

### **RULE NO. 33: FORCIBLE ENTRY AND DETAINER**

(A) In forcible entry and detainer (FED) actions, summons shall be issued in the form as specified in the Ohio Revised Code and shall be served as specified in the Ohio Rules of Civil Procedure.

(B) Complaints in actions in FED shall be set for hearing on the appearance docket within 21 days from the date of filing, and shall be heard by a Judge or Magistrate.

(C) At the time set for the FED hearing, plaintiff (the landlord/owner) or plaintiff's attorney of record shall be present in the Court. Failure to comply with this rule may result in dismissal of the case.

(D) In the event the defendant/tenant (hereinafter "tenant") fails to appear at the FED hearing, no restitution shall be ordered unless testimony is taken from plaintiff (the landlord/owner) regarding the proper form and service of the required notice under the Ohio Revised Code and tenant's failure to pay rent when due or other reason why restitution of the property is being sought.

(E) If plaintiff is successful in the eviction action, the Court will order that tenant vacate the premises by issuing an order for the restitution of premises. The plaintiff may request a writ of restitution to cause the restitution of the premises to plaintiff. The bailiff shall serve tenant with the writ of restitution by posting a copy at the premises, or by personal service.

(F) The writ of restitution shall include the move out date. If tenant has not vacated the premises before the move out date, the bailiff will evict tenant and restore the premises to plaintiff.

(G) The writ of restitution shall inform the tenant that:

- i. the Court has granted restitution of the premises to plaintiff and set a date for move out;
- ii. the tenant must vacate and remove all personal property before the move out date;
- iii. on the move out date tenant will be forcibly evicted under the supervision of the bailiff;
- iv. any personal property not removed before the move out date will be considered abandoned and subject to disposal by plaintiff.

(H) If tenant vacates the premises before the scheduled move out date, plaintiff or plaintiff's attorney shall immediately notify the bailiff and the move out will be canceled.

(I) If tenant has not vacated the premises within 24 hours of the scheduled move out date, plaintiff or plaintiff's attorney shall notify the bailiff that a move out is still necessary and the move out will proceed as scheduled. Failure of plaintiff or plaintiff's attorney to notify the bailiff that the move out is still necessary will result in cancellation of the move out date.