

# The Eviction Process in Massachusetts

Below is an outline of the eviction process in Massachusetts (aka summary process). Members can download a PowerPoint summary with more detail.

**To download the PowerPoint, you must be a paid and active member.**

[Explore membership options](#) or [sign in](#).

## Community Mediation Alternative

Instead of eviction, or in parallel with a court filing, remember you can also try non-court community mediation. The Massachusetts Office of Public Collaboration uses state funding to train and supervise volunteer mediators.

In the first six months of 2021, MOPC oversaw 441 mediations:

- 80% of cases settled without going to court;
- 95% were happy with the process; and
- 100% of participants thought the mediators were fair.

There are no income eligibility requirements. LLCs, Incs, and other entities do not have to hire an attorney.

[Learn more about community mediation](#).

## Eviction Quick Links

- [Massachusetts list of bonded movers and storers](#).
- [Most Massachusetts Eviction Laws \(MGL Ch 186\)](#).
- [Rent Withholding, Domestic Violence, and other special Eviction Laws \(MGL Ch 239\)](#).
- [To Evict or Not to Evict? That is NOT the Question!](#)

- [5 Eviction Myths in Massachusetts](#)

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eviction forms**

In this example, we're assuming the eviction is for non-payment of rent.

We're also assuming "best case," meaning all parties are acting in their best interest and the process moves forward as quickly as possible.

Some landlords may be tempted to [charge a late fee](#) for overdue rent instead of starting the eviction process, however, this is not something we at MassLandlords recommend. For starters, it is unlawful to charge a late fee before the rent is 30 days late. You can read the entire law [on the Massachusetts legislature page](#). What's more, tacking on a late fee does not guarantee your tenants will pay the rent (or the late fee), and you may have to start evicting them anyway. As you will see in the following timeline, starting the eviction process can be done much sooner than 30 days after the first of the month.

The scenario starts in November, 2013. The apartment rent is \$800/mo.

## **Non-Payment of Rent**

On November 1, the tenant sends you an apology. They explain everything going on in their life. They say they're going to get you the rent somehow and they ask you to wait.

## **Eviction notices: Tenants-at-will vs. Leases**

There are three types of eviction notices: 7-, 14- and 30-day. However, not all notices apply to all tenants, and not all notices can be used for non-payment of rent.

If you are looking to evict a tenant who has an active lease with you, then you should always follow what your lease says. Under a lease, you can give a

tenant a 14-day notice to quit for non-payment, and a 7-day notice for other reasons if they are already written into the lease. These reasons include guns, drugs and prostitution.

If your tenant does not have a lease, they are a tenant at will, and the rules are a little different. You can still issue a 14-day notice to quit for nonpayment. However, for all other issues, you must allow 30 days or one full rental period, whichever is longer. This means you have to be especially careful around the month of February: If you are planning to tell your tenants that they must be out by March 1 for a reason other than non-payment, that notice will have to go out in late January to keep you in compliance with the law. (If you are curious about this type of rental situation, or wondering what the advantages are in certain circumstances, you can read more about tenancy at will in our article about [pros and cons of month-to-month tenancy](#).)

For more information about navigating the Massachusetts Housing Court, visit our [housing court overview](#).

In this scenario, your tenant has a lease, so you issue a 14-day Notice to Quit.

## 14 Day Notice to Quit

You wait nine days until Sunday, November 10. The tenants are silent. You believe they are going to have to move back in with their family. You decide to start eviction.

The most bullet-proof way to give notice is to hire a constable to serve a [14 day notice to quit](#). This will cost you around \$40. Notices may be served only on weekdays, so the notice is served Monday, November 11. You can serve it yourself in person but a constable gives you an independent third party to vouch that the notice was served properly.

# Eviction notices: Delivery and wording

Regardless of which type of tenant you have, you must prove you delivered the eviction notice. You can hand deliver it, but hiring a constable or sheriff is relatively inexpensive and serves as proof that the notice was delivered. As long as they tell you they delivered it, the court will assume it was delivered.

Plan to serve only one notice and stick with it. Make sure you list all of the reasons you are evicting them in that notice. If it's nonpayment, say so, but if you're also evicting because you have proof that there are drugs present in the apartment, put that in as well. Only information that you include in that notice may be discussed before the judge, so make sure you don't miss anything you mean to use as grounds for eviction.

If you serve the notice and your tenant offers you payment in full, take it: Under the law they have the "right to cure," that is, make good on their outstanding debt. Don't refuse them when they offer the first time. Later on, you will not want to accept rent, because that will send you back to square one in the process, but at this stage, it is their right to settle their debt.

However, if your tenant offers partial payments, you should accept that "for use and occupancy only" and note that their back rent is still owed. Create a paper trail and note this on any checks you receive.

## Notify Tenant of Eviction

On the 15th day after the constable serves the notice (you must give 14 full days), November 26, the tenant's rental agreement is now over. You hire the constable again (this time, you have no choice) to serve a "summary process summons and complaint." This is the technical term for eviction. This official notice will cost you \$140 all-in.

If the tenant moved out immediately, your minimum cost to evict would turn out to be \$980 (includes \$800 of lost rent).

November						
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1 Rent Due -\$800	2
3	4	5	6	7	8	9
10	11 Constable (14 Day Notice) -\$40	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26 Summary Process -\$140	27	28	29	30

November, 2013. [Click to enlarge.](#)

## File for Eviction

The tenant doesn't move out in response to the 14 day notice. You therefore file for eviction. You go to court just to file the papers on Monday, December 2. The laws say the court process must start on a Monday between 7 and 30 days from when the summons was served. This is called the "entry date". Since Monday, December 2 is too soon, you get the next available entry date, Monday, December 9, as your entry date.

You needed to figure out the entry date already; it should have been included in the summons. (If you hire an experienced constable or sheriff they will help you to serve a complete summons.)

December rent remains unpaid along with November, so you're up to \$1,600 in opportunity cost and \$180 in cash.

## Tenant Calls for Discovery

Without discovery, you might get a trial date by Thursday, December 19. With discovery, two things happen:

- You decide to hire an attorney (a very wise idea once discovery is called)

- Your trial date slips out two weeks

## Mediation

You should always go for mediation. At the very least, you'll learn what the tenant intends to say about you in front of the judge. There's a chance you can settle right then and there.

Mediated agreements are legally binding. If the tenant fails to live up to what they agree to in mediation, any future eviction will be prejudiced heavily in your favor.

December						
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1 Rent Due -\$800	2 File summary process	3	4	5	6	7
8	9 Entry Date	10	11	12	13	14
15	16 Tenant Files Discovery	17	18	19 Trial date if no Discovery	20	21
22	23 Lawyer -\$500	24	25	26	27	28
29	30	31				

December 2013. Click to enlarge.

## Trial

You and the tenant spend Thursday, January 2 in Housing Court. Your exact date will vary depending on when your session is scheduled and whether you filed in Housing Court or District Court.

## Appeal Ends

The tenant has 10 days in which to appeal. This period expires on January 13 (we'll assume you did a good job and the tenant and their attorney decide not to appeal).

## **Motion for Execution**

Once the judgment has been issued and no appeal made, you can get a motion for execution. This is necessary to enforce the eviction.

Once the motion is granted, typically within a few days, you can hire the Constable again to serve the execution notice.

## **Final 48 Hour Notice**

### **Execution Option One: Scare Tactic**

You can have the constable deliver a notice that says, "Vacate in 48 hours or I'll give you a 48 hour notice of eviction."

Odds are good that if they haven't moved by now, mid January, they're not going to.

### **Execution Option Two: Start the Physical Eviction**

Hire the constable to deliver an actual notice. You will have to coordinate with the constable and the mover. The notice must give 48 hours.

## **Eviction Day**

Evictions take place Monday through Friday except on holidays. You need either yourself or your authorized representative there, plus the moving company, plus a sheriff or constable to start the proceedings. You will be able to change the locks after the tenant property has been moved out.

The moving company will probably cost around \$800. The constable or sheriff will cost around \$300. Storage of tenant property, if they haven't not selected a new residence, will cost around \$600.

If you're budgeting for eviction, you also want \$200 for insect extermination

and at least as much for cleaning, just in case the apartment is a disaster.

January						
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
			1 Rent Due -\$800	2	3	4
5	6	7	8	9	10	11
12	13 Tenant 10 Day Appeal Ends	14 Landlord: motion for execution	15	16	17 Landlord hires Constable	18
19	20 Tenant gets notice	21 Tenant moves out	22 Storage	23 Add'l cleaning & removal	24	25
26	27	28	29	30	31	

January 2014. [Click to enlarge.](#)

## Total Costs and Time

In this scenario here, lost rent was \$2,400, pre-trial costs were \$180, trial costs were at least \$500, and post-trial costs were \$1,700 to \$2,100.

The calendar time was 84 days from first non-payment to a legal move-and-store of belongings. We assumed the tenant took full advantage of their basic legal remedies.

In a real eviction, additional delays might be imposed by the judge for hardship or for someone messing up the paperwork. When in doubt, hire an attorney.

## Cash for Keys

This alternative to court may be a win-win for both you and your tenant. If you are foreseeing a long legal battle and removal before you can evict, offering your tenant a cash incentive to leave may save you money and allow you to rent out your unit again.

Essentially, offering “cash for keys” means you agree not to sue your tenant,



and your tenant agrees to leave the unit, give you the keys, and not take you to court. This is completely legal, and may save you a lot of money (remember, even if you win in court, it may be impossible to collect back rent from tenants). Pay your tenant after they give you the keys and you confirm the rental unit is empty and not destroyed, and move on to the next tenant. This [2018 interview](#) with two experienced landlords discusses the advantages of Cash for Keys, among other issues.

## **A Note about E-filing Evictions**

In Massachusetts, it is now mandatory that eviction forms be electronically filed with the court unless you are representing yourself. All attorneys and parties with attorneys must e-file. If you are new to the eviction process, or just want a refresher, you can learn more about e-filing evictions with the state housing court, a member has created a PDF that you can download [here](#).

However, with evictions, you will have paperwork that does not legally exist in electronic format. For instance, notices must be on paper. Therefore, it is important that you include an [affidavit of compliance](#) with the e-filing process when you file with the Massachusetts housing court. This affidavit tells the court that you (or your attorney) filed your summary process using the e-filing method and that you served your tenants with the notice and the summons and complaint on paper. When you sign and submit the affidavit, you are also promising the court that you will bring the original notice and summons and complaint with you to your court date, and that you will provide the defendant copies of this paperwork if they request it.

As with all court processes, consult with your attorney before going forward.

## **Evictions and Covid-19**

Right now, with the novel coronavirus creating a global pandemic, most eviction proceedings have been put on pause for the indefinite future. You

can only evict for reasons related to health and safety. Anything else, including non-payment, is not considered a valid reason to evict.

You will also want to be careful about levying late fees or reporting non-payment to credit bureaus; in many cases, tenants are protected against that as well right now. You can read more about it the eviction moratorium situation [here](#). This page will be updated as the situation in Massachusetts and across the country evolves.

One final note about being a landlord during this pandemic: If you are looking to rent out an empty unit, be very careful with tenant screening. We don't know how long this situation will last, and in some cases, it may be better for you to hold onto a vacant unit than maintain one where the renter stops paying.

## How to Make a Winning Eviction Case

Slides are available only for members in good standing who are logged in.

[Click here](#) to watch the latest MassLandlords Business Update.

This is part of the [Boston/Cambridge rental real estate networking and training](#) series.

## Past Presentations

- [Cambridge 2019-01-15](#)

## Related Pages

- [Eviction Statistics](#)
- [Hatcher Decision](#) (June 2018)
- [To Evict or Not to Evict? That is NOT the Question!](#) (November 2018)
- [Cambridge Street Realty v Stewart Hits 30 Months and Counting](#) (May 2019)

- [Summary Process](#)

## **Get Eviction Advice**

Members can ask experienced landlords for advice over email and Facebook message boards, and can search our directory for attorney referrals.

[Explore Membership Options](#)