession. The Sheriff must serve a Writ of Possession.
    - i. The landlord must then either remit payment in the amount of \$90.00 for the Sheriff's service of the Writ to the Clerk's Office and the deputy clerk will forward the Writ and the fee directly to the Sheriff or the landlord may hand-deliver the Writ and fee to the Sheriff. The Sheriff's fee must be remitted in cashier's check, money order, or business check payable to the Brevard County Sheriff. The Clerk's Office CANNOT accept cash for the Sheriff. If you wish to pay cash, you will be responsible for hand-delivering the Writ to the Sheriff's Office – Civil Processing Unit. The Sheriff will not accept personal checks.
    - ii. If the landlord does not remit the Sheriff's fee at the time of filing, the Writ will be sent directly to the landlord. If the landlord chooses not to submit the

- Sheriff's fee, he/she should submit a self-addressed stamped business size envelope for mailing. It will then be the landlord's responsibility to deliver the Writ of Possession to the Sheriff's Office – Civil Processing Unit for service.
- iii. If the landlord chooses to personally pick up the Writ of Possession and hand-deliver it to the Sheriff for service, the landlord must request this in writing and provide the deputy clerk with a contact name and telephone number.
2. If an answer is filed by the defendant within five (5) business days after service of the summons, if the defendant deposits rent into the Registry of the Court, or if the defendant files a Motion to Determine Rent:
- a. The landlord must present a prepared proposed Final Judgment of Eviction and a proposed Default Final Judgment of Eviction with a sufficient number of copies of the proposed Final Judgment for mailing to the landlord and defendant. This form contained in the eviction form set. Blank forms are provided on our website at [www.brevardclerk.us](http://www.brevardclerk.us) > Forms > Eviction > Final Judgment of Eviction or Default Final Judgment of Eviction. The landlord must include one (1) pre-addressed, pre-stamped business size envelope for the landlord and each defendant for mailing the executed Final Judgment. The envelope should reflect the landlord's return address. The landlord will be responsible for insufficient postage or re-execution of returned mail. If the landlord does not provide a proposed Final Judgment, the assigned judge may not enter a Final Judgment, which will delay the progress of the case.
  - b. The landlord must also present one (1) proposed Writ of Possession. This form is contained in the eviction form set. A blank form is provided on our website at [www.brevardclerk.us](http://www.brevardclerk.us) > Forms > Eviction > Writ of Possession.
  - c. The deputy clerk will forward the file to the assigned Judge for review to determine whether a Final Judgment of Eviction will be entered or whether a hearing will be scheduled.
    - i. If the court enters a Final Judgment of Eviction, the Judicial Assistant will mail a copy of the judgment to the landlord and to each defendant in the business size envelopes previously provided by the landlord. The Clerk's Office will execute the Writ of Possession and forward it as indicated in section (1) (e) of this section of instructions.
    - ii. If the court schedules a hearing, the Judicial Assistant will prepare a Notice of Court Event and mail a copy to the landlord and each defendant.
  - d. If the defendant files a Motion to Determine Rent, the Motion will be forwarded to the Judge and the Judge will set a hearing.
3. If the tenant moves out prior to entry of a Final Judgment or an agreement is reached allowing the tenant to stay, the landlord must cancel a hearing if one has been scheduled and file an original Voluntary Dismissal. A blank form is provided on our website at [www.brevardclerk.us](http://www.brevardclerk.us) > Forms > Eviction > Court Disposition. Additionally, the landlord must mail or deliver a copy of the Voluntary Dismissal to the defendant.

## COUNT II

The landlord must directly contact the Judge's office to schedule a hearing for back rent and damages. Please note that a 20-Day summons must have been PERSONALLY SERVED on a defendant for the landlord to be entitled to a Count II Hearing for damages or back rent. The landlord must prepare his own Notice of Hearing and Final Judgment or have an attorney or paralegal assist him/her. The Clerk's Office does not have forms for Count II of the eviction process, however, the landlord may be able to utilize the Final Judgment form that is available on the Small Claims form page of our website at [www.brevardclerk.us](http://www.brevardclerk.us) > Forms > Small Claims > Final Judgment.

## MAILING ADDRESS

BREVARD COUNTY CLERK OF COURTS  
PO BOX 219  
TITUSVILLE, FL 32781-0219  
TELEPHONE (321) 637-5413