



## Guests Who Stay Too Long

### Is someone staying at your home and won't leave?

Maybe it's a friend or family member who was facing hard times or an adult child who has not left. Here are things to think about when deciding how to deal with this. It is always best to try to talk to a lawyer because every case is different.

**Note:** if you are in danger from your guest or afraid for your safety call 911. Think about getting an Order for Protection (OFP) or a Harassment Restraining Order (HRO). See our fact sheet [Orders for Protection and Harassment Orders](#).

### Try to Talk it Out

Try to work out an agreement with your guest. If you sit down and talk about it, you may come up with an idea or solution that works for everyone. If you can work it out, you can avoid getting the police or the court involved.

Ask the guest to leave. Pick a date that gives them time to pack and find a new place to stay.

If the guest doesn't want to leave, think about offering some money to help out if you have it. This seems like it doesn't make sense, but if you have to go to court to try to evict them it could cost more.



Tell your guest that you are trying to help them avoid an arrest or an eviction on their record.

If you reach an agreement, put it in writing. Write down each thing you agreed on so there is no confusion later if your guest does not follow through.

### Guest or Tenant?

In some cases, the person staying in your home might be considered a tenant. Even if they didn't sign a lease or pay rent, they still might be a tenant by law.

Minnesota law says a tenant is someone who lives in a home with the owner's permission. Usually, but not always, it is in exchange for rent or services. You might be a landlord and don't know it! Things that show whether your guest is a tenant or not:

- Do they have a permanent home somewhere else?
- How long have they stayed with you?
- Do they help out with the household, financially or other ways?

**IMPORTANT: If your guest has become a tenant, you can only make them move with an eviction in court!!!**

## For Non-Tenants: Give a Notice to Your Guest and Call the Police

If your guest is not a tenant, and they won't leave your home, that can be considered trespassing. You can call the police, but it can be hard to prove to the police that the person no longer has your permission to live there.

Because the guest was probably staying at your home with your permission at first, it is a good idea to write out a notice saying, "I am taking back my permission for you to be in my home. Please take your belongings and leave by [enter a reasonable date]."

Give a copy to them and keep a copy for yourself. If they don't leave by that date, you can call the police and ask the officers to remove the person as a trespasser. You have the notice as proof that you asked them to leave.

If the police remove the guest, they could end up with an arrest record.

It is also possible that the police might not remove them. They could say that they won't decide if your guest is a trespasser or not. They might tell you a court has to decide.

## Ask the Court to Evict the Guest

If you want to ask the court to evict someone, you may have to show that the person you want to evict is a "tenant" and you are a "landlord." You have to show things like:

- unpaid rent
- they violated a lease, or
- they stayed past a notice you gave them ending permission to live there.



You also may be able to claim that the person is there illegally without saying the person is a tenant.

The eviction process can take several weeks or even a few months and costs at least \$299. It is a good idea to get legal advice before you file an eviction action in court.

If you have a low income, you can fill out a court fee waiver form (IFP) to ask the court to let you skip paying. The [court has these forms](#) or you can [create one online](#) using a step-by-step interview at <http://www.lawhelpmn.org/forms>.



→ Click on **Court Fee Waiver (IFP)**

Bring proof of your low income, like pay stubs, or proof of government assistance.

## There are legal issues if you have a landlord/tenant relationship

In some cities you can't rent without a rental license. Sometimes you need special homeowner's insurance to have renters. Check with your city. If you don't have these things but are supposed to, you could get in legal trouble. You may want to talk to a lawyer to figure out if claiming a landlord/tenant relationship is a good idea or not.

In some cases, it might be better if you have a landlord-tenant relationship. Be clear up front about the expectations on each side and put all agreements in writing.

By law a landlord has to give a tenant a full rent-paying-period's notice to move out. If there is no rent payment, a landlord has to give a tenant 3 months' notice to move out.

**For example:** if the guest paid you a month's rent on June 1, you have to give written notice no later than June 30 to have them move out by July 31.

If the guest is still there on August 1, you can file an eviction action. If you win the court issues a "Writ of Recovery."

If the guest still refuses to leave, take the Writ to the county sheriff's office. A police officer comes and removes the guest. Remember, filing a court case makes an eviction action show up on your guest's record. This can make it hard for them to find another place to live.



Keep copies of all notices and agreements with the guest to help prove your case at court. Before you file an eviction action, put numbers on the bedroom doors, so the sheriff knows which part of the home the unwanted tenant lives in. You may want to call a locksmith to change the locks immediately after the police remove the guest. If you change the locks or remove their property before the police remove them, they could sue you.

## Doing it Yourself – “Self-Help”

Changing the locks or doing other things to get rid of a guest without a court order is very risky. Minnesota landlords are not allowed to use “self-help” to evict tenants. **You** could end up facing court action if the guest claims they were a tenant. If you keep the guest from getting their belongings or if you damage things by putting them outside, you could be sued.

## Questions? Talk to a Lawyer

If you have a low-income, you may be able to get help from your local legal aid office. Call 1(877) 696-6529 (877-MY-MN-LAW).

Go to [www.lawhelpmn.org/providers-and-clinics](http://www.lawhelpmn.org/providers-and-clinics) to look for other programs that may help.

If you do not qualify for free or low-cost legal help, you can find other lawyers at: [www.mnfindalawyer.com](http://www.mnfindalawyer.com).

**Fact Sheets are legal information NOT legal advice. See a lawyer for advice.**

*Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.*

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