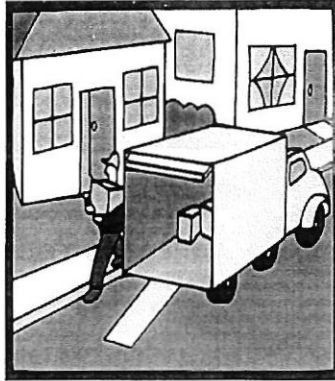


# EVICITION:

## A THREE PHASE PROCESS

Bonneville County Sheriff's Office Civil Deputies are neither qualified nor authorized to answer legal



questions. This Pamphlet contains information regarding general eviction phases you may find helpful to prepare for this office's assistance. The eviction process can be quite complex and often requires legal advice. Questions must be addressed with an attorney.

*Idaho Statutes detail the legalities of the eviction process and can be found in Title 6, Chapter 3 et seq.*

# NOTICE TO VACATE/QUIT

Phase One: ID Code 6-304

A written Notice to Vacate must first be served on the tenant or occupant prior to proceeding to a summons/complaint for unlawful detainer. This notice can be served by the Sheriff's Office, but can also be served by a disinterested third party. You will need to provide proof of service to the court by a notarized Affidavit of Service or a Sheriff's Return of Service in order to proceed to the next step in the process. If the tenant refuses to vacate after proper service of the notice, the landlord must proceed to the next step in the eviction process, which is to file a complaint in court for unlawful detainer.



*The notice to vacate can also be posted on the front door of the residence and a copy mailed to the tenants.*

ID Code 6-304

Phase Two: ID Code 6-310

## UNLAWFUL DETAINER: SUMMONS & COMPLAINT FOR EVICTION

Tenants must be served with a Summons and Complaint for Eviction. These documents will set a court date for a judge to hear your case. The Summons and Complaint for Eviction is a time sensitive document. The defendant must be served at least 5 days prior to the scheduled hearing (excluding weekends & holidays) to allow them time to prepare their case. You may choose to have the Sheriff's Office serve this, but again it can be served by any disinterested third party or a private process server. You will need an Affidavit of Service or the Sheriff's Return of Service to prove to the court the documents were served.



*If the defendant/tenant doesn't attend the court hearing the plaintiff will be given a default judgment.*

ID Code 6-312

You should be prepared to present at the hearing a **Writ of Restitution of Premises** ID Code 6-311C in the event the court rules in your favor. The Writ is a court order giving the Sheriff's Office the authority to remove the tenants and their personal property from the premises. The Writ may also direct the Sheriff to levy on personal property or simply perform a lockout. You will be responsible for all costs incurred as a result of enforcement of this Writ.

- If you seek to remove personal property, you will be required to contract with a licensed and insured moving company for removal and storage of the tenants personal property. You will schedule the date and time for the move-out in coordination with our office.
- If you seek to simply perform a lockout, you will need to contact your own locksmith. You will need to schedule the date and time for the lockout in coordination with our office.



**Only the Sheriff's Office may serve a Writ of Restitution of Premises!**

### The Bonneville County Sheriff's Office performs the following actions when it receives a Writ of Restitution of Premises:

A letter will be prepared advising the tenants of the date and time the enforcement of the Writ will occur. Typically this is 48/72 hours, but depends upon the schedule set up with the moving company. A Sheriff's deputy will serve the tenant and encourage them to leave on their own. A Deputy will check with the occupants several times prior to the time of the scheduled move-out/lockout to determine their progress in leaving the property.

### On the day of eviction:

If the tenants have not vacated, they will be removed from the premises. If their personal property is ordered to be levied upon, the contracted moving company will begin packing & inventorying the personal property. The property must be stored for 14 days to allow the defendants and/or any third parties the opportunity to file a claim exemption against the levy and sale of the items. A Sheriff's Sale will be conducted on property levied upon once the exemption period has passed.

### Sheriff's Sale:

The Sheriff is required to post Notices of Sheriff's Sale. The Notice will list the items to be sold, the date and time of the sale and where the sale is to take place. Proceeds from the Sheriff's sale will be applied to Sheriff's fees as well as the costs of removal and storage of the defendant's personal property.

## HELPFUL WEBSITES

Downloadable forms are available from the following court approved website for the convenience of landlords and tenants.

[www.courtselfhelp.idaho.gov](http://www.courtselfhelp.idaho.gov)

The State of Idaho Attorney General has published a Landlord /Tenant guidelines manual to assist landlords and tenants of residential property in understanding their rights and responsibilities. From this site click on publications then pamphlets & legal manuals then Idaho Landlord/ Tenant Guidelines.

[www.state.id.us/ag](http://www.state.id.us/ag)

The statutes detailing unlawful detainer law are found in Title 6, Chapter 3 et seq. of the Idaho Code. Access them online at:

<http://www.legislature.idaho.gov/idstat/Title6/T6CH3.htm>

*This brochure is not intended to replace the advice of an attorney and does not constitute legal advice . You are advised to seek legal counsel.*



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