

HOW TO OBTAIN POSSESSION OF PROPERTY AFTER JUDGMENT

Will the court give me advice on how to enforce my judgment for possession?

No. The court personnel are not empowered to provide legal advice. If you are not familiar with court procedures and the law you should contact an attorney before taking any steps to enforce the judgment.

Does a judgment entitle me to possession?

Yes. However a landlord may be liable to the tenant for the improper enforcement of a judgment. The landlord should not enter the premises if a writ of possession has not been properly served. If you are not familiar with the enforcement procedures you should contact an attorney for advice.

Since I am entitled to possession can I have the tenant and his belongings removed from the premises?

Yes. Since the judgment entitles the landlord to possession, the tenant and his belongings can be removed from the premises. A landlord can not, however, remove either the tenant or the tenant's belongings without a writ of possession (sometimes called a writ of assistance) and the sheriff or private levying officer's help. The landlord cannot destroy the belongings and has a duty to keep them in a secure place. Once the belongings are removed with a writ, the landlord cannot keep the belongings from the tenant.

How do I obtain a writ of possession?

Go to the justice court and obtain a writ of possession. The court does not physically obtain possession for you. The court only issues the writ of possession that allows you to enter the premises and take possession of the premises. You need to contact the sheriff's office or a private levying officer to serve the writ of possession.

Do not enter the premises without having a writ of possession properly served. You can not serve the writ of possession. It must be served or posted by the sheriff's office or a private levying officer. You will need to provide the sheriff or private levying officer with the physical location of the property. The sheriff or private levying officer will charge you a fee for serving the writ of possession. .

The sheriff or private levying officer may require that you pay their fee in advance before they will serve the writ of possession. All fees you have to pay to serve the writ of possession are costs that are added to the judgment.

Can I have the sheriff or levying officer move the judgment debtor out of the premises?

Yes. First obtain a writ of possession. All costs of moving the judgment debtor out of the premises will initially have to be paid by you. These costs may include the mover or storage fees. These costs can be added to the judgment against the judgment debtor.

Can I have the judgment debtor's property sold and apply the proceeds to the judgment?

If the property is not exempt it can be sold at an execution sale by the sheriff or private levying officer. Before you can sell the property you must obtain a writ of execution from the court. The writ of execution must be delivered to the sheriff or private levying officer for enforcement and sale. As with a writ of possession you will initially have to pay all costs, sheriff and levying fees, associated with the execution sale. All costs of the sale are added to the amount of the judgment. A writ of execution can be obtained at the same time as the writ of possession.