

**STATE OF LOUISIANA
FIRST CITY COURT**

EVICTIION PROCEDURE

GENERAL INFORMATION

Location	1026 East Worthy Street Gonzales, LA 70737
Office Hours	9:00 a.m. – 4:00 p.m. Monday – Friday
Telephone	(225) 647-9769
Web site	www.orleanscdc.gov

TIME PERIOD

An eviction takes approximately two to three weeks to complete.

COSTS (Non-Refundable)

CLERK’S OFFICE – NO PERSONAL CHECKS; MUST BE ON APPROVED CHECK LIST FOR BUSINESS CHECKS.

Rule For Possession of Premises	\$86.50
Answer	\$42.00

CONSTABLE’S OFFICE

Five-Day Notice	\$20.00
Service on Rule For Possession and Notice of Judgment (Combined fee).	\$60.00
Warrant – without labor costs	\$20.00
Warrant – with labor costs	
1 level	\$70.00
2 levels or more	\$85.00
	or more

FIVE-DAY NOTICE

Unless the five-day notice is expressly waived by written lease, a landlord is required by law to give a tenant a Five-Day Notice to Vacate the premises. A Five-Day Notice to Vacate can be served by the landlord or constable either by personal service or by tacking it to the door. If mailed, it must be delivered by certified mail. The return receipt (green card) must be filed in the court record. The purpose of this notice is to give the tenant five days notice that the landlord is beginning eviction proceedings against them. The five days apply to **five working days**, and does not include the day of service, weekends or holidays.

Please note that the Clerk’s office does not draft Five-Day Notices. These are drafted by the Constable’s office or the landlord. **Make sure that the information on the Five-Day Notice is**

accurate and complete! Then the Clerk's office types the Rule For Possession of Premises, the information in the Rule must be the same as the information on the Five-Day Notice.

When you are requiring possession of your property for non-payment of rent, include the period involved, the number of weeks, months, etc. that the rent is past due and the amount due.

When you are requiring possession of your property for a violation of a provision of a lease, you are required by law to list the specific violation(s) on the Five-Day Notice. You are also required to provide a copy of the executed lease when you file your Rule for Possession of Premises.

If you are simply seeking possession of your property and a lease is involved, you cannot institute an eviction within that lease period **unless a violation of the lease has occurred or the lease has expired.**

Please note that if you are evicting a tenant because you want possession of your property **and the lease has expired,** you must give the tenant **ten (10)** days notice. These are ten (10) calendar days.

WAIVER OF FIVE-DAY NOTICE

A landlord and tenant may waive notice to vacate. This waiver has to be in writing and agreed to before an eviction proceeding is begun.

This waiver is usually found in the written lease. This gives the landlord the right to file for his/her court date without giving a Five-Day Notice.

Please be aware that the property under the Housing Authority of New Orleans' (HANO) Section Program may be subject to specific rules about notices, waivers, and other lease provisions. Before you file your Rule for Possession of Premises, you should be knowledgeable about the rules for filing evictions under the Section 8 program. If you have questions about the Section 8 eviction requirements, you should discuss them with HANO to make sure that your Rule is properly filed.

RULE FOR POSSESSION OF PREMISES

Once a Five-Day Notice is served, you may then proceed to obtain a judgment of eviction against the tenant by filing a Rule for Possession of Premises.

The information contained in the Rule should be the same as the Five-Day Notice.

When a Rule is filed, a court date is assigned. Court dates are usually given one week from the date you file your Rule. Dates will vary with holidays. If the landlord fails to appear or notify the Court on the date the Rule is set, the Rule For Possession will automatically be dismissed.

After dismissal, if the landlord still wishes to evict the tenant, the eviction proceedings must start over, beginning with the Five-Day Notice.

If a written lease is involved, and you are alleging a specific violation, the lease should be attached to the Rule For Possession so that the tenant can be served with specific notice of the violation. If a written lease is involved, you must provide a copy of the lease to be attached to the Rule For Possession.

Please note that after your Rule For Possession is typed, you must bring your copy to the Constable's office so that you can pay for the Rule For Possession to be served on the tenant. Refer to the first page of this document for the costs.

ANSWER

A tenant has the right to file a written Answer in opposition to the landlord's Rule For Possession of Premises. Filing an Answer reserves the tenant's right to an appeal if it is filed on or before the court date.

If the answer is filed on the court date, it must be filed before 10:00 a.m.

NOTICE OF JUDGMENT

On your court date, if you are successful, the Judge will render a Judgment of Rule Absolute. You will receive a Judgment and a notice will be served on the tenant by the Constable's office.

A time period is given by the Judge for the tenant to vacate the premises. Usually, 24 hours is given, but it can be longer. If 24 hours is given, the time starts at the signing of the Judgment.

EXECUTORY DATE

When more time is given to a tenant to vacate premises, an executory date is rendered in open court and this date will appear on the Notice of Judgment. Executory dates are given **ONLY** when the tenant appears. The tenant's time to vacate expires at midnight on that date unless otherwise specified by the Judge.

WARRANTS

At the landlord's request, the Clerk's office may issue warrants for removal of the tenant's property from the leased premises after two (2) conditions are met:

1. The constable's office must provide the Clerk's office with verification that service of the Notice of Judgment was made on the tenant; and
2. The time period to vacate that was given by the Judge in the Judgment, must have expired.

The Clerk's office cannot issue warrants until these two legal requirements are fulfilled. **Before landlords come in to request a warrant, we strongly encourage them to call our evictions department at (225) 647-9769 to make sure that all requirements for a warrant have been met.**

Please note that once a warrant has been issued, the Clerk's staff cannot cancel it. Once a warrant is issued, only the landlord can contact the **Constable's Office** and request that it be cancelled.

APPEALS

If a tenant has filed a written Answer to the eviction, under oath and raising an affirmative defense, they can file a **Suspensive Appeal**. It must be filed within 24 hours after the judgment was rendered. **A Suspensive Appeal suspends the execution of the judgment.**

If a Suspensive Appeal is filed, it must be accompanied by a bond. The bond amount is set and determined by the Judge.

If an Answer raising an affirmative defense has not been filed under oath, you must file a **Devolutive Appeal**. **A Devolutive Appeal does not suspend the execution of judgment.**

MOTION FOR A NEW TRIAL

A Motion for a New Trial can be requested within 72 hours **after** the signing of the Judgment. The Motion is either granted or denied at the discretion of the Judge.

PETITION FOR NULLITY WITH TEMPORARY RESTRAINING ORDER

A petition for nullity and also requesting a temporary restraining order (TRO) should be filed within 72 hours of a judgment. A Rule to Show Cause must be filed with the TRO and a date is set either by the Judge or the Clerk's Office. A bond, which is set by the Judge, must be posted when requesting a TRO.