

The Civil Division is responsible for receiving, processing, servicing and returning court orders, legal documents and notices. The service of these documents is sometimes simply delivering them. At other times depending on the intention and commands of the court, serve means the Sheriff's Office must enforce the content of the written document.

THIS IS NOT LEGAL ADVICE AND SHOULD NOT REPLACE A LAWYER

EVICCTIONS

When the Sheriff's Office receives a **Notice to Pay Unpaid Rent**, sometimes referred to as a 3 Day Notice, a deputy sheriff will go to the address provided by the plaintiff and attempt service. We will repeatedly attempt service until either the notice is served or until it becomes obvious the person(s) are intentionally avoiding the service and our efforts are in vain. This constitutes a diligent search. At this time, either the paper will be returned as unable to locate or, if the plaintiff so chooses, a deputy will proceed with "posting"- taping the service papers in a conspicuous place at the location.

A similar procedure will take place when we receive a notice to serve for **Violation of Lease, Clear and Present Danger, Termination of Lease, & No Rental Agreement but Possession Established**. (Property owner should seek legal advice to determine appropriate procedure and obtain the correct forms.)

In any case, the deputy sheriff will have multiple other papers and duties to attend to. As with any civil process, a plaintiff who is requesting service needs to provide as much information as they can to the Sheriff's Office in order to properly identify, and locate, the correct party to be served. This may include the party's full name, home address, date of birth, telephone number(s), place of employment, hours of work, times most likely to be found at home, or anything else that may be of assistance. The deputies will spend several hours throughout the day attempting to serve as many papers as is reasonably possible.

When the Sheriff's Office receives a **Forcible Entry and Detainer, (sometimes referred to as an FE & D)**, a deputy sheriff will go to the address provided and attempt service as usual. It should be noted that, unlike some of the other civil processes, the FE & D has time constraints and must be served at least three days prior to the relevant court date. These three days cannot include either the day of service or the day of the court hearing. Sundays are also excluded as they are days when regular mail is not delivered. The court does not allow us to deviate from these service restrictions and should be kept in mind for advanced planning on the part of the plaintiff.

When an FE & D has not been served, after diligent search, and the time for service has not expired, the FE & D may also go to "posting." The deputy will attempt to contact the plaintiff, as a courtesy, to inform them of the status. If the plaintiff chooses to continue the action and have the deputy post the notice, the plaintiff must send the notice to defendant; one copy by regular mail; send a second copy to them by certified mail & also notify the Clerk of Court that "posting" was done.

The Sheriff's Office cannot give legal advice or information related to the legal steps required to cause an eviction or have an eviction stopped. The plaintiffs and defendants are encouraged to seek legal counsel for information related to this and any other court action.

During the FE & D hearing, the judge / magistrate will hear the case and determine the outcome. If decided in favor of the plaintiff, the plaintiff will need to request that the clerk issue a **Writ of Removal / Ejection / Possession**. It will not be done automatically. The writ is a court order addressed to the Sheriff of Black Hawk County and directs this Office to remove the named defendant(s) from the premises, as well as all persons claiming to be entitled to possession through them, and place the named plaintiff in possession. The Sheriff's Office does not receive any notice of the outcome of your case and you will need to provide a hard copy of the writ to us for execution (service). Once the Sheriff's Office receives the writ, along with \$100 advanced fee and direction sheet, the Civil Division Sergeant will attempt to contact the plaintiff. The Sheriff's Office receives multiple writs each day and appointments for their execution will be set up in the order the sergeant's phone calls are answered by plaintiffs. If the plaintiff's phone goes unanswered, the sergeant will leave a message (if that option is available) and move on to the other writs waiting to be set up. If the plaintiff has completed all of the above requirements, and has not heard from the Sheriff's Office after a few days (excluding weekends), they should contact the Sheriff's Office Civil Division Sergeant in order to make an appointment.

Defendants need to be aware that as soon as the order is written, it is fully enforceable and able to be executed. In order to make sure their belongings are taken care of to their complete satisfaction, the defendant should voluntarily move their belongings themselves and vacate the property as ordered. In any event, the writ must be executed within 30 days from the date it is issued.

After the eviction is set up with the plaintiff, a deputy sheriff will go to the address involved in the action and attempt contact with the defendants. A copy of the writ, including a notice from the Sheriff's Office will be given to the defendants. This notice will inform the defendant of the need to vacate the premises and the latest date the writ will be executed. If no one is home, or if the defendants refuse to answer the door, the notice will be posted. It is not in defendant's best interest to wait until the last minute to vacate.

When deputy sheriffs meet with the plaintiff (or their agents) at the address to execute the writ, it is important that both plaintiffs and defendants know the Sheriff's Office cannot, and will not, "take sides" or favor one party over the other. The Sheriff's Office must enforce the intent of the court order, keep the peace, and insure the writ's execution is in compliance with the law without judgment or bias. If the plaintiff has begun the eviction in any way before deputies arrive, the Sheriff's Office must conclude the physical property has already been returned to the plaintiff and the deputy(s) will not be part of the process and will not execute the writ. If the plaintiff determines, on their own, that the defendant has taken their belongings and voluntarily vacated the physical property, they may choose to cancel the eviction appointment. In doing so, the plaintiff assumes all liability for any property left behind. Cancellation of an eviction appointment must be done with as much advanced notice as possible.

The Sheriff's Office is not there to physically remove the defendant's personal belongings from the residence. The plaintiff is responsible for providing whatever labor is needed to remove the defendant's personal property from the residence and place it to the city or county "right of way" within a reasonable amount of time. This must be accomplished with taking due care for the property and making sure that there is no unreasonable damage done during this process. The plaintiff should have plenty of heavy duty

garbage bags to not only bag up loose items so it will not create a mess by blowing around the neighborhood but also to help protect it from being damaged by weather. Tarps & plastic sheeting is also recommended to aid in this when precipitation is expected. The eviction may be postponed by the sheriff if weather conditions are too severe. The crew should also have in their possession any tools necessary to unhook or dismantle, or move, any furniture or appliances that need to be removed and have someone who is knowledgeable in properly completing these tasks. One hour is determined to be a reasonable amount of time for full removal in most cases. If the plaintiff shows up either without a crew or the crew is insufficient for the amount of work that needs to be done, we will cancel the execution of the writ and it will need to be rescheduled for another date, if time allows. Several writs may be scheduled for the same day and it is not fair to delay another plaintiff's appointment because you did not adequately prepare for yours.

Certain items will not be set out to the right of way in the name of public health / safety. If the tenant is present at the time of the eviction, they can take the items with them as long as these items get loaded directly into a vehicle. Such items include, but are not limited to: Weapons, cutlery set, prescription & over the counter medication, cleaning supplies, paints, solvents, soaps, shampoo & lotions, food, recorded materials (cassettes, CDs, DVDs), and pornography. The same applies to cases where there is a known infestation or evidence thereof (i.e.: roaches, fleas, bedbugs, etc.)

By placing the personal belongings on the "right of way," the belongings are removed from the physical property and the plaintiff is no longer responsible for such items. The Sheriff's Office does not hold this responsibility either. The personal property belongs to the defendant(s) and the defendant(s) are solely responsible for their own things.

Regarding pets abandoned at an eviction; abandoned pets must be humanely removed from the premises in order for the eviction to proceed. The costs for their removal, if necessary, are the responsibility of the landlord. Waterloo Animal Control Services have contracts with Waterloo and Cedar Falls and if requested currently charge a fee of \$25 for the removal of each pet and an additional \$45 fee when turning the pet over to the Cedar Bend Humane Society for a total cost of \$70 per pet. This fee must be paid in cash or check at the time of the removal.

Once the removal of the defendant's belongings from the physical property is complete, deputies will post a notice of the eviction which includes a warning that anyone entering this property without permission of the property owner may face whatever criminal charges are applicable (i.e. Trespass, Burglary, Robbery, etc.)

The personal property must be left available on the "right of way" for 24 hours to allow the defendant(s) opportunity to obtain their things. The defendant(s) should remove their personal belongings from the "right of way" as soon as possible. The defendant should realize the longer the personal property remains there, the more likely the items will be damaged or stolen. Once 24 hours has lapsed from the beginning of the eviction, any personal property remaining on the "right of way" is considered abandoned and must be removed by the plaintiff.