

# **Frequently Asked Questions Concerning Landlord Tenant Cases**

## **I have been served with a summons for a dispossessory action. What can I do?**

Upon service of a summons of a Dispossessory action, the Tenant has seven days to file an answer in the Magistrate Court. Failure to file the answer within seven days of service of the summons may result in a writ of possession being issued against the Tenant.

## **What are the requirements for a landlord filing a dispossessory action?**

The relationship between the parties must be Landlord and Tenant. The Tenant must be either a Tenant holding over, Tenants at will, a Tenant at sufferance, or not paying rent as it becomes due. The Landlord must have made a demand for possession of the premises prior to commencement of the proceedings.

## **How much does it cost to file a dispossessory action?**

If you are suing someone you must pay a filing fee and a service fee. Court costs are county specific. The Office of the Sheriff must serve the defendant the Complaint and Summons. (Example: sue one Defendant - you pay one filing fee and one service fee; two Defendants - you pay one filing fee and two service fees, etc.). At the Judge's discretion, if you win the case, the person you sue typically reimburses any court costs.

## **What items may be included in a dispossessory complaint?**

The complaint may include a demand for possession of the premises, past due rents, utilities, late fees, attorneys' fees, and other damages related to the Landlord-Tenant relationship.

## **How does the tenant know that he or she is being sued?**

You must have the Tenant(s) served with a copy of the Dispossessory Action. You must include this payment for service with the payment of the filing fee to the Clerk of Court who will forward the service fee to the Sheriff.

Filing fees are set forth by the Georgia State Legislative body and are subject to change. The most current information concerning filing fees can be found on this website.

## **How is the summons and dispossessory action served on the tenant?**

Personal service on the Tenant of the Dispossessory complaint and summons must be attempted. In the event the Sheriff/Constable cannot serve the Tenant personally, the Sheriff may serve the Dispossessory complaint and summons, sui juris, that is, to any person residing at the premises of suitable age and discretion. If the Sheriff/Constable is unable to obtain personal or sui juris service of the summons and Dispossessory complaint on the Tenant, the summons and

Dispossessory complaint may be delivered by tack and mail, that is, posted on the door of the premises. On the same day of posting, the Sheriff's office must mail a copy of the summons and Dispossessory complaint to the Tenant at the Tenant's last known address.

**Can I evict the tenant from my rental property without involving the court?**

No. A Landlord may legally remove a Tenant and the Tenant's property from rented premises only under the Dispossessory procedure. If a Landlord uses self-help to evict a Tenant without a Dispossessory, it is a tort for which the Tenant may recover damages in a civil action, and a Landlord who cuts off utilities may be subject to misdemeanor prosecution under OCGA 44-7-14.1.

**If the last day to file my answer falls on a weekend, and the civil division of the Magistrate Court of Pickens County is closed, what can I do?**

When the last day to file an answer falls on a weekend day or a legal holiday, then the answer may be filed by close of the next business day.

**If the tenant failed to file an answer within 7 days from service of the summons, what can I do?**

When the Tenant fails to file an answer within 7 days of service of the summons, the Landlord may contact the Magistrate Court about presenting the writ of possession to a Judge for signature.

**The tenant has filed his or her answer, when will the hearing be held?**

After an answer is filed in a Dispossessory action, the court schedules the hearing for the next available Dispossessory calendar. Dispossessory Hearings are held on Tuesdays at 9:00am.