

# **Writ of Possession**



**Legal Services of Greater Miami, Inc.**

**Tenants' Rights Project**

## **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 running when the Sheriff posts the Writ of Possession on your door.

If you have not completely moved out by the time the Sheriff comes back, the Sheriff and landlord 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. Only the Judge in the eviction can stop this process.

## **WHEN WILL THE SHERIFF RETURN?**

Typically, the Sheriff will not come back in exactly 24 hours unless the landlord paid to expedite the Writ of Possession. In Miami, the Sheriff typically returns five to ten days later. But, it can be sooner. Sometimes the Sheriff may give you an estimate of when the Sheriff will return to put you out of your home, but usually they will refuse to tell you when they are coming back. If you want to try to find out when the Sheriff will return, call Court Services at **(305) 375-5100**. Tell them that a Writ of Possession was posted on your door. Be prepared to give them your case number

## **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 and Request for Hearing.” A form is included with this brochure. This is a request that the Judge stop the Sheriff from evicting you.

## **WHAT MUST BE IN THE EMERGENCY MOTION?**

Use the form included with this brochure to write your “Emergency Motion to Stay Writ of Possession and Request for Hearing” (the “Emergency Motion”). Your Emergency Motion must say four things:

1. The reasons you should not be put out by the Sheriff. Some reasons may be:
  - You paid all of your rent to the landlord.
  - 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 some of your rent after the eviction was filed.
  - You and the landlord agreed that you could stay in the home.
  - You timely filed your Answer and deposited rent into the Court Registry.
  - You have all the money owed for rent.
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).

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

As soon as the Writ of Possession is posted on your door, you must immediately file the Emergency Motion. File the Emergency Motion with the Clerk at the courthouse where the case was filed. If you do not know which courthouse to go to, visit the closest courthouse or call the Clerk at (305) 275-1155. You can check the status of your case, the Courthouse, and the Judge assigned to your case online at: <https://www2.miami-dadeclerk.com/civil/Search.aspx>. Also, bring a copy of the Emergency Motion to the Judge's Chambers. If you do not know your Judge, ask the clerk when you file the Motion. The only person who can stop the Sheriff from putting you out is the Judge who ordered the Writ to be issued. Note that it is within the Judge's discretion to stop the Sheriff and the Writ of Possession. In most cases, the Judge does not have to grant your Emergency Motion. While your Emergency Motion is pending, the Sheriff can still return at any point to remove you, your family, and your belongings from the unit. Because of this, even if you file an Emergency Motion, you should be making plans to move quickly.

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

## **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 Emergency 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. Do not miss any of your deadlines or hearings.

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

CIVIL DIVISION

CASE NO.: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s),

vs.

\_\_\_\_\_  
Defendant(s).

\_\_\_\_\_ /

**EMERGENCY MOTION TO STAY WRIT OF POSSESSION  
AND REQUEST FOR HEARING**

Defendant files this Emergency Motion to Stay Writ of Possession and Request for Hearing and is asking that the Court stay the Writ of Possession. I should not be evicted because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, Defendant respectfully requests that this Court stay the Writ of Possession, grant a hearing, and for all other relief as this Court deems just and proper.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I sent a copy of this Emergency Motion to Stay Writ of Possession and Request for Hearing to Plaintiff via First Class U.S. Mail at: \_\_\_\_\_  
\_\_\_\_\_, on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Defendant's Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_