

Legal Aid's Information Column

Self-Help Evictions are Illegal

By Angela Wu,
Attorney at Law

The Legal Aid Society sees many tenants who are being evicted legally. We also see far too many tenants who lose their apartments and homes when landlords lock them out or shut off their utility services. Lockouts and shutoffs explicitly violate the Ohio Landlord-Tenant Act that requires landlords to follow specific procedures of notice and hearing prior to eviction.

Why do landlords' abuses persist? One reason is the difficulty of *procedure* as a concept fundamental to a lawful eviction. Known in legal-speak as a "forcible entry and detainer," a lawful eviction is a multi-step *process* not a single event. A landlord by law cannot simply throw a tenant out — not even a tenant who does not pay rent or respect the rights of others. Consistent with the Ohio Revised Code Chapter 1923, landlords must: (1) give tenants three days' written notice to leave the premises; (2) after the three days file a forcible entry and detainer action in a municipal court; (3) within usually a week or two after tenants receive the summons and complaint, present their case at the court hearing; and (4) *only if the court so orders*, have court bailiffs remove the tenants and their belongings usually within seven to 10 days. A lawful evic-

tion is an extended process managed by the court to which all tenants are entitled. (For more information on landlord-tenant law, see Iskin, Peter M., *Ohio Eviction and Landlord-Tenant Law* (3d ed. 2003), available at www.lasclev.org/books.html or Amazon.com.)

Landlords may complain about the time this process takes without understanding that abiding by proper procedure makes the eviction lawful. Without procedure, neither party could research the law, gather evidence, and present their case to a judge. Without a judge's decision, the more forceful parties would always win — using self-help methods like lockouts and utility shutoffs: Self-help may seem fair when justice is clearly in favor of the landlord, but most Legal Aid cases are not so clear-cut. For example, one recent client was sued for eviction after her building manager reassured her that she was fully paid on her rent obligations. Without procedure, this landlord would have our rent-paying client out on the street.

Some would even say that the law does not offer enough process. University of Dayton law professor Kimberly O'Leary argues that procedure should be lengthened to give tenants a fair chance to protect their own interests. (See O'Leary, Kimberly E.,

"The Inadvisability of Applying Preclusive Doctrines to Summary Evictions," 30 *U. Tol. L. Rev.* 49, Fall 1998.) Old English common law originally designed forcible detainers to privilege landlords with a quick remedy for re-possession. Forcible entry and detainer actions still happen so swiftly that tenants often fail to find an attorney, let alone a nice place to live. For victims of lockouts and shutoffs, how-

ever, Ohio law provides some protection through damages, including punitive damages, and attorney's fees provisions under Ohio Revised Code 5321.15(C) as well as injunctive relief. Private attorneys and Legal Aid attorneys represent tenants who are victims of self-help evictions.

The Legal Aid Society of Cleveland, Lorain County Office. Phone (440) 323-8240 or 1-800-444-7348.

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