

Understanding Evictions

Forcible Entry and Detainer
Order of Possession

Lake County Sheriff's Office

Mark C. Curran Jr., Sheriff

Creating the Landlord/Tenant Relationship

■ Screening Prospective Tenants

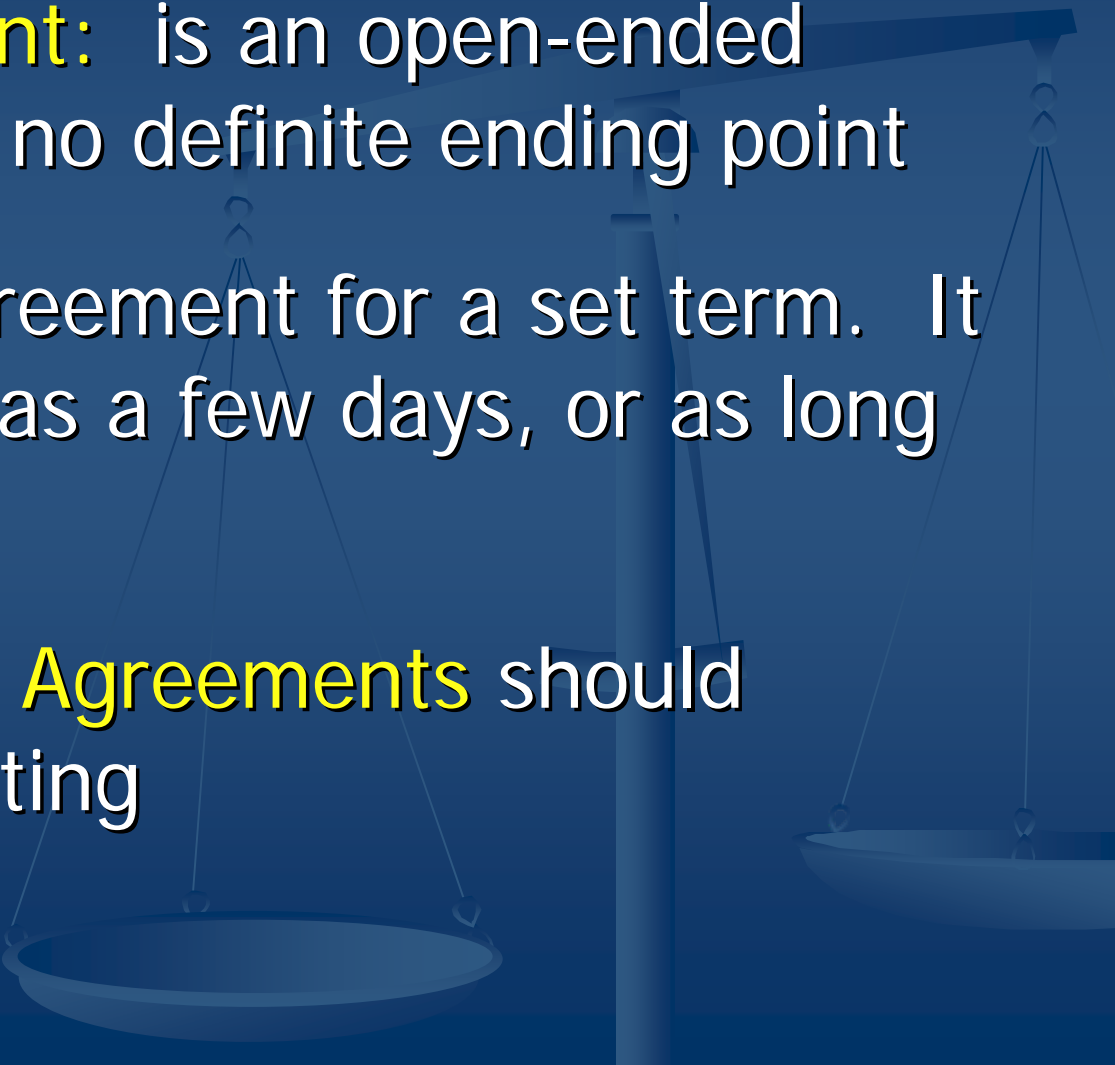
■ Application/Background Check

Name, past addresses, employment history, current income, if tenant is of legal age

■ Discrimination/Human Rights Laws

- State & Federal Laws prohibit discrimination in the sale or rental of property on the basis of:
Race, Color, Creed, National Ancestry, Sex, Age, Marital Status, Family Status, and Physical or Mental Handicap

Entering into a Contract

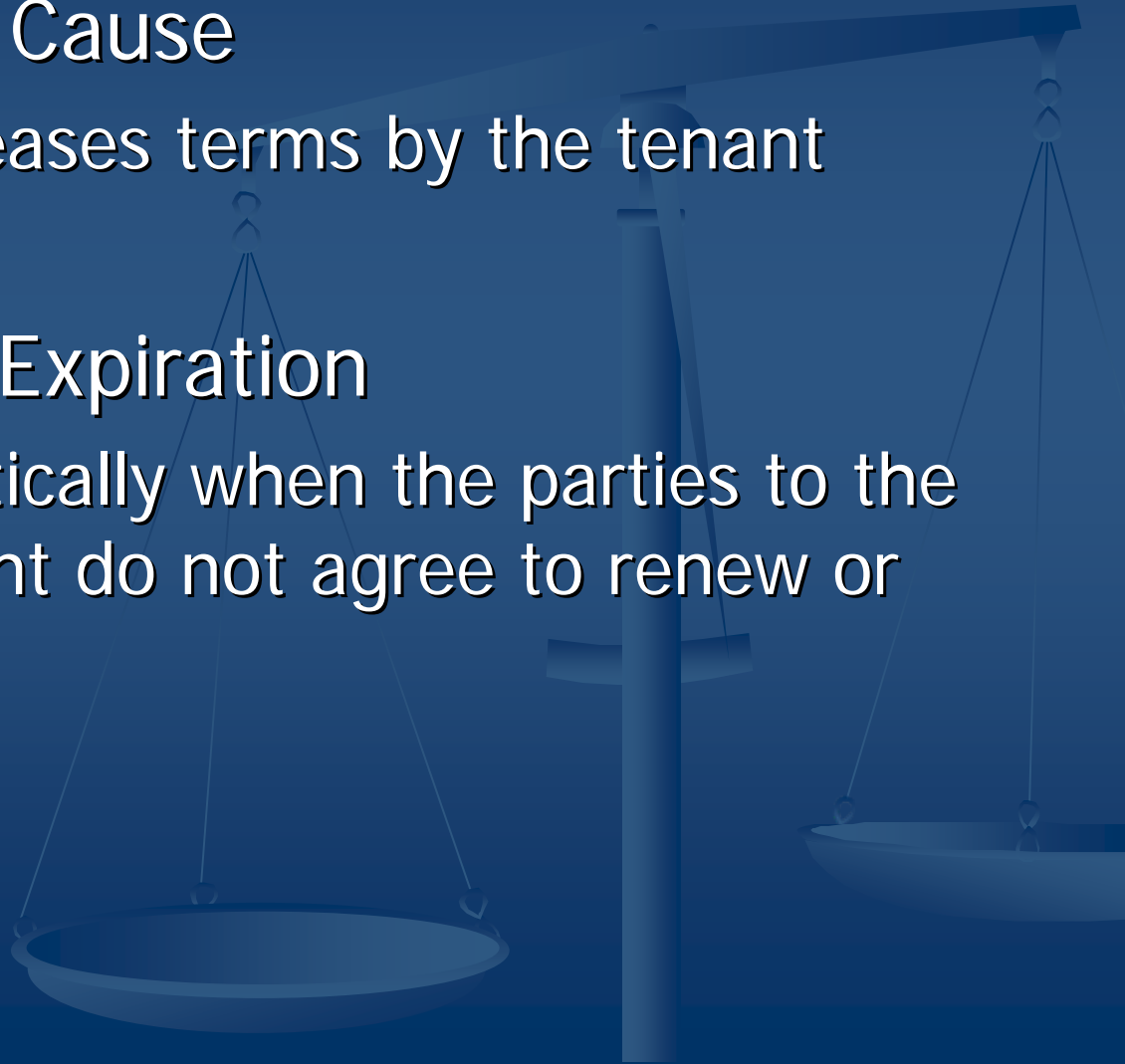
- **Rental Agreement:** is an open-ended agreement with no definite ending point
 - **Lease:** is an agreement for a set term. It can be as short as a few days, or as long as several years
 - **Leases & Rental Agreements** should always be in writing
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Terminating the Tenancy *“Rental Agreement”*

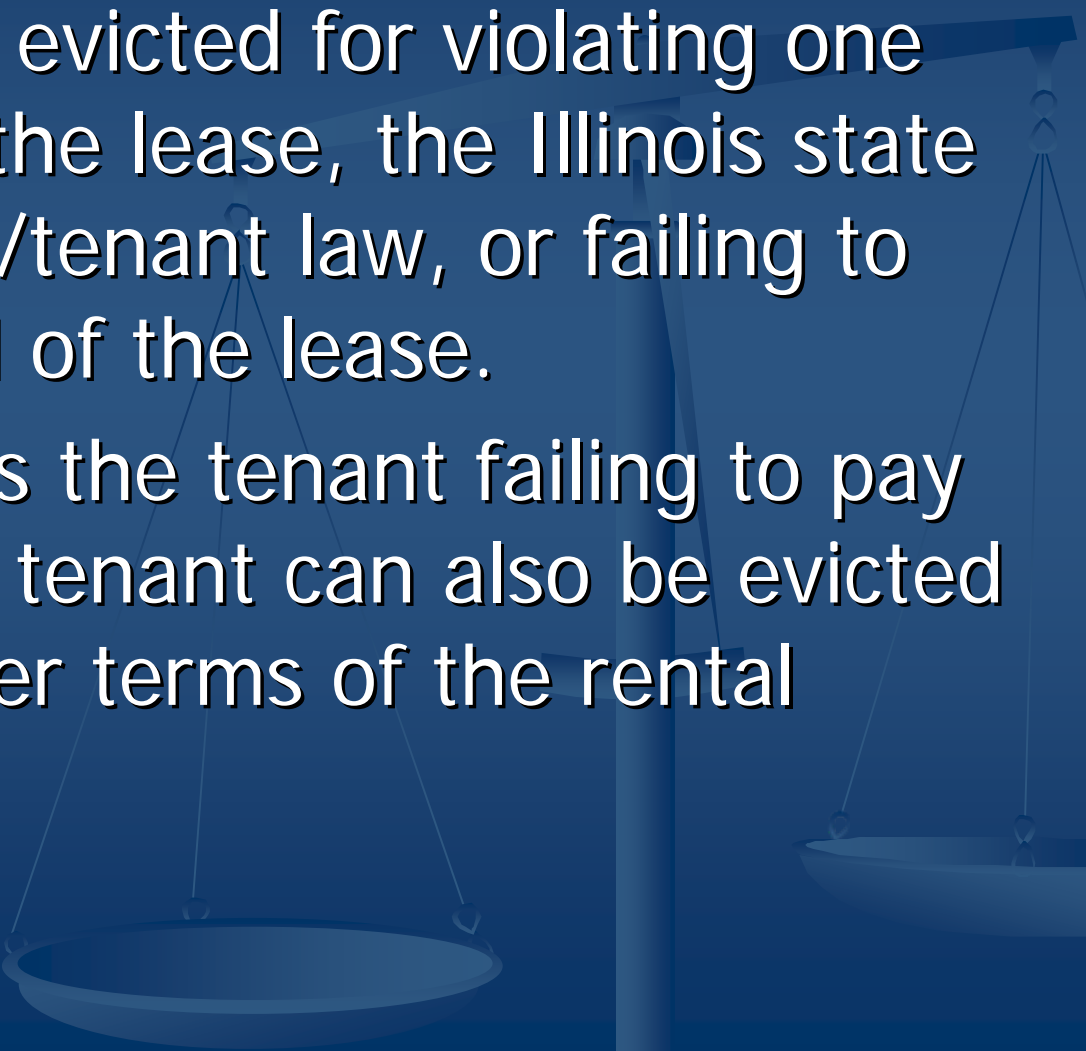
- Written notice needed to terminate tenancies with no specific term
 - 7-day Notice: week-to-week lease
 - 30-day Notice: month-to-month lease
 - 60-day Notice: year-to-year lease
 - 4-month Notice: year-to year tenancy of farm land

Terminating the Tenancy *“Lease”*

- Termination for Cause
 - Breach of the leases terms by the tenant
- Termination by Expiration
 - Occurs automatically when the parties to the rental agreement do not agree to renew or extend it



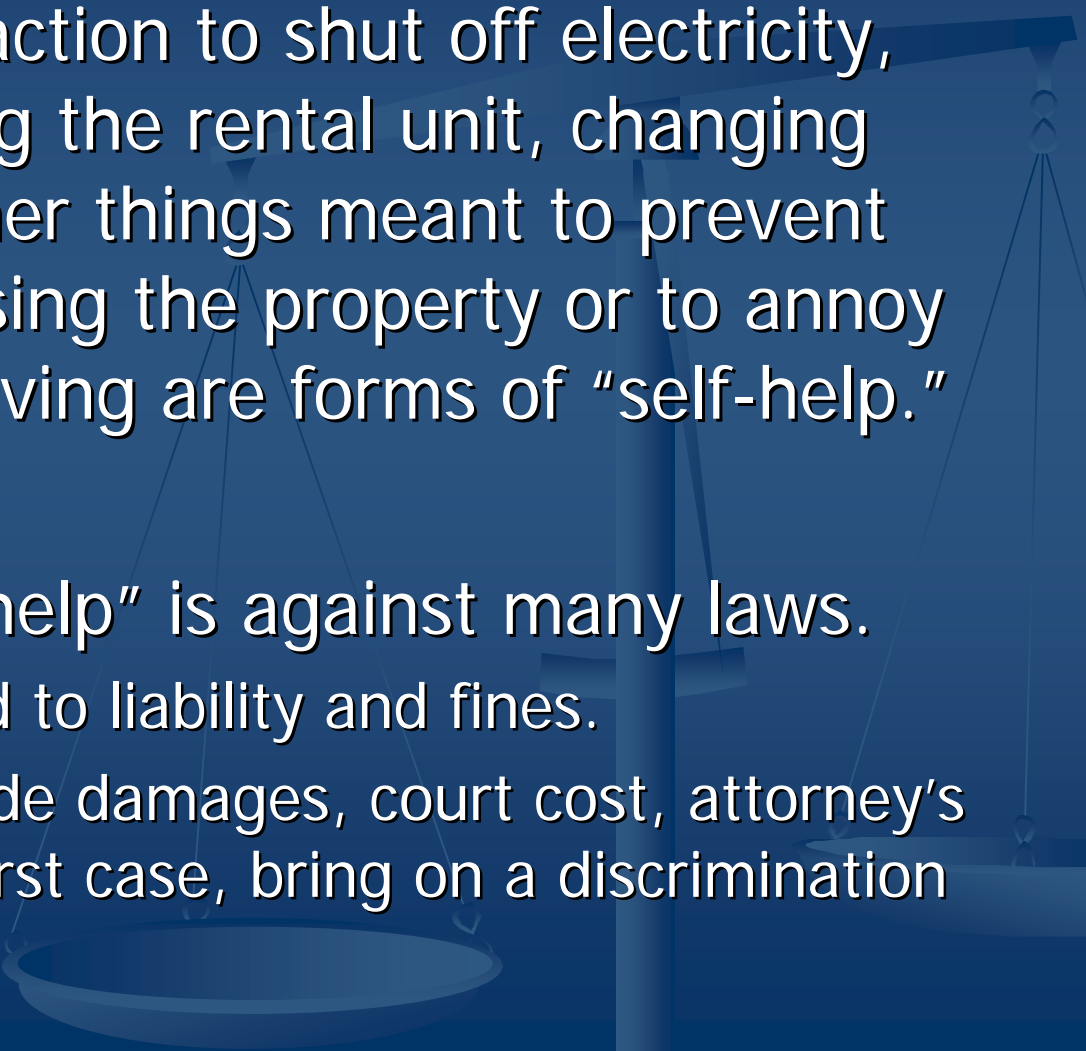
Grounds for Eviction

- A tenant can be evicted for violating one of the terms of the lease, the Illinois state or local landlord/tenant law, or failing to leave at the end of the lease.
 - Most common, is the tenant failing to pay rent, however a tenant can also be evicted for violating other terms of the rental agreement.
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Landlords Access

- Landlord does not have the right to enter a rental unit during the term on the tenancy
- Every lease must include a clause that reserves the right for the landlord to enter the rental premises under various circumstances
 - Make Repairs, Inspections, Show Prospective Tenants or Buyers, Emergencies

“Self-help” is illegal

- A landlord taking action to shut off electricity, discontinue heating the rental unit, changing locks, or doing other things meant to prevent the tenant from using the property or to annoy the tenant into leaving are forms of “self-help.”
 - This type of “self-help” is against many laws.
 - Opens the landlord to liability and fines.
 - Lawsuits can include damages, court cost, attorney’s fees, or, in the worst case, bring on a discrimination suit.
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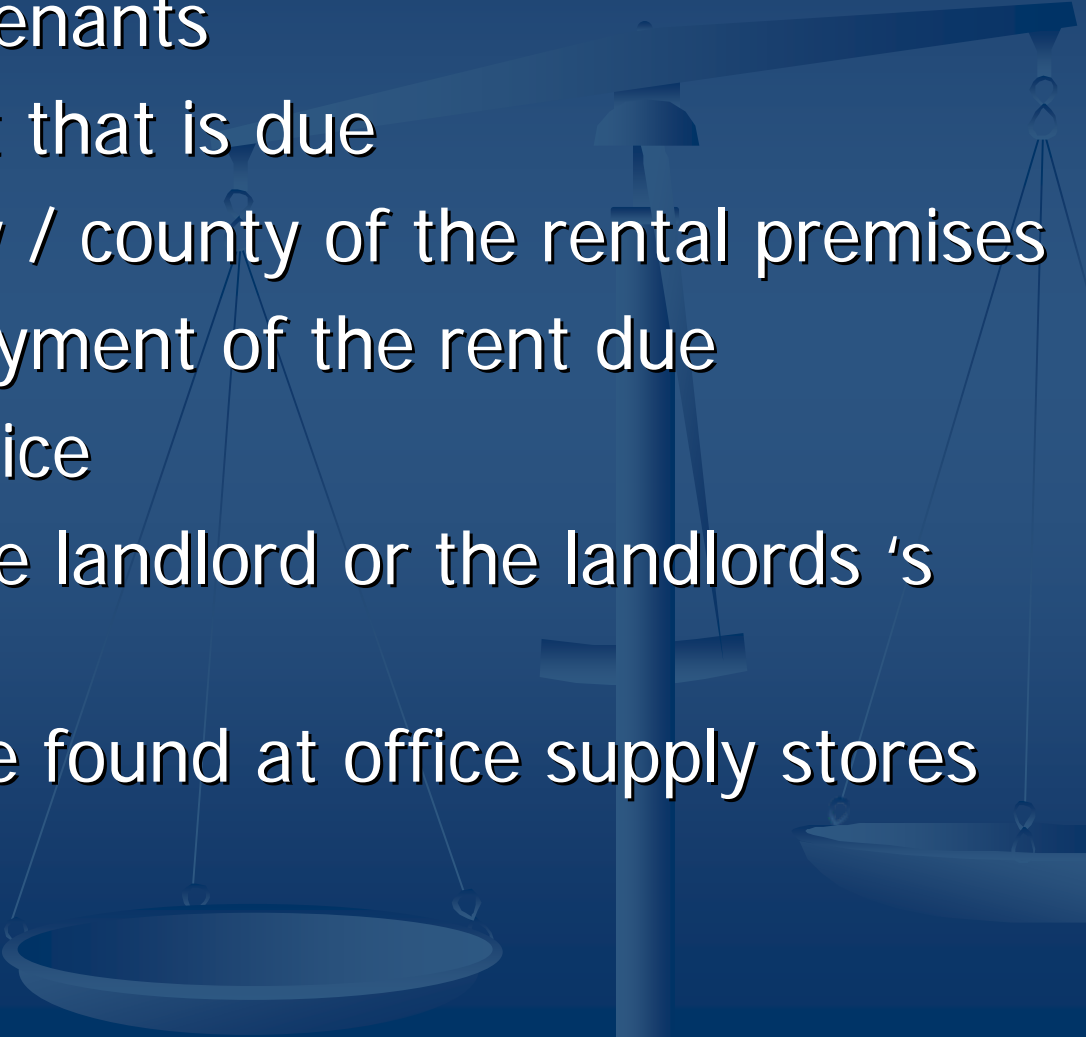
Failure to Pay Rent

- A landlord may begin taking legal action for a tenant's failure to pay rent any time after rent is due.
 - Written Demand for Rent
 - A written notice stating that the overdue rent must be paid within five (5) days or the landlord will consider the lease ended and take further steps to reclaim the premises.
 - The written "Demand for Rent" should demand the total amount of rent that is past due.

Notice by Landlord

- The landlord must serve the tenant with the proper notice, in writing, within the appropriate number of days
 - 5-day notice - if the tenant has failed to pay rent - "Demand for Rent"
 - 10-day notice – if the tenant violates the terms of the lease

Written Notice Should Include

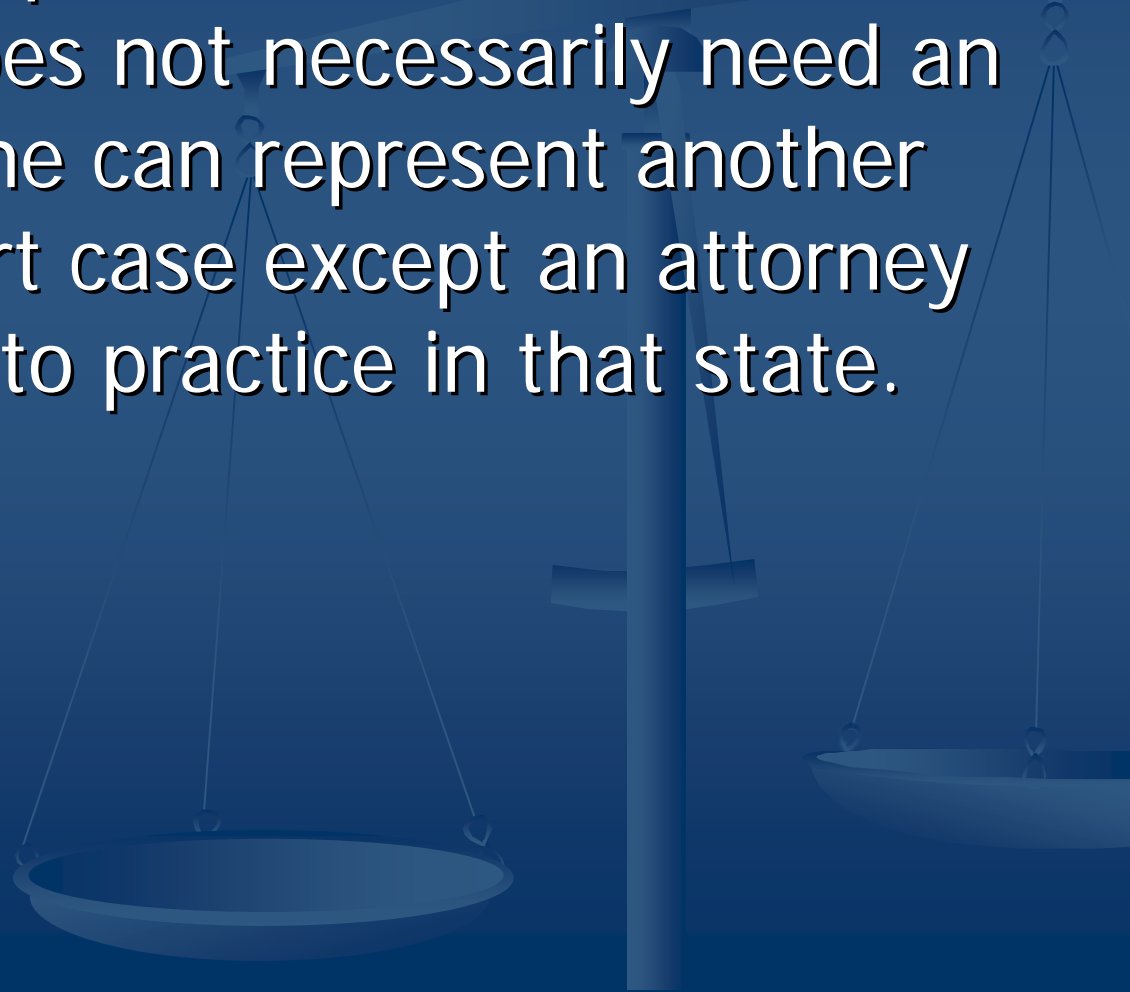
- The names of the tenants
 - The amount of rent that is due
 - Exact address / city / county of the rental premises
 - The demand for payment of the rent due
 - The date of the notice
 - The signature of the landlord or the landlords 's agent
 - Notice forms can be found at office supply stores
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Written Notice

- Complete two identical copies of the notice- have your copy Notarized
- One copy is given to the tenant or posted on their door
- On the back of your copy - indicate service information
 - Posted or Personally Served
- On the sixth day, take your “Notarized” copy of the Notice to the Circuit Clerks Office to file a Forcible Entry and Detainer Summons and Complaint.
- Bring the proper number of copies to the Sheriff’s Office for service - original + one copy for everyone to be served

Who Can Sue?

- An owner can represent himself or herself in court, and does not necessarily need an attorney. No one can represent another person in a court case except an attorney who is licensed to practice in that state.



Using an Attorney

- A landlord should always consider the cost and benefits of using an attorney compared to doing it pro se. If you lose, you could be held responsible for the tenants attorney fees.
- There are many subtleties of the law that can be missed by someone without experience. If you represent yourself you can be held to the same standard of knowledge as an attorney.
- You don't want to get in over your head.

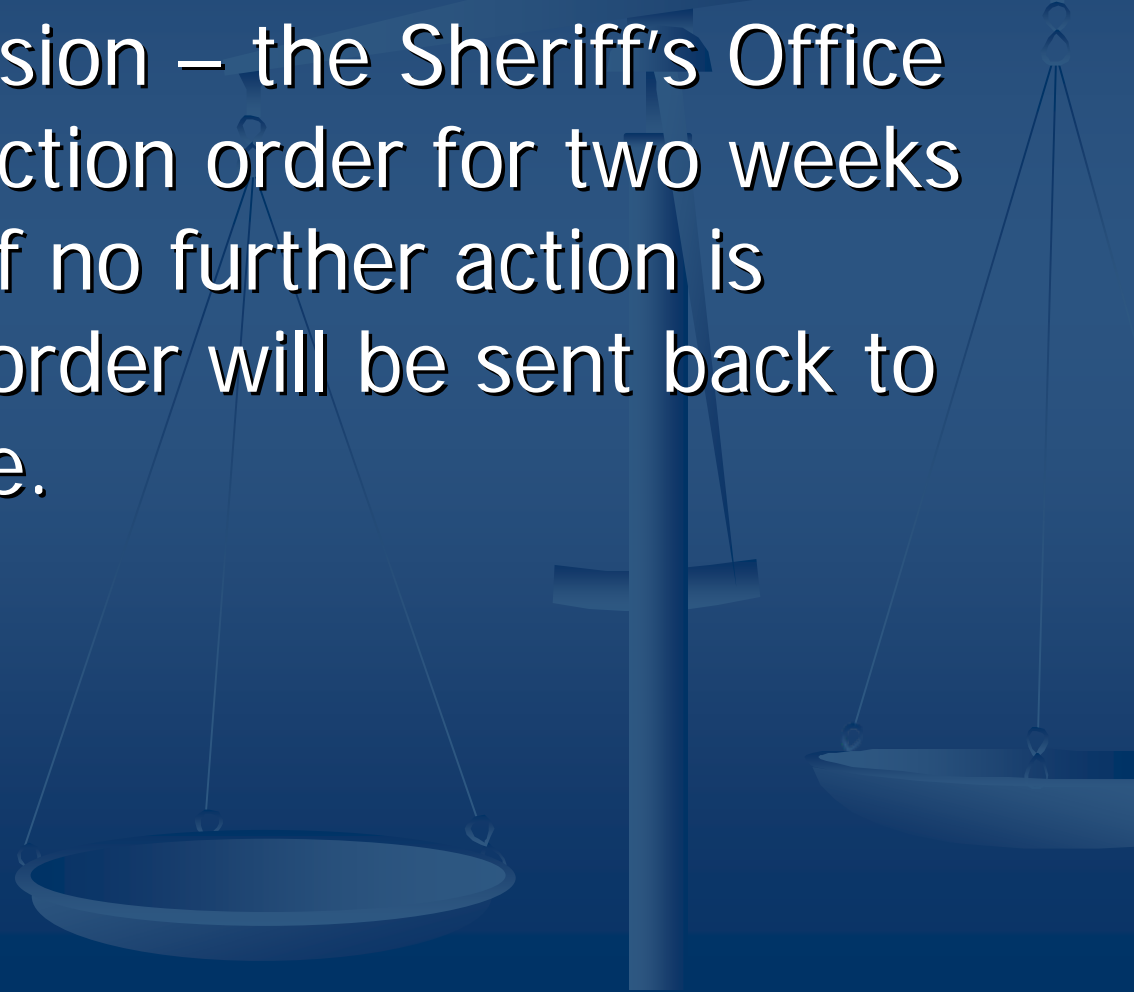
Court Procedures



- File a Complaint
 - Naming the Tenant and any “Unknown Occupants”
- Service of Complaint/Summons
 - Sheriff’s fee for service
- Hearings
 - Uncontested
 - Tenant files an “Answer”
 - Arbitration
 - Trial
- Judgment – “Order of Possession”
 - Sheriff’s Authority to Evict
- Stay of Enforcement
- Appeals
- Vacated Order

Notice of Motion to Vacate Order

- If a “Notice of Motion” is filed to vacate an Order of Possession – the Sheriff’s Office will hold the eviction order for two weeks after posting. If no further action is requested, the order will be sent back to the Clerks Office.



Order for Possession

- Illinois evictions are governed by the Illinois Forcible Entry and Detainer Act. The goal of the suit is to obtain an “Order for Possession” from the court, which grants the landlord the right to take possession of the rental property, and may also include a judgment for the rent due.

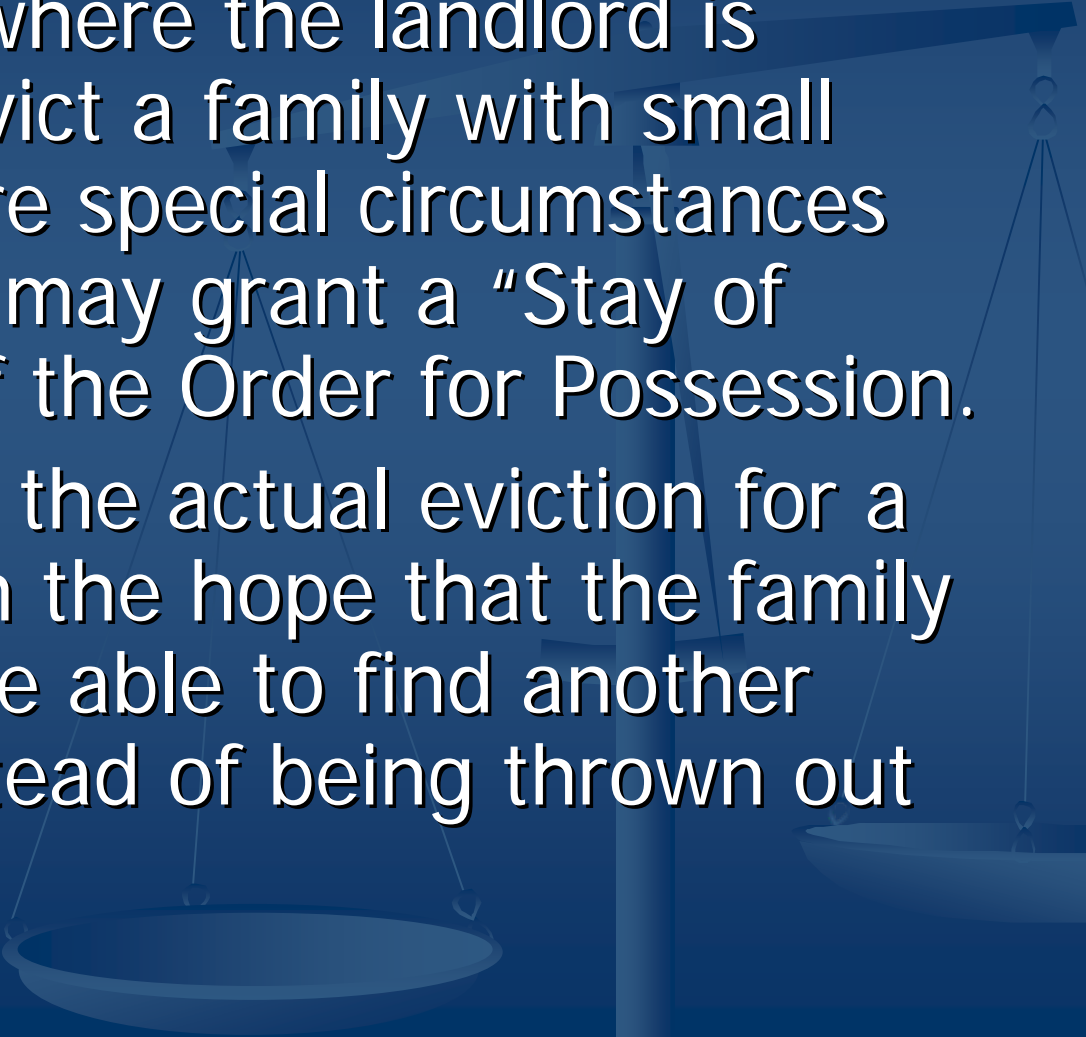
File Order with Sheriff's Office

- Order must be filed with the Sheriff's Office Civil Process Division
- Order must list persons to be evicted and/or any unknown occupants
- Schedule Date
- Posting Final Eviction Notice
- Cancellation of eviction by landlord/attorney
 - Cancel at least 1-Hour before the eviction is scheduled to avoid minimum show-up fee

Sheriff's Office Fees

- Service of Complaint/Summons
 - Final Eviction Posting Fee
 - Eviction/Deputy Service & Stand-by Fee
 - Rescheduling and Reposting Fee
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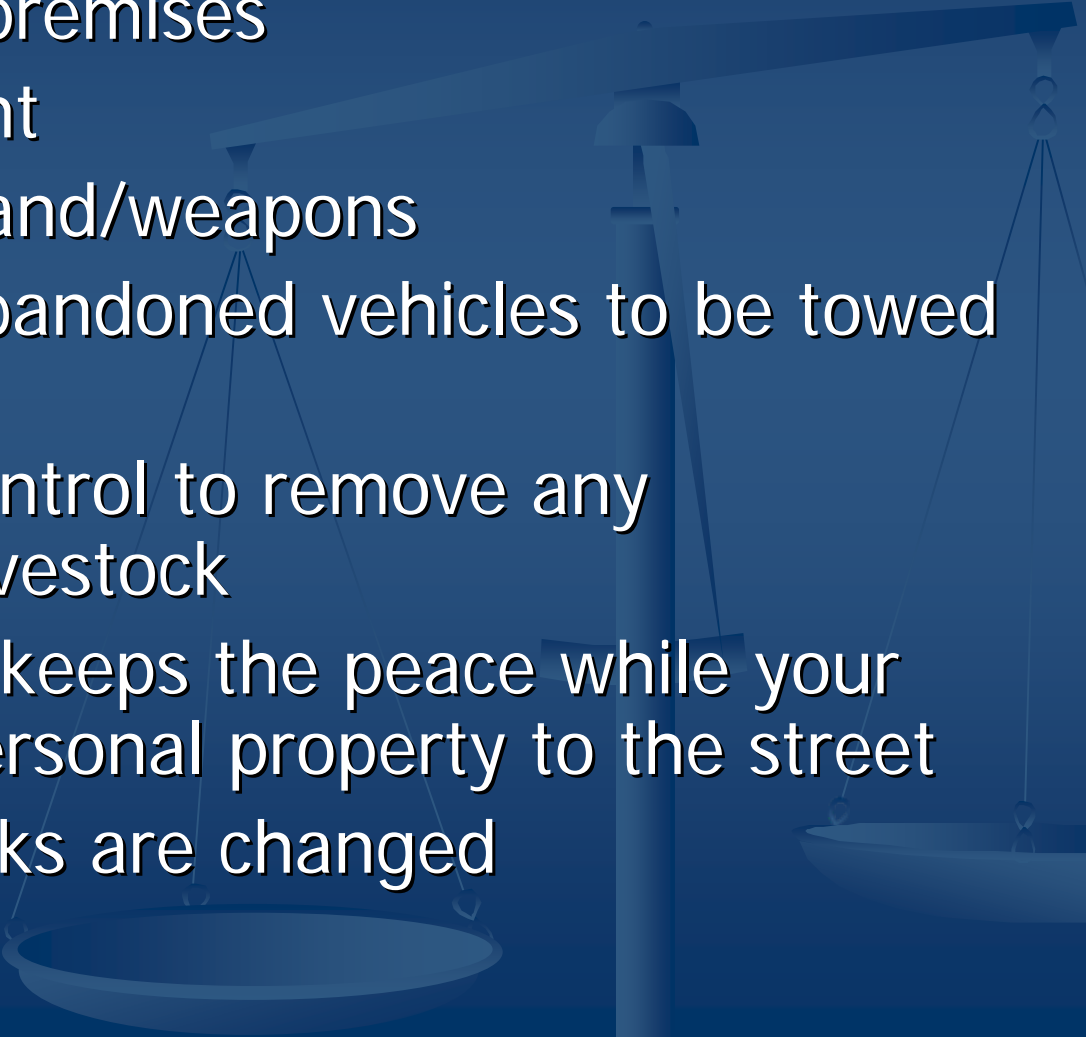
Stay of Enforcement

- In many cases where the landlord is attempting to evict a family with small children or where special circumstances exist, the judge may grant a “Stay of Enforcement” of the Order for Possession.
 - This stay delays the actual eviction for a period of time in the hope that the family of tenants will be able to find another place to live instead of being thrown out on the street.
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Day of Eviction

- Scheduled at 10:00 AM
- Sheriff's Office schedules 5 evictions daily
- You must cancel by 9:00 AM to avoid fees
- At least 3 able bodied movers present
- Locksmith/Maintenance - Change the Locks
- Landlord or agent can release Deputy early
- Eviction Sweeps

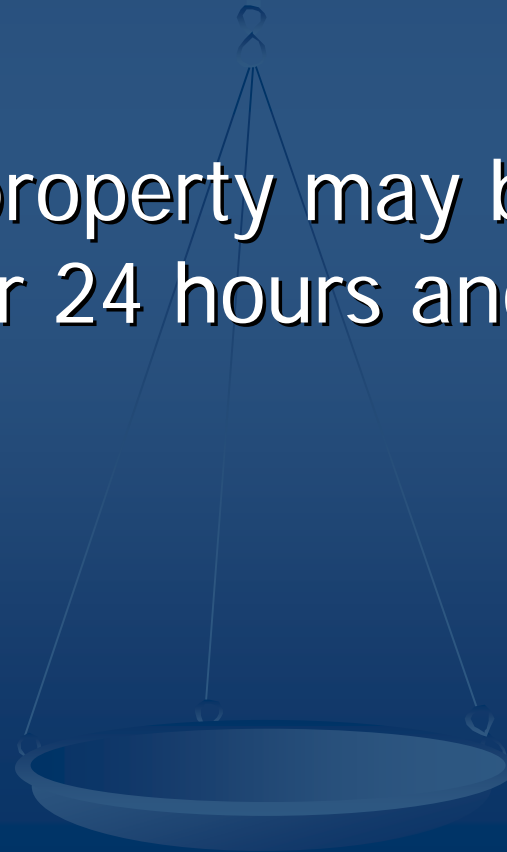
Deputies Duties

- Enter and search premises
 - Remove the Tenant
 - Check for contraband/weapons
 - Arrange for any abandoned vehicles to be towed away
 - Contact Animal Control to remove any abandoned pets/livestock
 - Maintains order & keeps the peace while your movers remove personal property to the street
 - Stand-by while locks are changed
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Property at the Street

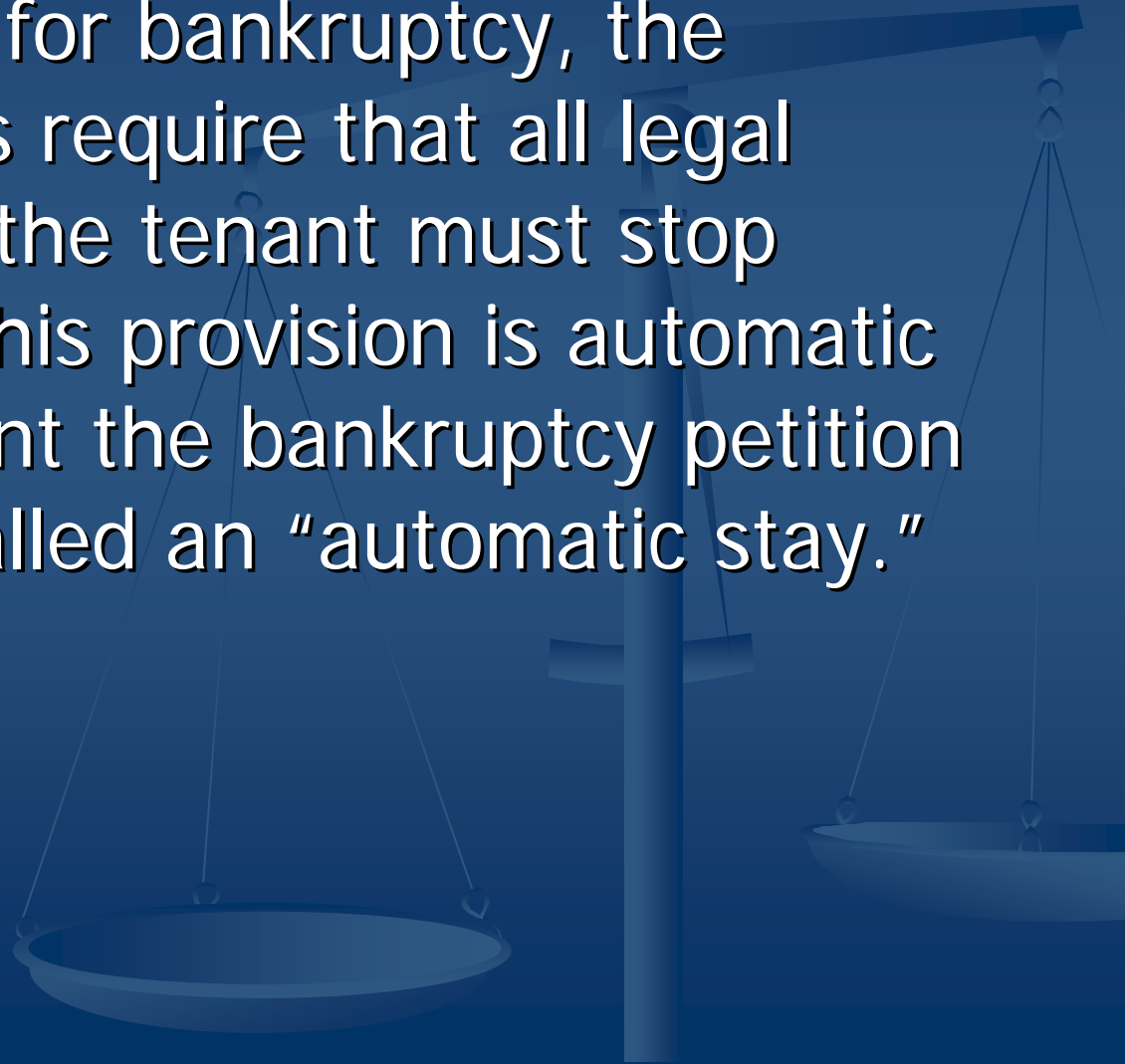
- The Tenant is responsible for removing his/her personal property from the curb.

Generally, the property may be considered abandoned after 24 hours and be disposed of.



Tenants Bankruptcy

- If a tenant files for bankruptcy, the bankruptcy laws require that all legal actions against the tenant must stop immediately. This provision is automatic from the moment the bankruptcy petition is filed and is called an “automatic stay.”



Settling with the Tenant

- Although in more than half of all Illinois evictions the tenants do not answer the complaint and the landlord wins quickly, some tenants can create nightmares for the landlords. Clever tenants and lawyers can delay the case for months, and vindictive tenants can damage the property. In some cases, lawyers advise their clients to offer the tenant a cash settlement to leave.
 - Example: offer the tenant \$200 to be out of the premises and leave it clean within a week.

Contact Information



Civil Process Division

847-377-4400

Service Fees Cost

<http://lakecountyil.gov/Sheriff>

Questions

