



# 72 HOUR NOTICES & LOCKOUTS

## KNOW YOUR RIGHTS

A 72-hour notice is a notice served upon tenants by the county sheriff, city marshal or constable. It is one of the final steps of the eviction process. A 72-hour notice must be triggered by a signed warrant of eviction from a judge, & this only takes place through a landlord properly petitioning the tenants to court. Tenants have the right to answer and appear for these proceedings to defend themselves against eviction. An eviction cannot take place without a court process. If you've been petitioned to court for eviction, call UTA's Housing Hotline for guidance & reach out to your local legal service providers for help.

*\*\*If you have received a 72-hour notice but you were NEVER petitioned to appear in court, call your local legal service providers like Legal Aid and/or go to your local city or town court immediately to inquire about applying for an **order to show cause**\*\**

*\*\*If you have received a 72-hour notice after a court appearance where you entered into a court ordered agreement that you have FULLY COMPLIED WITH, go to your local city or town court immediately to ask about applying for an **order to show cause**\*\**

*If the locks at your apartment have been changed without receiving a petition to court or a 72 hour notice, it may be an illegal lockout. Call the non-emergency police department in your area (Albany: (518)438-4000) right away to request assistance with getting back into your home.*

Once the judgment for eviction is entered in court, it may be tied to a specific day if an agreement was reached or the judge gave discretion. For example, the warrant of eviction may be issued and "stayed" to November 30th. This means that if a tenant continues to occupy the residence even the very next day following the date the warrant is stayed to, in this example December 1st, the landlord can execute the warrant of eviction. The landlord does this by bringing the warrant to the sheriff or city marshal.

The sheriff or city marshal will serve the 72-hour notice to the tenants. Usually this is completed by mail, by a posted notice, and by personal service where the sheriff, city marshal or constable will hand deliver a notice to the tenants. At the time of service the 72-hour timeframe begins. Weekends and holidays are not counted in the 72-hours, it is only business days that are included. In smaller towns with local marshals or constables, the timeframe for a lockout will be very close to an actual 72-hours. In counties where one sheriff department is responsible for completing evictions, it may be slightly longer. It is important to gather your most important belongings and make plans for relocation as soon as possible & to prepare to vacate quickly.

After the notice expires, the sheriff, city marshal or constable will be present with the landlord to change the locks on the apartment. At that point, the tenants will no longer be in possession of the apartment and will have to make alternate housing arrangements.

**\*\*SEE BACK\*\***

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**If you have been locked out of your apartment legally, know that New York State is a “right to shelter state”, which means after an eviction is completed and tenants can no longer access their home, they have the right to access emergency shelter.**

### **ANYONE WHO IS HOMELESS IN ALBANY:**

**BEFORE 4:30PM weekdays, anyone who is homeless in Albany should go to Albany County DSS at 162 Washington Ave to access emergency shelter.**

**AFTER 4:30PM weekdays, anytime on weekends or anytime on holidays, HATAS at 138 Central Ave provides “after hours” homeless shelter access in Albany. HATAS can be reached 24 hours to assess homeless situations at (518)463-2124.**

**Remember that emergency shelter usually cannot be accessed until the 72- hour notice expires and the locks to the apartment have been changed in the legal course.**

### **AFTER A LOCKOUT:**

The owner of the property where the eviction took place has the “fiduciary responsibility”, or obligation, to keep the tenants' belongings safe and dry for a “reasonable time” after the locks have been changed to the apartment. Safe and dry does not mean that they must be left in place in the home, and the items may be moved to a safe and dry location like a storage unit or a garage. The “reasonable time” that belongings must be kept has been interpreted differently depending on the locality. In Albany County, for the most part, the expectation is that the belongings are kept safe and dry for around 30 days & that the owner must give the tenant access to the belongings at least one time after the eviction is completed, at a reasonable time that is agreed upon between the landlord and tenant. In other areas the expectation is that the belongings are held safely for two weeks. Check in with the local court, sheriff department or city marshal if you're not sure how long your landlord is supposed to hold your belongings.

There is no "landlord lien law" in NYS, meaning that it is illegal for landlords to hold tenants belongings ransom both for money they were awarded in court or money they feel they may be owed because of the eviction. They can only pursue money they feel they are owed through the court process. However, if the landlord puts the belongings in a storage unit & pays for one month, which is a perfectly legal step in abiding by the "safe and dry for a reasonable time" law, after that timeframe expires the storage provider may have policies about releasing belongings that could be lawful.