



Legal Services of Greater Miami, Inc.

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Passionately Committed to Equal Justice

Writ of Possession



Legal Services of Greater Miami, Inc.

Tenants' Rights Project

www.lsgmi.org

Renters' Education and Advocacy Legal Lines (REAL)

www.real-lsgmi.com

WHAT IS A WRIT OF POSSESSION?

A Writ of Possession is a “24 hour notice.” It is a court order that tells the Sheriff to put you, everything you own, and everyone in your household out of your home. The 24 hour time period starts from the time the Writ of Possession is posted on your door.

If you have not completely moved out by the time the Sheriff comes back, the Sheriff will remove you, your family and all your belongings from your home. The Sheriff will move you out even if someone is sick, pregnant, or you have another good reason why you do not think you must leave your home.

WHEN WILL THE SHERIFF RETURN?

Usually, the Sheriff will not come back in 24 hours unless the Writ of Possession was expedited by the landlord. If you want to get an idea of when the Sheriff will return to move you out, call Sheriff Services at **(305)-375-5100**. Tell them that a Writ of Possession was served on you or posted on your door. Be prepared to give them your case number. Sometimes the Sheriff may give you an estimate of when the Sheriff will return to put you out of your home, but many times they will not be able to do so.

WHAT CAN I DO TO STOP THE SHERIFF?

If you have a good reason why the Sheriff should not put you out of your home, you should file an, “Emergency Motion to Stay Writ of Possession & Request A Hearing.” This is a request that the Judge stop the Sheriff from putting you out.

WHAT MUST BE IN THE EMERGENCY MOTION?

The Emergency Motion must say four things:

1. The reasons you should not be put out by the Sheriff. Some reasons may be:
 - You never received a copy of the eviction or lawsuit papers except for the Writ of Possession.
 - You need extra time to move because someone who lives in the home is very sick or disabled.
 - You paid the landlord after the eviction was filed and the land-

lord said you could stay in the home.

2. A request that the Judge stops the Sheriff from putting you out.
3. A request that the Judge gives you a hearing so you can tell the Judge in person why you should not be put out.
4. Any evidence to support your request (i.e. receipt of payment).

You must fax or hand-deliver a copy of the Motion to the landlord’s attorney or to the landlord if he does not have a lawyer. You should write on the Motion how you sent it.

FEE WAIVER

There is a \$25.00 or \$50.00 fee to file the Emergency Motion to Stay Writ of Possession. This depends on how much money the landlord was demanding from you. However, there is a “Application For Determination of Civil Indigent Status” which waives the fee for people with very low incomes.

HOW DO I FILE THE EMERGENCY MOTION TO STAY WRIT OF POSSESSION AND REQUEST A HEARING?

As soon as the Writ of Possession is served on you or posted on your door, you must immediately file the Emergency Motion. File the motion with the Clerk of the County Court at the Court where the case was filed. If you don't not know who the Judge is in your case or which court to go to, call the Court at (305)275-1155. Also, bring a copy of the motion to the Judge’s Chambers. The only person who can stop the Sheriff from putting you out is the Judge who ordered that the Writ be issued.

WHAT DO I DO IF THE JUDGE AGREES WITH ME AND GRANTS MY MOTION?

Ask the Clerk of the Court or the Judge’s judicial assistant to fax a copy of the order granting your motion to the Sheriff. This will stop the Sheriff from coming back and putting you out of your house. Also, make sure you have a copy of the order with you at your home.

The Judge will most likely order you to go to mediation or schedule another hearing. If the Judge requires you to deposit rent with the court, you must do it by the deadline.
