

EVICTON PACKET:
FORCIBLE ENTRY AND DETAINER ACTIONS (FE&Ds)
(Effective January 2014)

Welcome to the Miamisburg Municipal Court.

You are filing an action in forcible entry and detainer (an eviction), wherein you are asking the Court to evict a tenant from a residential or business premises.

To begin the process, you must file a complaint. The complaint form is provided in this packet for you. It is necessary that you fill in the appropriate information on the complaint. The information that goes on that complaint will vary according to your specific case.

Our clerks are here to help you process the paperwork in your case as expeditiously as possible. It is important that you understand that our clerks are not attorneys, and they are not permitted to give you any legal advice regarding your case. They are happy to answer your questions about the court process, but they cannot give legal advice.

Once the court has granted you restitution of the premises, you may file a writ of restitution. These forms are also included in this packet, and available at www.miamisburgcourts.com or at the Clerk's Office. The writ of restitution is a document in which you ask the Court to have the defendants and their belongings physically removed from the premises.

After the defendants have moved from the premises, you may request a hearing on your second cause of action in order to obtain a judgment against the defendants for the amount of past due rent owed, and for the cost to repair damages to the property that are above normal wear and tear.

You are strongly urged to contact an attorney should you have any legal questions concerning your forcible entry and detainer matter.

It is important to us that your contact with the Miamisburg Municipal Court is as pleasant as possible, and that your case is handled in a timely manner.

Sincerely,

MIAMISBURG MUNICIPAL COURT

Judge Robert W. Rettich, III

**APPLICABLE RULES FROM
MIAMISBURG MUNICIPAL COURT
RULES OF COURT**

12.00 CASE MANAGEMENT IN FORCIBLE ENTRY AND DETAINER CASES:

- A. Hearing: All forcible entry and detainer cases shall be set for hearing before the judge or magistrate pursuant to the time limits set forth in the Ohio Revised Code. At that hearing, the Ohio Rules of Evidence and the applicable Ohio Rules of Civil Procedure will be applied.
- B. Judgment Entries: The court shall review the findings of the magistrate and enter the appropriate judgment entry.
- C. Upon the granting of restitution, if the tenant fails to vacate the premises and remove his property therefrom, the landlord shall file a writ of restitution with the Clerk of Court and pay the applicable fee.
- D. Upon receipt of the writ of restitution, a representative of the Court shall contact the landlord or the landlord's attorney to set a specific date for the move-out. The Bailiff's Office shall supervise every move-out conducted through the Court.
- E. Once a specific date for the move-out has been set, the tenant must vacate and remove all personal belongings prior to that date, or the Bailiff may proceed by court order to forcibly eject the tenant and restore the premises to the owners.
- F. Scheduling Hearing: If an answer or jury demand is filed in a forcible entry and detainer case, the clerk shall set the case for hearing. The jury deposit shall be eight hundred dollars (\$800.00) and shall be deposited at the time of filing of the jury demand.
- G. Appeal from Hearing on Second Cause of Action for Damages/Counterclaim: The magistrate shall, at the conclusion of each case, serve a copy of his or her finding upon the plaintiff and defendant and inform the parties that they may file objections to the magistrate's findings within fourteen (14) days, in writing.

The objections to the magistrate's findings should state, with specificity, the reason a new hearing is requested. No oral hearing will be granted on said motion. The court shall, after consideration of the reasons in the objections to the magistrate's findings, rule on said objections to the magistrate's findings.

The judge shall review the findings of the magistrate, and enter the appropriate judgment.

- H. The **LANDLORD OR ATTORNEY FOR LANDLORD** shall, **prior to 11:00 a.m.** on the day of the scheduled move-out, contact the Bailiff at 866-2203, Ext. 6486, **ONLY** if the move-out is to go forward. If the Bailiff is not notified that the move-out is to go forward by the landlord or attorney for landlord prior to 11:00 a.m. on the day of the scheduled move-out, the Bailiff will not appear and the **MOVE-OUT WILL NOT PROCEED.**
- I. Any personal property that is not removed by the date of the move-out will be considered abandoned, and will be subject to removal and disposal by the owner of the premises. The tenant may not remove his or her property subsequent to 1:30 p.m. on the day of the eviction or after eviction without the written consent of the owner or landlord, who may refuse the request.

**IN THE MIAMISBURG MUNICIPAL COURT
CIVIL DIVISION**

* CASE NO.

Plaintiff(s) Name, Address, Phone

*

vs.

*

*

**COMPLAINT IN
FORCIBLE ENTRY AND DETAINER**

Defendant(s) Name, Address, Phone

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1. First cause of action:

_____, Plaintiff(s), state(s) that the Defendant(s) _____, have/has, since the ___ day of _____, 20___, and do(es) still, unlawfully and forcibly detain(s), from the Plaintiff(s) possession, the following described premises: Situated in the (city/twp) of _____, County of Montgomery, State of Ohio, and more commonly known as: _____.
(street address)

That said Defendant(s) entered upon said premises as tenant(s) of the Plaintiff(s) pursuant to _____ (Lease Agreement/Oral Agreement) the term of which expired on the above date; and the terms which are as follows:

and from the date above, the said Defendant(s) have/has unlawfully and forcibly held over said term.

On the _____ day of _____, 20___, the Plaintiff(s) duly served upon the said Defendant(s), as required by law, notice in writing to leave said premises.

2. Second cause of action:

Plaintiff(s) for second cause of action states that the Defendant(s) is/are indebted to said Plaintiff(s) for a **total sum of \$** _____, as rent for the above named premises for the period from _____, 20___, to _____ 20___, on a rental basis of \$ _____ per month; **AND** for the cost to repair damages to said property, in an amount to be determined.

Plaintiff(s) requests process, restitution, and judgment in an amount to be determined, plus costs of this action, and interest on said judgment amount.

Dated this _____ day of _____, 20___.

Plaintiff(s) Signature

Plaintiff's Printed Name and Title

**IN THE MIAMISBURG MUNICIPAL COURT
CIVIL DIVISION**

* CASE NO. _____

Plaintiff(s) Name and Address

*

vs.

*

* **ENTRY GRANTING RESTITUTION**

Defendant(s) Name and Address

*

This cause came on for hearing upon the Plaintiff's Forcible Entry and Detainer Complaint, Count One, for restitution of the premises. This Court finds:

_____ The Defendant(s) is in default for answer and appearance.

_____ The Defendant(s) admitted the allegations contained in Plaintiff's Complaint, i.e. non-payment, arrears in rent, or breach of lease.

_____ The Plaintiff(s) proved the allegations contained in the Complaint and the Defendant(s) failed to present sufficient evidence to overcome those facts.

This Court further finds the facts set forth in Plaintiff's(s') complaint are true, the Plaintiff(s) is the owner of said premises, the Defendant(s) was served with the required statutory notice and notice of this hearing pursuant to O.R.C. § 1923.06, and the Plaintiff(s) is entitled to restitution.

WHEREFORE, the Plaintiff(s) is hereby **GRANTED** restitution of the premises.

MAGISTRATE JEFFREY D. SLYMAN

JUDGE ROBERT W. RETTICH, III

Plaintiff(s) Signature

**IN THE MIAMISBURG MUNICIPAL COURT
CIVIL DIVISION**

Plaintiff(s) Name and Address

vs.

Defendant(s) Name and Address

* CASE NO.

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**PRAECIPE FOR
WRIT OF RESTITUTION**

To the Clerk:

Please issue a Writ of Restitution to enforce restitution and a move-out for the premises located at:

Street Address with Apt. Number

City, State and Zip Code

Plaintiff(s) Name

Address

City, State, Zip

Phone

PLEASE CALL 937-866-2203 EXT 6486 BEFORE 11:00 A.M. IF BAILIFF IS NEEDED FOR MOVEOUT

**IN THE MUNICIPAL COURT OF THE CITY OF MIAMISBURG, OHIO
CIVIL DIVISION**

Plaintiff(s) Name and Address

vs.

Defendant(s) Name and Address

*

CASE NO.

*

*

**REQUEST FOR HEARING
AS TO COUNT TWO
FORCIBLE ENTRY AND
DETAINER**

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Now comes the _____ (Plaintiff) herein, in the above captioned matter, and hereby requests a hearing on damages, pursuant to Plaintiff's Second Cause of action, in the Complaint filed on _____. The Plaintiff asserts the Defendant(s) has been duly and legally served with service of process of the Plaintiff's Complaint, and the Defendant(s) is in default of answer.

The Plaintiff hereby requests the total sum of \$_____, as and for unpaid and past due rent, and damages to the property.

The Plaintiff hereby requests a hearing on damages, pursuant to Plaintiff's Second Cause.

Dated this _____ day of _____, 20_____.

Plaintiff(s) Signature

Plaintiff's Printed Name and Title