



How to get an Eviction Dismissed as “Moot”

This advice is for tenants who are able to move out of their rental units before the eviction hearing.

When landlords file eviction cases they are asking for possession of the rental premises to be returned to them. If you have moved out of the rental premises before the eviction hearing you need to go court and tell the judge you moved out. This should prevent an eviction being granted against you.

What you need to do:

1. **Try to get proof that you returned the keys to the landlord.** Returning your keys to the landlord is the official act of returning possession of the property to the landlord. If you don't return the keys to the landlord, the court will say you have not moved out. Some landlords will give you a receipt for the keys. If you get that sort of receipt, bring it to court to prove you moved out and returned the keys. If the landlord will not give you a receipt you can bring the keys to court and give them to the landlord in the presence of the judge at the eviction hearing.
2. **Go to the eviction hearing** and tell the judge you have moved out. Ask that the landlord's claim for possession of the premises (first cause of action) be dismissed as “moot” (which means unnecessary). You could say,

Your honor I moved out of the residence on [date] and returned the keys to the landlord. I don't claim to own anything left there. A judgment for restitution of the premises is not needed since I am out. Such a judgment will hurt my ability to rent other places in the future. I am therefore asking that you dismiss the landlord's claim for possession of the premises as moot.

If you are returning the keys in the presence of the judge you could say:

Your honor I moved out of the residence on [date]. I tried to return the keys to the landlord and get a receipt, but the landlord would not give me a receipt. Therefore I am handing the landlord the keys in your presence. Since I have moved out and returned the keys, I ask that you **not** grant a judgment for restitution of the premises. Such a judgment is not necessary since I have moved out. Additionally such a judgment will hurt my ability to rent other places in the future. I don't claim to own anything left there. I am therefore asking that you dismiss the landlord's claim for possession of the premises as moot.

! **NOTE:** Sometimes a landlord's complaint contains a claim for possession of the premises *and* also a claim for money (like for unpaid rent). That second claim, often called a “second cause of action” will not be dismissed just because you got the first claim for possession dismissed. So even though an eviction will not be granted, the case is not over. You need to file an Answer or an Answer and Counterclaim to the landlord's second claim within 28 days of the date you received court papers if you dispute what the landlord says is owed. Contact LASC for a self-help packet.

How to Contact LASC:

Request services online at www.columbuslegalaid.org

FRANKLIN & MADISON

Call (614) 241-2001 or Toll Free 1-888-246-4420
1108 City Park Avenue, Columbus, OH 43206
Office Hours: 8:30am-5:00pm Monday-Friday

DELAWARE, MARION, MORROW, & UNION

Call (740) 383-2161 or Toll Free 1-888-301-2411
150 Oak Street, Marion, OH 43302
Office Hours: 9:00am-5:00pm Monday-Friday

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