



# **SHERIFF**

## **C R O O K C O U N T Y**

*Sheriff John Gautney*

**"PEOPLE SERVING PEOPLE"**

### **SERVICE OF FED SUMMONS & COMPLAINT, NOTICE OF RESTITUTION AND WRIT OF EXECUTION**

After the landlord gives written Notice, either by delivering Notice to the Tenant in person or by posting on the premises and the Tenant not leaving the premises, the Landlord may proceed with the following eviction process.

The eviction process involves the use of the Sheriff's Office on a three stage level. This paper will define the participation of the Sheriff's Office in each of these phases. Information contained in this document describes procedural matters relevant to the statutory obligations of the Sheriff in FED/Eviction matters and is not intended as legal advice.

### **INDIVIDUALS INTERESTED IN THEIR LANDLORD/TENANT RIGHTS OR OBLIGATIONS SHOULD CONSULT AN ATTORNEY**

**Each Step of the FED process must be filed with the Crook County Circuit Court prior to delivery to the Sheriff. The Fees listed below are the Sheriff's Office Statutory fees only. The Circuit Court charges a separate fee for each filing. Contact the Crook County Circuit Court for up to date fees on filing FED papers.**

#### **STEP ONE- FORCIBLE ENTRY AND WRONGFUL DETAINER (FED) SUMMONS & COMPLAINT**

The **FED SUMMONS, COMPLAINT AND DEFENDANT'S ANSWER**, accompanied by the Landlord's Notice to Tenant giving notice to vacate the premises, are the papers which begin the eviction process. Once the Sheriff receives the Summons and Complaint, the papers will be served in the manner described in ORS 105.135. This process requires that the Sheriff make one attempt to serve the summons personally. If, after the first attempt, the Deputy is unsuccessful in serving the Summons, the Deputy is required to serve the Summons and accompanying documents by posting them on the door of the dwelling. When an eviction is filed with the Court, we mail a copy to the tenant(s) at the address provided by the landlord. This is NOT a certified copy and is not meant to be in place of service. **The Sheriff's Office fee for this service is \$36 for up to two defendants or \$20 per person for 3 or more defendants. Et al is considered as one person.**

Once Served: The court shall have entered the first appearance date on the Summons, this being the mediation hearing which both parties are required to attend. If the tenant fails to appear at this mediation, the tenant may be in default and landlord should request a default judgment. After mediation, if one or both parties decide to go to trial in front of a Judge (to be set at a later date-usually within 14 days; Court fees apply); the Tenants must file an answer and pay court filing fees before 4pm the day following mediation, then the landlord must pay court trial fee. If an agreement is reached in mediation, and later the tenant fails to comply, an Affidavit of Non-Compliance can be filed with the court immediately upon the first act of non-compliance. At that time, a Judgment will be entered and a Notice of Restitution can be requested. (Continued on back)

## STEP TWO- NOTICE OF RESTITUTION

The court may enter a judgment for either the Tenant or the Landlord depending upon the evidence and testimony at the trial. If the court enters a judgment on behalf of the Landlord for restitution of the property, the Landlord is entitled to have the court issue a **NOTICE OF RESTITUTION**. The Notice informs the tenant that they must leave the premises including the removal of all personal property or face forcible removal. It is accompanied by a **JUDGMENT**. The Notice must be mailed by first class mail by the Sheriff and served in the same manner as above. **The Sheriff's Office fee for this service is \$36 for up to two defendants or \$20 per person for 3 or more defendants. Et al is considered as one person.**

These documents give the Tenant notice that they have **four days** to voluntarily vacate the premises. The Notice gives the date and time to move out; the date begins with the calendar day following the mailing and service of the Notice of Restitution, including any Saturdays or legal holidays. The time period expires at **midnight** on the fourth calendar day, unless that day is a judicial holiday or weekend, in which case, the period is extended to midnight on the day immediately preceding the first judicial day, following the fourth calendar day.

## STEP THREE- WRIT OF EXECUTION AND POSTING OF EVICTION TRESPASS NOTICE

Once the time has expired on the Notice of Restitution and if the tenant still fails to vacate, the Landlord may request that the Tenant be forcibly evicted from the premises. The documents required for this process are the **WRIT OF EXECUTION AND THE EVICTION TRESPASS NOTICE**. These documents are to be mailed by first class mail by the Sheriff and served in the same manner as above. The Tenant, if present, will be given 20 minutes to remove themselves and their personal belongings. The Landlord will need to be present or have a representative present to change locks once the Writ of Execution has been served and the Trespass Notice has been posted. **The Sheriff's Office fee for this service is \$70 for the Writ of Execution plus \$36 for up to two defendants or \$20 per person for 3 or more defendants. Et al is considered as one person.**

**IF YOU HAVE ANY QUESTIONS REGARDING LANDLORD/TENANT RIGHTS, INCLUDING WHAT TO DO WHEN A TENANT LEAVES BELONGINGS BEHIND, YOU SHOULD CONTACT YOUR ATTORNEY.**

OTHER RESOURCES:

[www.osbar.org/public/legalinfo.html](http://www.osbar.org/public/legalinfo.html)

TEL-LAW 1-800-452-4776

[www.lc.state.or.us](http://www.lc.state.or.us)