# Eviction Scenarios & Discussion

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## DISCUSSION 1

- A gentleman has been coming to the clerks' office for several months now trying to evict "squatters" in a small guest house on the back of his lot. He says they started off as guests but now refuse to leave. They've told him they know their rights and they don't have to leave. There is no landlord-tenant relationship nor do they pay any bills. City police officers say they can't charge them with criminal trespass because it's a civil matter. The gentleman wants to know if he can bring an eviction case and, if not, how does he get rid of these people?

- What should the clerk tell him?
- Are they squatters?
- Can he bring an eviction suit against them?
- What does he have to do first?

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## DISCUSSION 2

- Leonard files an eviction suit against Betty for nonpayment of rent. Betty appears for trial but loses and the court enters a judgment for possession against her. The next day she files a bankruptcy petition in federal bankruptcy court.
- Is the case automatically stayed due to the bankruptcy filing?
- What if the bankruptcy petition is filed after the appeal deadline has passed and a writ of possession has been requested? Is the case stayed or does the court issue the writ?

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## DISCUSSION 3

- Thomas rents an apartment from Louis and pays his rent monthly on the first of each month. There is no written lease or agreement concerning how long Thomas can stay in the apartment.
- Louis decides to let his niece use the apartment instead. He gives Thomas a three-day notice to vacate and files an eviction suit the same day just in case Thomas does not move out.
- Is this notice to vacate valid?
- What else, if anything, does Louis have to do to bring an eviction suit?

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## DISCUSSION 4

- A tenant, Trevor, is groundskeeper for a church. He is provided room and board plus a little money in exchange for groundskeeper work. There is no written lease or any other written agreement. The church decides they no longer wish to have Trevor as a tenant. There is no unpaid rent, nor any other breach of agreement. Does the church have to give Trevor a 30-day notice to terminate their agreement in addition to a 3-day notice to vacate?

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## DISCUSSION 5

- Brian owns a house and rents it to Karen. Brian signed a mortgage when he bought the house but he has missed his mortgage payments. The bank forecloses on the house and sells it at a foreclosure sale to Susan. Susan wants to move in as soon as possible. Susan gives Karen a three-day notice to vacate.

- Is that notice to vacate valid?
- If not, how much time does Susan have to give Karen?

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## DISCUSSION 6

- An eviction is filed against Jessica and Nic, a married couple. Both signed the lease.
- Do both have to be named as defendants?
- How many filing fees must be paid?
- How many service fees?
- How many judgments?
- How many writs of possessions?

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## DISCUSSION 7

- Can alternative service be approved in an eviction case even if the constable advises the house is vacant?

- What if the constable receives information that the defendant has passed away?

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## DISCUSSION 8

- A landlord, Lori, files an eviction petition and does not state any grounds for eviction. Can Lori orally amend her pleadings at the time of the trial?

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## DISCUSSION 9

- The defendant does not show up for trial. The judge looks at the return of service and notices that the citation was served four days ago.

- Can the court grant a default judgment?
- If not, what should the court do?

- What if, instead, the defendant does show up, and service was 4 days ago?

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## DISCUSSION 10

- Which of the following are evictions for nonpayment of rent?
  - Tenant paid rent but later than allowed under the agreement, paid before receiving NTV
  - Tenant paid rent after NTV ran out but before filing suit
  - Landlord isn't seeking the owed rent, but wants to evict the tenant b/c they didn't pay on time
  - Tenant's lease expired on May 31, landlord demanded to pay June rent or vacate, tenant did neither.

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## DISCUSSION 11

- If a petition lists a defendant "and all occupants," who can show up to defend the case?
- Who could appeal a judgment awarding possession to the plaintiff?
- What if the petition doesn't list "and all occupants", what would be different?

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## DISCUSSION 12

- Lawrence files an eviction suit against Terry and wins at trial. A judgment for possession is signed by the judge on Tuesday, May 18. The court closes at 4:30 every day.
- At 9:00 a.m. on Tuesday, May 25, Lawrence comes to the court and asks for a writ of possession and pays the Constable's service fee. The court issues the writ.
- At 3:00 p.m. on Tuesday, May 25, Terry comes to the court and files an appeal bond perfecting an appeal.
- Is Terry's appeal on time?
- If so, what should the court do about the writ of possession?

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# Questions?

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