\* IMPORTANT NOTE BEFORE YOU BEGIN \*

\* YOU MAY BE REQUIRED TO DEPOSIT RENT INTO THE COURT’S REGISTRY\*

Florida law requires a tenant to deposit his/her rent into the court’s registry during an eviction case. If the tenant does not deposit the rent due, the tenant may lose the eviction case by “default.” That means an eviction judgment is entered against the tenant quickly, without any hearing or opportunity to raise defenses. There are two (2) parts to this rent-deposit requirement.

1. If any of your rent was unpaid at the time the eviction case was filed, you must deposit that unpaid rent into the court’s registry. The complaint filed by your landlord in the eviction case should state the amount of monthly rent that is due and the month(s) in which it was not paid. If your landlord’s statement in the complaint is correct, you must deposit the amount he/she stated is owed.

For example, if the complaint states that the rent is $700 per month and that it was not paid last month or this month, and if that is correct, you must deposit $1400 (two months’ rent) into the court’s registry.

If you disagree with your landlord’s statement of unpaid rent in the complaint, you must file a “Motion to Determine Rent.” In that motion, you 1) explain to the judge why your landlord is wrong about the unpaid rent, 2) tell the judge the correct amount of unpaid rent, and 3) ask the judge to determine the amount of rent you must deposit. If you file a Motion to Determine Rent, the law does not require you to deposit any rent until the judge rules on your motion and tells you how much to deposit. However, this law is interpreted differently by different judges around the state, and some judges will enter a “default” against you if you do not deposit the amount you claim is owed when you file your response. Therefore, if you file a Motion to Determine Rent, it is recommended that you go ahead and deposit what you believe is the correct amount of unpaid rent.

The only exception to this first part of the rent-deposit requirement is if you already paid the rent your landlord claims you did not pay. If your defense to the eviction is simply that your landlord’s claim of unpaid rent is false and you have paid all of your rent, you are not required to deposit the amount your landlord claims is unpaid.

2. If/when your rent comes due again while your eviction case is pending, you must deposit it into the court’s registry, instead of paying it to your landlord. For example, if the eviction case was filed in May and is not resolved before June, you must deposit your June rent into the court’s registry when it comes due. You should deposit your rent into the court’s registry on or before the “due date” in your lease (usually the first day of the month). You must continue to do that every month until the eviction case is resolved.

There is a fee for depositing your rent into the court’s registry. However, if you have very little income, you may ask the clerk of the court for an “Application for Determination of Civil Indigent Status.” On that form, you will list your income and expenses. If you qualify, the clerk will deposit your rent without charging you the extra fee.

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| **IN THE COUNTY COURT,** | | **THIRTEENTH** | | | | **JUDICIAL CIRCUIT** | |
| **IN AND FOR** | **HILLSBOROUGH** | | | | **COUNTY, FLORIDA** | | |
|  |  | | | | |  | |
|  | **CASE NO.:** | | | | | **16-CM-12345** |  |
|  |  | | | | |  | |
|  | **DIVISION:** | | | | |  |  |
| **Mr. Plaintiff** | | | | | | | |
| **Plaintiff,** | | |  | | |  | |
|  |  | | | | |  | |
| **vs.** |  | | | | |  | |
|  |  | | | | |  | |
| **Sam Harden** | | | | | | | |
| **Defendant.** | | |  | | |  | |
|  |  | | | | |  | |
|  | | | | **/** | |  | |

**ANSWER AND AFFIRMATIVE DEFENSES**

Defendant, Sam Harden,answers Plaintiff's complaint as follows:

1. Defendant does not admit any of the allegations in the Complaint.
2. «Multiple defendants MC:Defendant/Defendants» denies the allegations in Paragraph 1 and Paragraph 2 of the Complaint.
3. Defendant does not claim to be without knowledge of any of the allegations in the Complaint.

**WHEREFORE**, Defendant, respectfully requests this Court to deny the relief prayed for by the Plaintiff, award Defendant costs and attorney’s fees incurred in defense of this matter pursuant to Fla. Stat. §83.48, if applicable, and such other and further relief this Court deems just and proper.

**AFFIRMATIVE DEFENSES**

**FAILURE TO ATTACH DOCUMENT ON WHICH ACTION IS BASED**

1. Florida Rule of Civil Procedure Rule 1.130(a) requires that all documents upon which an action is based shall be incorporated or attached to the complaint.
2. Plaintiff has failed to attach a copy of the pre-suit notice upon which this action is based, and therefore the Complaint is deficient as a matter of law.

**FAILURE OF CONDITION PRECEDENT – NO NOTICE**

1. Section 83.56, Florida Statutes, requires delivery of a written notice to terminate a tenancy, and proper termination of the tenancy is a condition precedent to an eviction action pursuant to section 83.59(1), Florida Statutes.
2. Plaintiff did not deliver a notice of termination of tenancy to Defendant prior to commencement of this action, and therefore Plaintiff may not maintain this action.

**FAILURE OF CONDITION PRECEDENT – NO OPPORTUNITY TO CURE**

1. The violation alleged by Plaintiff is of a nature that Defendant should have been given an opportunity to cure it, but Plaintiff did not give Defendant notice and an opportunity to cure as required by section 83.56(2)(b), Florida Statutes.

**ALLEGED VIOLATION CURED**

1. The violation alleged by Plaintiff has been cured by Defendant, and therefore Defendant should not be evicted.

**WAIVER**

1. Plaintiff accepted rent from Defendant with knowledge of the violation alleged in the complaint and therefore, pursuant to section 83.56(a), Florida Statutes, Plaintiff has waived the right to seek eviction.

**RETALIATORY EVICTION**

1. Plaintiff filed this eviction in retaliation because the Defendant:
   * + Complained to a governmental agency about Plaintiff.
     + Terminated the tenancy because of military service.
2. Pursuant to Fla. Stat. 83.64(2), evidence of retaliatory conduct may be raised as a defense to any eviction.
3. Because Plaintiff brought this eviction in retaliation, Plaintiff is not entitled to eviction.

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| Respectfully submitted, |

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|  |
| Signature |
| Sam Harden |
| Printed Name |

|  |  |
| --- | --- |
| Address: | 1234 Street Way |
|  | Metropolis, FL 12234 |
| Phone: | (123) 456-7890 |

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFYthat I have sent a true copy of the foregoing to the Plaintiff by way of Email on May 4, 2021.

|  |
| --- |
|  |
| Signature |
| Sam Harden |
| Printed Name |