



HOUSING: EVICTIONS

SCENARIO:

John Doe lives in a privately owned apartment building in Bay City. He also has bipolar disorder that causes him to become disruptive. John has been disruptive in the halls of his apartment complex many times, and has disturbed other tenants. Because of this behavior, the landlord sent John a **Notice to Quit** on November 1st. The notice says that John must move by December 1st.

Does John have to leave the apartment by December 1st?

No, the Notice to Quit is only the first step in the eviction process. The landlord is required to give a Notice to Quit 30 days before filing for an eviction in court. The landlord can file for an eviction if John is still in the apartment after the date in the Notice to Quit.

The landlord must go through the court to evict John from his apartment. The landlord cannot lock him out or put his furniture on the street. There must be a court order first.

What happens after December 1?

After the date in the Notice to Quit has passed, the landlord must sue John in District Court to evict him. The Court will set a hearing date, and will notify John, by mail, of the eviction complaint and the hearing date. This is the beginning of the formal process of eviction.

Should John attend the hearing?

If John does not go to the hearing, the court will probably decide in favor of the landlord. This is called a **Judgment of Possession**. It means the landlord won.

If John does not appeal within 10 days after the hearing, the landlord can get a **Writ of Restitution** from the court. This Writ allows the eviction. A court officer must serve the Writ and he is the person that accomplishes the eviction. The landlord cannot evict John himself.

What can John do at the hearing?

The hearing or trial is the time to present any defenses to the eviction. John can pay an attorney to represent him at the hearing. John may also ask for a jury trial. He must ask for this at his first hearing and pay a jury fee. The court does not have to pay for the attorney or pay the jury fee.

What kind of defenses can John raise at the hearing?

There are some defenses under the federal and state laws against discrimination if the landlord is trying to evict John for reasons related to his disability.

There may also be some procedural defenses. For example, a landlord might not be able to evict John, if he accepted a rent payment after the date the Notice to Quit was given.

Are there laws that protect the rights of people with disabilities like John?

The federal **Fair Housing Act (FHA)** states that it is unlawful to discriminate against people with disabilities who want to rent or buy housing. This law applies to all housing, except where there are only four rooms or apartments, and the landlord lives in one of them.

The **Michigan Persons with Disabilities Civil Rights Act (PWDCRA)** also guarantees that people can rent or buy housing without discrimination because of a disability. The PWDCRA applies to all housing, except if a

person rents rooms in a house where the landlord or a member of the landlord's immediate family also lives. It also does not apply in a building with only two apartments, and the owner or a member of the owner's immediate family lives in one of them.

The **Rehabilitation Act of 1973** protects people if the landlord receives federal funds. This law protects people living in public housing or with housing vouchers. John lives in privately owned housing, so this law does not help him.

How can these laws help John?

The FHA and PWDCRA allow John to ask for **reasonable accommodations** in rules, policies, practices or services when necessary to allow him an equal opportunity to use and enjoy a dwelling.

John may want to propose a reasonable accommodation to the landlord that would reduce the disruptive behaviors. A reasonable accommodation may be to allow time for counseling, or an adjustment in medication to reduce or eliminate the disruptive behavior.

The regulations clearly state that a landlord may not reject a tenant because of his or her disability. The landlord may still refuse to rent to someone if the landlord believes the person is not capable of living in the housing because of behaviors.

John may file a complaint of discrimination under the FHA and the PWDCRA if the landlord refuses to allow a reasonable accommodation.

This is a summary of the current laws. It is not a substitute for legal advice. For more information, talk with your lawyer or call Michigan Protection and Advocacy Service, Inc. at 1-800-288-5923 toll free or 0-517-487-1755 collect.

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