

Mobile Homes



Legal Services of Greater Miami, Inc.

Tenants' Rights Project

DO YOU OWN A MOBILE HOME AND RENT THE LOT?

Chapter 723 of the Florida statues applies to you if: 1) you OWN your mobile home; 2) you RENT the lot; and 3) there are at least 10 mobile home lots in the park. If this applies to you, read this brochure to find out what your rights and responsibilities are as a tenant in a mobile home park.

EVICCTIONS FROM A MOBILE HOME PARK

REASONS WHY A MOBILE HOME PARK MAY EVICT YOU

There are only five reasons why a mobile home park can evict you. Each of the reasons is described in more detail below. They are:

- Nonpayment of your lot rent
- A criminal conviction that affects the health, safety, or welfare of other residents in the mobile home park
- Violation of a park rule
- Violation of the rental agreement
- Change in the use of the mobile home park land

EVICCTIONS FOR NONPAYMENT OF RENT

The mobile home park must first give you a 5-Day Notice asking you to pay your late lot rent. If you pay and the landlord accepts the past due rent by the deadline listed on the 5-Day Notice, the landlord should not file an eviction. If you do nothing, the landlord can file an eviction and serve you with an eviction summons and complaint after the 5-Day period has expired.

EVICCTIONS “FOR CAUSE”

Sometimes your landlord will try to evict you from the mobile home park for “cause.” An eviction for “cause” can be because you are convicted of a crime, you violate the park rules, or you violate your rental agreement.

If you are convicted of a crime that the mobile home park considers detrimental to the health, safety, or welfare of the other residents, the mobile home park may try to evict you. The mobile home park must give you a written 7 Day Notice specifically stating why it is evicting you. After 7 days, the landlord will file an eviction lawsuit.

If you violate the park rules or your rental agreement, your landlord must notify you within 30 days after the violation and give you 7 days to fix the violation. Your landlord can file an eviction only after the same violation occurs a second time within a year. *Fixing the second violation, may not keep the park owner from filing an eviction.* If the second violation occurs within a year, the mobile home park can file an eviction.

HOW TO ANSWER YOUR EVICTION

Writing the Answer

1. Included with this brochure is a form “Answer, Affirmative Defenses, and Motion to Determine Rent.” You need to first write the case number and the names of the parties on the top of the paper.” The mobile home park is the Plaintiff, and you are the Defendant.

2. Read the complaint for eviction and respond to each of the paragraphs in the complaint. You respond by writing in your answer that you either admit or deny what is in each paragraph. If you do not know whether to admit or deny the paragraph, you can state that you are “without knowledge.”
3. Then write your affirmative defenses (i.e.: I already paid my rent, I made required repairs to my mobile home).
4. You have a constitutional right to demand a trial by a jury of your peers. You can waive this right in your lease. If you want to demand a jury trial, you should do it when you file your answer or within 5 days after filing your answer; otherwise, you may waive your right to demand a jury trial. There are pros and cons to demanding a jury trial. While it is your absolute right to demand a jury trial, it may be difficult to represent yourself at a jury trial. If you have questions about whether to demand a jury trial, you should speak with an attorney.
5. Sign your answer. Include your name, address, and telephone number.
6. File your original with the Court, mail a copy to your landlord, and keep a copy for your records.

You Must Also File Either a Motion to Determine Rent or Deposit Money into the Court Registry

If your eviction is for nonpayment of lot rent, you **MUST** pay into the court registry the rent that is due or, if you disagree with the amount of rent listed in the complaint, you may ask the court to determine how much rent to deposit. A form for the Motion to Determine Rent is included in this brochure.

If your eviction is for cause, and is *not* for nonpayment of rent, Fla. Stat. § 723.063, does not require you to deposit rent into the Court Registry. You can file a Motion to Determine Rent and state the same. Please note that this can be risky. The Court may not agree with you and still require you to deposit rent into the Court Registry.

Whatever your reasons, you should include proof of why you are asking the Court to determine how much rent you owe. For example, if you already paid your rent, include copies of the receipts. If you think your rent should be reduced for bad conditions in your home, include photographs.

It is always safer to deposit money into the Court Registry instead of filing a Motion to Determine Rent. If you are able to deposit rent into the Court Registry, and you want to keep living at the mobile home park, you should deposit the rent.

You must also continue depositing your rent into the court registry while the eviction is pending.

NOTE: If you do not pay the rent into the court registry or do not file a motion to determine rent, you will have waived all of your defenses, except for payment. This means you will lose your case automatically, and the landlord wins the case. You will not get to see a judge and you will be evicted from your home.

When and Where to File Your Answer

Your answer is due in court on the fifth day after the eviction complaint was personally served on you or a member of your household, or posted on your door. You do not count Saturdays, Sundays, or Holidays. Also, the day you are served does not count.

Filing your answer means that you go to the Clerk of Court and say “I want to file an answer to an eviction.” Take the original answer and 2 copies (one for yourself and one for the landlord). Make sure that the clerk date stamps all copies.

Take your answer to the courthouse where your eviction was filed, which is usually the courthouse closest to your home. The “Summons” will tell you where your case is filed. Here is a list of the Courthouses in Miami-Dade County:

Dade County Courthouse (05)
73 West Flagler Street
Miami, FL 33130

Coral Gables Branch Court (25)
3100 Ponce de Leon Boulevard
Coral Gables, FL 33134

North Dade Justice Center (23)
15555 Biscayne Boulevard
Miami, FL 33160

South Dade Justice Center (26)
10710 SW 211 Street
Miami, FL 33189

Hialeah Courthouse (21)
11 East 6 Street
Hialeah, FL 33010

Miami Beach Court Facility (24)
1130 Washington Avenue
Miami Beach, FL 33139

End of the Eviction Case: Final Hearing or Trial

If you filed a Motion to Determine Rent, the court will either schedule a hearing on the motion or enter an order requiring you to deposit rent. If there is a hearing, be prepared to tell the judge why the rent is wrong and how much you should deposit. If the court orders you to deposit rent, you must do it or you will lose your case automatically.

If you deposit the rent ordered by the court, you will probably go to “mediation.” This is a meeting between you, the landlord, the landlord’s attorney, and a mediator. The mediator is a neutral person trained to help you and the landlord work out your problem. Mediation means that you try to compromise; but, do not agree to anything that you will not be able to do. If you reach an agreement at mediation, then you sign a paper called a “Stipulation.” The judge signs it too. This is a binding legal document. It is unlikely that you will be able to get out of this agreement if you change your mind. It is important that you understand the agreement before you sign it.

If you and the landlord cannot agree at mediation then sometimes you may go directly to your final hearing or trial. Trials may be held in the judge’s chambers which are like the judge’s office, or in the courtroom.

At the trial, the landlord goes first and presents his case. You can question the landlord and his

witnesses. This is called cross examination. When the landlord is done, you present your case. You can have your own witnesses testify and submit your own evidence and documents. The landlord or his attorney can question you and your witnesses.

After hearing from all of the witnesses and looking at all the evidence, the judge then makes a decision. If the judge rules for you, there is no eviction and you remain living there. However, sometimes the judge may put conditions in the ruling. Make sure you understand the judge's decision before you leave. Sometimes a judge will try to get the parties to reach an agreement. For example, a judge may ask the landlord to agree that the case will be dismissed if you move out by a certain date to avoid a final judgment.

If you lose the Court hearing or if you did not answer the lawsuit in the first place, the court will enter a final judgment of eviction. The judge can also make you pay the landlord's attorney's fees and court costs. If the landlord sued you for unpaid rent, the judge could enter a judgment against you stating that you owe money to your landlord. To appeal the decision, you must file a notice of appeal within 30 days, but an appeal will not keep you from being evicted unless the judge gives you a "stay pending appeal." Typically, you must have the rent to get a stay during the appeal.

I Was Evicted...What Happens to My Mobile Home?

If you are evicted from a mobile home park, but you own your mobile home, you have certain rights. Since you own the mobile home, you can remove the mobile home from the park, and take it to a new park or somewhere else. You will be responsible for the moving costs. If you cannot move your mobile home, then the landlord is responsible for moving your mobile home from the park. You may also try to sell the mobile home to the park or a third party. Be sure to follow the park rules about sales.

Exception: If the mobile home park included a request in its eviction case to put a "lien" on your mobile home in order to recover any money for rent, court fees, etc. from the value of your mobile home, it will not be removed from the park. If the mobile home park puts a lien on your mobile home, you should contact an attorney because you might be exempt from the park placing a lien on your mobile home if it is your homestead.

CHANGE IN THE USE OF THE LAND

If there is going to be a change in the use of the land where your mobile home is located, the park owner must provide you with notice at least 6 months before the projected change of use.

The notice must also include the following language: "You may be entitled to compensation from the Florida Mobile Home Relocation Trust Fund, Administered by the Florida Mobile Home Relocation Corporation (FMHRC). FMHRC contact information is available from the Florida Department of Business and Professional Regulation."

If you are being evicted due to the change of use, you must object to the change of use by petitioning for administrative or judicial remedies within 90 days of the date you received the notice or you will be barred from taking any subsequent action to contest the change in use.

You should contact an attorney for further assistance if you receive any of these notices.

HOMEOWNERS' ASSOCIATIONS

As a mobile home owner or tenant, you have the right to assemble and communicate with other home

owners or tenants. You may meet in any common areas of the mobile home park or in the mobile home of a resident.

You may form a Homeowners' Association (an "Association") under Fla. Stat. § 723.075. The Association must be set up as a corporation. At least two-thirds of home owners in the park must agree in writing to become a member. Each member shall be bound by the provisions of the articles of incorporation and the bylaws of the Association.

If a mobile home park owner decides to sell the mobile home park, the Association must be notified about the sale. The Association will then have the first right to buy the park as long as the Association meets the price, terms, and conditions of the mobile home owner's offer and executes a contract with that owner.

CHANGES TO RENT, SERVICES AND UTILITIES, OR RULES AND REGULATIONS

A park owner must provide notice to each affected resident of the mobile home park and the board of directors of the Association at least 90 days before any changes to rent, services and utilities, or rules and regulations can be made.

In the event that an increased rental amount is unreasonable, the Court may refuse to enforce the rental agreement or rental increase. As soon as you get a notice of increased rent, you should contact Legal Services.

Note that a rental increase is considered unreasonable if it is in excess of "market" rent. You and other mobile home owner may be able to challenge this increase. If you plan to challenge the increase you must do so within 30 days.

OBLIGATIONS OF THE MOBILE HOME PARK OWNER

The owner of a mobile home park must:

- Maintain buildings and improvements in common areas.
- Maintain the common areas in a good state of appearance, safety, and cleanliness.
- Provide access to the common areas at all reasonable times for the benefit of the park residents and their guests.
- Maintain utility connections and systems for which the park owner is responsible in proper operating condition.

DO YOU RENT BOTH THE MOBILE HOME AND THE LOT?

If you RENT your mobile home and you RENT the land, you are a tenant and the mobile home park is a landlord. This means Chapter 83 of the Florida Statutes applies to you. If you are being evicted, please refer to our brochure entitled "How to Answer your Eviction."

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

CIVIL DIVISION

CASE NO.: _____

Plaintiff(s),

vs.

Defendant(s).

_____ /

ANSWER, AFFIRMATIVE DEFENSES, AND MOTION TO DETERMINE RENT

ANSWER

1. I, the Defendant, ADMIT paragraphs _____ of the Plaintiff's Complaint for Eviction.
2. I, the Defendant, DENY paragraphs _____ of the Plaintiff's Complaint for Eviction.
3. I am without knowledge of paragraphs _____ of the Plaintiff's Complaint for Eviction.
4. I want to recover my attorney's fees and costs under Fla. Stat. 83.48 and 83.59 if I prevail.

AFFIRMATIVE DEFENSES

MOTION TO DETERMINE RENT AND REQUEST FOR HEARING

I am respectfully requesting that this Court determine how much rent I should deposit into the Court Registry and to set a hearing on the same because (check all that apply):

- I already paid my rent. Attached are receipts.
- I am paying my rent into the Court Registry. Attached are receipts.
- The amount of money the Plaintiff is demanding is incorrect.

Pursuant to Fla. Stat. § 723.063, I am not required to deposit rent into the Court Registry because the mobile home park is evicting me for reasons other than non-payment of rent.

Other: _____

WHEREFORE, I respectfully request that this Court determine how much money I have to deposit into the Court Registry, set a hearing, and for all other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

- I am demanding a jury trial.
- I am not demanding a jury trial.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I sent a copy of this Answer, Affirmative Defenses, and Motion to Determine Rent to Plaintiff via First Class U.S. Mail at _____, on this ____ day of _____, 20____.

Defendant's Name: _____

Address: _____

Telephone: _____