



Evictions:

What we should expect and prepare for
as the moratorium ends

Presented by

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Topics for Today

- Eviction data: Then v. Now
- Some landlord-tenant law basics
- Eviction timelines: Then v. Now
- When to refer clients for legal assistance
- How advocates can help!

Eviction in VT: Then v. Now

Normal Times	Now
Around 1700 cases per year	644 pending cases <ul style="list-style-type: none">• Will there be a ton of filings once the moratorium ends?
70% of cases are based solely on nonpayment.	VLA/LSV reviewing all cases. <ul style="list-style-type: none">• E.g., Franklin County, 38 cases:• Tenants have vacated in 16 for sure, likely 7 more.• 9 nonpayment, 3 cause, 2 no cause, & 1 unlawful occupant case
Limited availability of legal help: <ul style="list-style-type: none">• 5 clinics for rent escrow hearings• VLA assistance in some priority cases• LSV help for pro se tenants	A lot more legal help!: <ul style="list-style-type: none">• Legal Aid and Legal Services Vermont are reaching out to <i>every</i> tenant with a pending eviction case.• Call us! 800-889-2047.

Landlord-Tenant Basics: Some Definitions

What is a tenant?

- A person, entitled under a written or oral agreement, to possession of a residential dwelling to the exclusion of others.

What counts as a residential dwelling?

- A building or part of a building that is used as a home, residence, or sleeping place by one or more persons who maintain a household.

What are some exclusions (see all of them at 9 V.S.A. 4452)

- Occupancy for medical, educational, religious purposes, etc.
- Motels, if: (1) it's within the first 29 days of stay; (2) paid by GA; or (3) used for treatment/recovery and paid by a hospital, specialized service agency, etc.

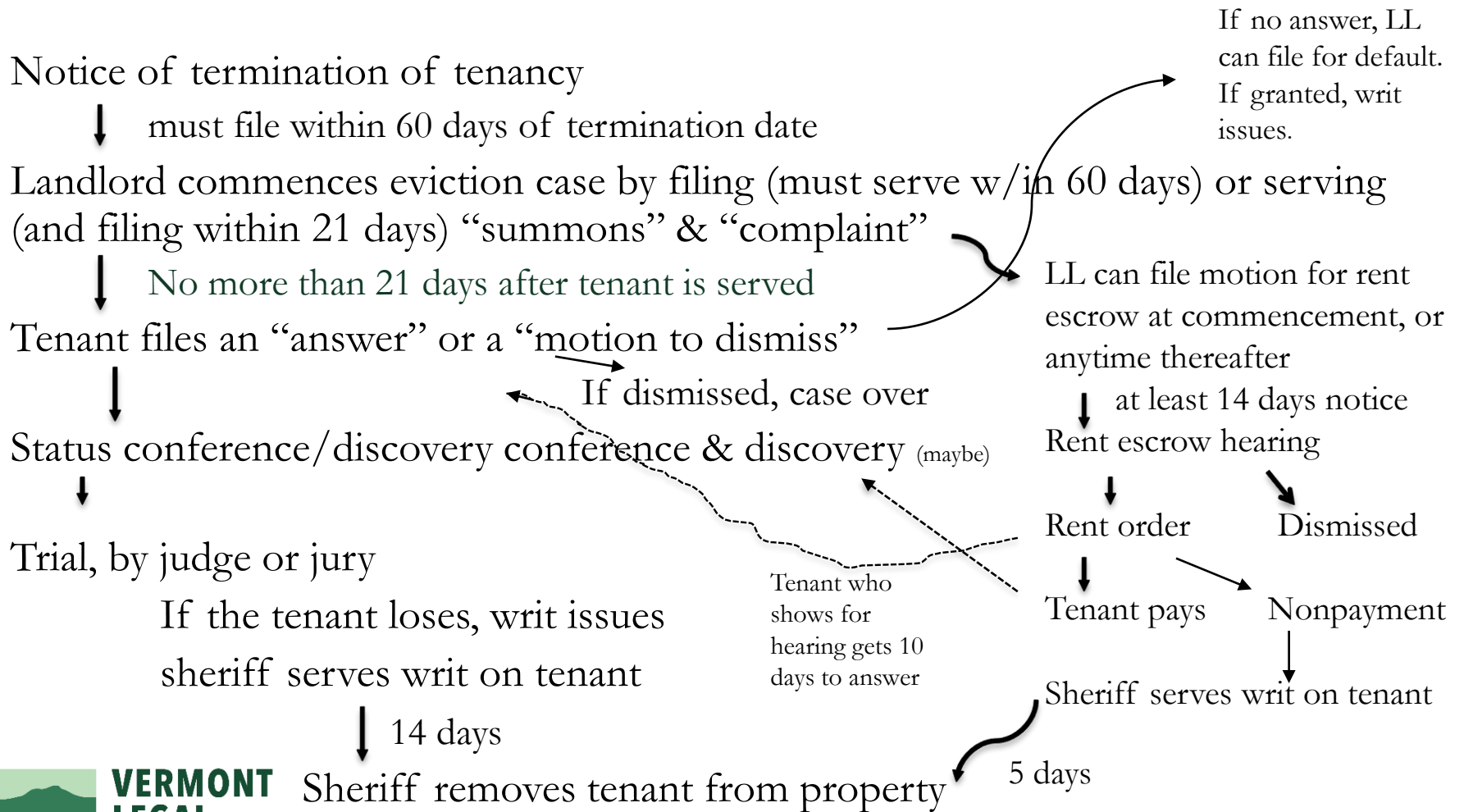
Landlord-Tenant Law Basics:

When can tenants lose possession of the property?

- Tenants retain possession of the dwelling until one of three things happen:
 - Tenant voluntarily surrenders possession.
 - LL uses **legal steps** to end the rental agreement and **gets a court order** for possession through the eviction process.
 - The tenant abandons the property. Abandonment requires all 3:
 1. A reasonable person would think the unit is no longer occupied full-time;
 2. Rent is not current; AND
 3. The LL tried to find out the tenant's intentions.
- Self-help eviction is illegal.

The tenant does not have to leave without a court order!

An Eviction Case Timeline Pre-Pandemic



Eviction Timelines: The Moratorium Changes Things

Act 101 (5/14/2020) made many changes, including:

- Pending cases: Stayed until end of “emergency period.”
 - “Emergency period” (EP) = state of emergency (SoE) + 30 days
 - Pending rent-into-court orders: Tenants still obligated to pay, but no writ can be issued
- Pending writs of possession: Stayed until the end of SoE.
 - Then LL serves again, possession no sooner than 14 days later.
- New cases: Allowed to be filed in court, but not served to tenants until the end of the EP.
 - Landlord has 60 days to serve after the end of the EP.
- Exceptions:
 - During EP, pending and new “emergency” cases could petition the court to proceed.
 - Breach cases may proceed at the end of the SoE, but not mobile home park cases.
- Post-EP: Special rules for rent escrow hearings (payment of rent into court) for 45 days.

An Eviction Timeline: Now

*** Before June 15.... ***

- Notice of termination of tenancy mailed or hand-delivered to tenant
 - Permissible during the moratorium.
 - If the notice had not expired before March 13, 2020 (i.e., the termination date was after January 13, 2020), notice not timed out.
 - Deadline to commence case tolled for state of emergency + 60 days. S.114, Sec. 6 (2020)
- Landlord commences eviction case by filing Summons & Complaint.
 - Permitted to file in court during emergency period
 - No service permitted unless authorized by judge on motion as an “emergency.” Tenants often do not know cases were filed against them.

***** June 15 = end of the state of emergency *****

An Eviction Timeline: Now

***** June 15 = end of the state of emergency *****

- June 16:
 - Pending writs can be served again.
 - Writs can be executed no sooner than 14 days later.
 - If based on nonpayment, tenant can “redeem” (pay to stay) at any point before execution of the writ.
 - Call VLA/LSV: 800-889-2047.
 - Stay lifts for breach cases (not including mobile home park terminations for breach under Title 10):
 - Old cases can start where they left off – file answer immediately if necessary.
 - For newly served cases, file answer within 21 days.
- Call VLA/LSV: 800-889-2047.



An Eviction Timeline: Now

***** July 15 = end of the emergency period *****

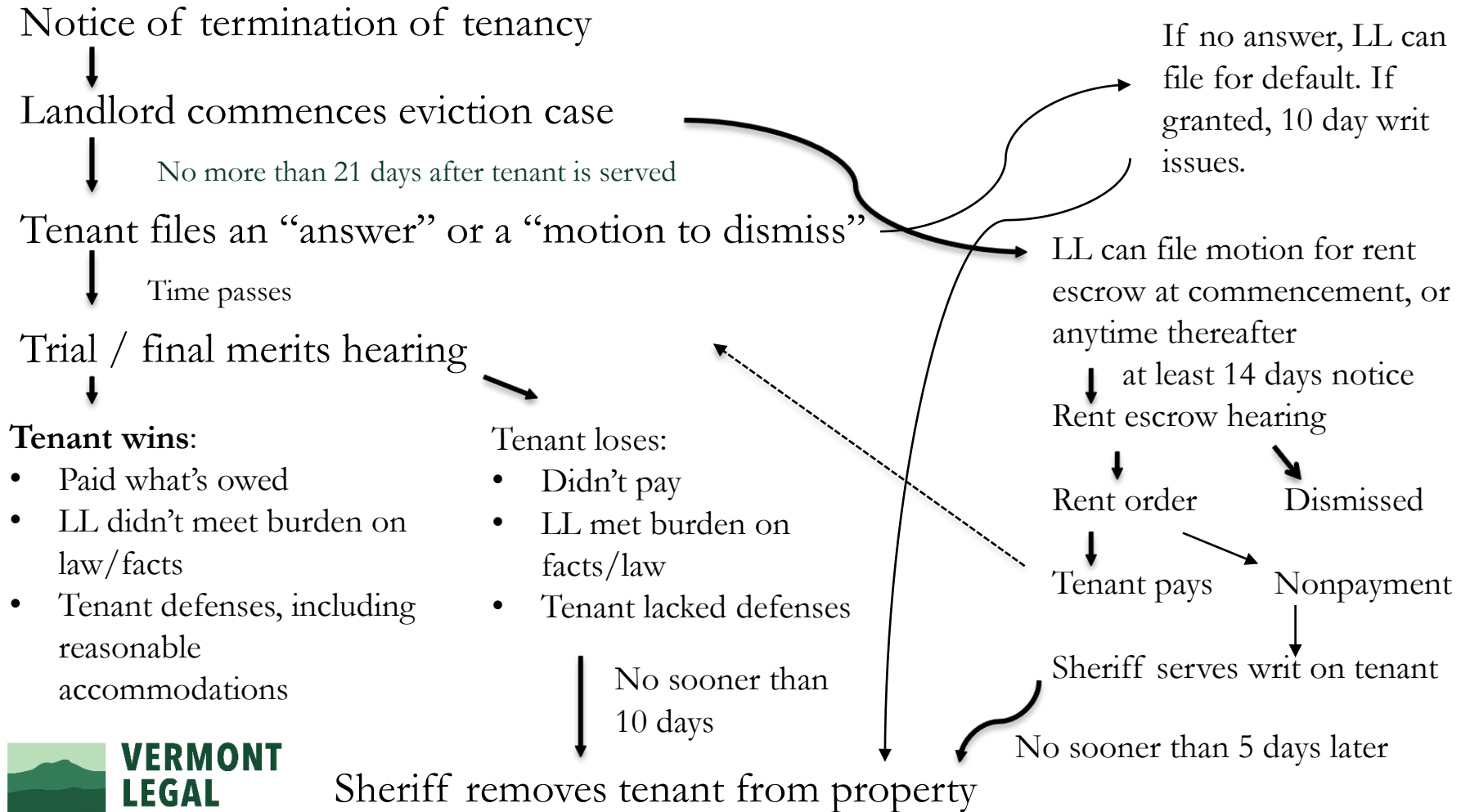
- July 15: Stay lifts for nonpayment, no cause, nonrenewal, sale of property, and mobile home park breach.
 - Old cases start where they left off – tenants should file answer immediately in not done previously.
 - Pending rent escrow orders – what if the tenant didn't pay?
 - Tenants have 21 days to file an answer after newly served.
 - Call VLA/LSV: 800-889-2047.
- July 22 – August 7: Status conferences likely for pending cases.
- August 9-...: Rent escrow hearings likely to start again.

An Eviction Timeline: Now

- August 15: End of the tolling period for notices of termination with termination dates during the state of emergency period.
- September 1: Special rent escrow hearing provisions in Act 101 end.
- September 15: Deadline to serve complaints filed during the emergency period.

Rights have to be exercised. If served, don't delay!

An Eviction Case Timeline Reminder



Getting Legal Assistance

- Refer, refer, refer! 800-889-2047.
 - Notice to quit
 - Complaint served
 - Writ
 - If we can't take the case, we refer out.
- The sooner the better!

You can help!

Understanding a Notice of Termination

Tenants don't have to leave their homes just because the landlord says they want them to get out. They have rights.

- LL must provide actual notice of termination to the tenant.
 - “Actual notice” means:
 - In **writing**; AND
 - **Hand-delivered** or **mailed** to the last known address; AND
 - Received.
- It must state it is ending the rental agreement, and when.
- It must give the reason for termination: Nonpayment, breach, no cause, nonrenewal, or the property has been sold.
 - Nonpayment notices must state the amount of **rent** due and that the tenant has the right to “redeem” by paying that amount to avoid eviction.
- It must give sufficient advance notice of the termination date.

If the tenant doesn't leave on or by the termination date, then the landlord has the right to go to court to seek an order granting them possession of the dwelling. Landlords can't lock them out. Tenants don't have to leave.



What will you tell Sue?

Sue reports that her landlord told her she has to move by August 1 because he's selling the property because the market is "hot" for out-of-state buyers. There's a for sale sign on the lawn. She's been trying to find an apartment, but there's nothing available. Does she have to leave by August 1?

- NO!
- "Told" verbally, or with a written notice?
 - If the landlord hasn't provided a notice, then the "clock" hasn't started to tick.
- Does Sue have a rental agreement that ends past the sale date?
- Is the property sold, or just "for sale"?
- Refer to 800-889-2047.

You can help!

Solutions: Nonpayment Cases

- Tenants have the right to “redeem.”
 - Before a complaint is filed in court: “The rental agreement shall not terminate if the tenant pays or tenders rent due through the end of the rental period in which payment is made or tendered.” 9 V.S.A. 4467(a).
 - After the case is filed in court: “Before a writ of possession is executed, if the defendant pays into court all rent due through the end of the rental period, including interest and the costs of suit, the action shall be discontinued. A defendant may not defeat an ejectment action by payment of all rent in arrears, interest, and court costs more than one time in 12 months.”
 - Landlord happiness about this is irrelevant. It’s a right. It solves the case.
- **Use VERAP to pay the arrearage. Apply now.**



- Refer denials or problematic cases to VLA: 800-889-2047.

You can help!

Solutions: No Cause/Breach

Will the landlord let the tenant stay if certain concerns are addressed?

- Can we connect the tenant to services to make an ongoing tenancy more palatable to the landlord?
- Is there a particular problem that the landlord wants to see solved, e.g., involving timely payment of rent? Does VERAP solve the problem?
- Does the landlord need to make repairs, or did the tenant cause damage and hasn't reimbursed the landlord?
 - VERAP will likely soon pay for “other expenses related to housing,” including repairs.
- Are there communication problems between the landlord and tenant where a case manager could help them better engage with each other?

Thank you!

For clients:

- Intake: 800-889-2047
- Online Intake: <https://vtlawhelp.org/vlh-intake>

For partner organizations:

- Partner Portal for Intake:
<https://vtlawhelp.org/partners>
- E-mail intake: atphonenow@lawlinevt.org