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**TO:** Chair Mihaly  
**FROM:** Angela Zaikowski, Esq.  
**Date:** February 16, 2026  
**RE:** Current Eviction Process in VT

Dear Chair Mihaly:

Based on the request of the Committee, I am providing information and explanations for various points in the Eviction Process in Vermont. I am providing information only about the process currently in effect. I am more than willing to provide a walk through of this information and answer any questions that the Committee members might have regarding the current process.

The eviction process in Vermont is a two-step process. First, a housing provider (“HP”) must send a tenant a termination notice, which describes what the termination is based on and provides the tenant with a statutorily prescribed amount of time. The types of notices and the amount of time for each notice are outlined in 9 VSA 4467 for residential rentals.

### **Termination Notice Delivery Options Under Current Law**

The notice statute includes a defined term “Actual Notice” which provides the process for the delivery of the notice. The complete language for “Actual Notice” can be found in 9 VSA 4451(1). Actual notice means that the housing provider has to prove the tenant received the termination notice. The notice can be hand-delivered or mailed. There is a legal presumption that the notice is received by the tenant three days after it was mailed if the person sending the notice is able to prove the notice was mailed. Housing Providers comply with this statute by delivering notices in the following manner:

1. Housing Provider hand delivers the notice to the tenant. This requires that the HP meet with the tenant. This is **not** tacking the notice to the door of the rental unit or leaving in a mailbox. Housing Providers are advised to request that the tenant sign the HP’s copy of the notice acknowledging receipt of the notice and/or that the HP take a 2<sup>nd</sup> person with them to act as a witness for the delivery of the termination notice.

2. Housing Provider mails the termination notice to the tenant. Generally, this is accomplished by sending a copy of the notice both Certified mail return receipt requested and a second copy regular first-class mail. It not common that a tenant will sign for the certified mail copy, but that type of mail comes with tracking information and is used to “track” the regular first-class mail copy **AND** provides proof that the notice was mailed. The post office also offers a “proof of mailing” option that provides further proof that an item was mailed on a specific day.

**Costs:**

- **Regular First-Class Mail - \$0.78**
- **Certified Mail - \$5.30**
- **Return Receipt - \$4.40 (mail receipt), \$2.82 (email receipt)**
- **Certificate of Mailing - \$2.40**

3. Housing Provider mails the termination notice via Priority Mail, which provides tracking but does not require a signature. The complies with the “proof the notice was mailed” requirement and can be used to prove receipt of the notice.

**Costs:**

- **Priority Mail – starts at \$10.20**

4. Housing Provider requests that the sheriff’s office serve a copy of the termination notice. This complies with the hand-delivery requirement and provides a return of service from the Sheriff’s Department showing who was served with the termination notice and the date of service.

**Costs:**

- **Service Charge: \$75.00 per person**
- **Mileage: \$0.725 per mile (this can add a few dollars or a hundred or more dollars to a service fee)**

Challenges to current definition and law: Tenants refuse delivery of the notice, whether by hand-delivery or mail delivery. Tenants claim “they didn’t receive the notice” even if the notice was mailed via first-class mail as defense to an eviction case. Most tenants won’t sign for a certified mail item, and some will not open the door for the sheriff’s office.

**Rent Escrow Hearings**

The rent escrow hearing is a part of current court process. It allows a HP to request a rent escrow hearing if a tenant owes rent. This hearing does not require that a nonpayment of rent notice be a part of the eviction case, only that rent is owed by the tenant. The statute section for Rent Escrow is 12 VSA 4853a. The HP can request a rent escrow hearing at any point in the eviction process. The legal standard set out in the rent escrow statute is that if the court finds the tenant is obligated to rent and has failed to do so the court **shall** order full or partial payment into court of rent as it accrues while the case is pending **AND** rent accrued from the date of filing or date of service of the Summons & Complaint, whichever occurs first. The Rent Escrow Order stays in effect until the end of an Eviction Case.

There are two common times that a rent escrow hearing is requested:

1. Rent Escrow Hearing is requested at the time the eviction case is filed with the court. The court sets a rent escrow hearing, which is usually 6-8 weeks out from date of filing. Though rent escrow hearings have been scheduled out as far as 10-15 weeks from the request. These

hearings are set so far out because of two main reasons: 1) Per the rent escrow statute the Tenant needs at least 14 days of notice **before** the hearing and 2) Court availability<sup>1</sup>. The Sheriff's Department also needs time to serve the court paperwork on the Tenants. This is widely variable in timing and depends on whether or not a Tenant is home, opens the door for the sheriff, or responds to requests by the sheriff regarding court paperwork.

2. Rent Escrow is requested if the tenant files an Answer with the court. These tend to be set slightly quicker because the court mails the notice to the tenant and it is not required to be served by the sheriff. This is because when the Tenant files an Answer, they "enter an appearance" which authorizes the court to mail or email notices of hearing and other documents.

Some HP are foregoing this process because of the amount of time it takes to have the hearing and because the case is on hold until the court holds the rent escrow hearing. They are also not pursuing the rent escrow process because the requirements of the statute are not always followed by the court and many HP receive orders that include less than what they are entitled to under the statute. If a HP requests a rent escrow at the time the eviction is filed with the court, nothing else can happen in the case until the court holds the rent escrow hearing.

The Rent Escrow Hearing also only covers rent from the date the case was filed going forward (or date the case was served if tenant was served first), and not the entire back rent amount. Generally, at a rent escrow hearing there is some sort of negotiation with the tenant about the timing of a first payment into court and the amount of a payment into court. Some counties (Chittenden and Washington<sup>2</sup>) have rent escrow clinics that provide attorneys for tenants to assist with these negotiations. Other counties (Windsor and Lamoille) have the full representation project by Vermont Legal Aid which means attorneys are available to assist tenants in those counties as well.

When tenants are unrepresented (and even sometimes when they are represented), if the two parties cannot agree to a rent escrow order regarding payment amounts and timing, the court will hold a hearing and decide the amount of payment into court and the timing of that payment. The experience of many Housing Providers is that at the start of that hearing, the Court looks at the Tenant and asks them what they can pay and when and generally issues an order in line with what the tenant indicates in response to those questions. At some point when the intent of the Rent Escrow statute becomes so diluted as to be ineffective, HPs stop requesting the hearing.

In some counties (Orange), when a case is filed the court automatically sets a status conference and filing hearing to hold court time. If the tenant fails to respond to the court paperwork, the HP can file for a Default Judgment and the hearings are cancelled. If the tenant does file an Answer, the court sends the tenant the notices for the status conference and final hearing. This tends to be quicker from start to finish, but Orange County is a multi-jurisdictional<sup>3</sup> court and has limited Civil Court time so the pre-scheduling of these cases makes

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<sup>1</sup> It should be noted that for Civil Stalking/Sexual Assault cases the Civil courts have a hearing block pre-set on a mostly weekly basis to allow for the timing scheduling of these types of cases.

<sup>2</sup> Until recently there were also clinics in Addison, Rutland, and Franklin Counties.

<sup>3</sup> Multi-jurisdictional means that one judge handles Civil, Criminal, and Family court hearings. Criminal and Family Court have specific time requirements and Civil court matters are scheduled around those other two types of cases.

sense. The process is generally faster with the pre-scheduled hearings that if the HP requested a Rent Escrow Hearing.

### **Sheriff Service in an Eviction Case**

The Sheriff's office is involved in an eviction case at multiple points in the process. At some points Sheriff service is required because the tenant has not "entered an appearance" in the case and HP providers must serve them to comply with the Rules of Civil Procedure and Statute. At other points, the sheriff has to serve the tenant because the underlying statute requires it. There can be delays in the service process if Tenants refuse to open the door for the Sheriff, are not home when Sheriff attempts service, or if Tenant refuses to communicate with Sheriff. Most Sheriffs Departments will leave a card on the door if the Tenant is not home and/or does not come to the door. The court process does allow for an Alternative Service Order (i.e. "tack order") to be requested from the court. Anywhere from 3 attempts to six or more attempts have to be made by the Sheriff's Department. Each court handles these requests differently and can change as judges rotate. Some courts will only grant an order for the specific documents being served, other courts will grant for the entire court process. An Alternative Service Order is a court order allowing the Sheriff to serve a person by posting the court documents to the door of the rental unit. Many Alternative Service Orders also require the Plaintiff (HP) to mail a copy of the documents to the Tenant. The Alternative Service Order Process is provided for in the Vermont Rules of Civil Procedure 4(d)(1).

Sheriffs serve Tenants, at the following places in an eviction action:

1. Termination Notice – see information provided above about this.
2. Start of the court case – this is commonly referred to as the Summons & Complaint point of the eviction case. This requirement comes from the Rules of Civil Procedure, which are Rules of court process for all Civil Cases. There are other options for service BUT most HP have found that the sheriff's office to be the most efficient at serving process. At this point in the case, a HP could use a Constable, or ask the court to appoint an independent process server.<sup>4</sup>
3. During the court case
  - Rent Escrow Order – if the tenant fails to attend a rent escrow hearing or leaves the hearing before receiving a copy of the rent escrow order (i.e. signing for the order), the HP has to have the Tenant served with the Rent Escrow Order. When a tenant fails to appear at the Rent Escrow Hearing, the order provides for a first payment "X" number of days after service of the order. The amount of time given for a first payment is variable ranging anywhere from 3 days to 14 days after service of the order.

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<sup>4</sup> We have seen this most commonly in Franklin County, as their sheriff's office has had challenges with civil process serving. Orange County has also had challenges with Civil Process, although handled their challenges by "deputizing" sheriffs from Windsor and Washington County.

#### 4. At the End of the Case:

- The only entity authorized by statute to enforce a Writ of Possession is the Sheriff's Department. Any sheriff from any county can serve and execute Writs of Possession. The Writ of Possession is the court document that gives the Sheriff Authority to physically remove a tenant from the rental unit after a specific period of time.
- At this point in time (end of a case) – there are two “services” by the Sheriff. This means that HP receive two invoices for these services provided by the Sheriff's Office.
  - The initial service of the Writ
  - The Execution of the Writ (i.e. the lock-out)
    - The invoices for this portion of the process are starting to rapidly increase in price as most Departments require at least 2 deputies to be present for a lock-out (for safety reasons)
    - WCAX story: <https://www.wcax.com/2025/01/31/an-inside-look-sheriffs-carrying-out-court-ordered-eviction/>
    - Sheriff's invoices for lock-outs average \$300-\$400, with the occasional outlier of \$800-\$1,000 if the situation becomes protracted and/or requires an excessive number of Deputies to be present.

### **Personal Property Remaining after Eviction**

The process for handling a tenant's personal property after an eviction is described in statute. 12 VSA 4854a. The statute allows a HP to dispose of a tenant's personal property without notice or liability if the two requirements are met:

1. 15 days have passed since the service of the writ of possession<sup>5</sup>

**AND**

2. The HP is restored to possession (i.e. a lock-out or enforcement of the Writ has occurred).

The court issues Writs of Possession with two different timeframes – a housing provider is restored to possession no sooner than either 7 days (failure to pay rent into court) or 14 days (Judgment Order) from service. It is possible for a tenant to have anywhere from 1-8 days to retrieve their personal property post-lock-out depending on the type of Writ and the date of the lock-out. Some HP are opting to schedule lock-outs after 15 days from service has passed to simplify the handling of tenant personal property.

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<sup>5</sup> This is for apartment rentals. The timing is different for a mobile home eviction in a mobile home park.

This statute section also has a provision and separate timeframe if the execution of a Writ of Possession is stayed by the court (this happens when a tenant files a Motion for Stay). When a tenant files a Motion for Stay, most Courts automatically stay the Writ of Possession pending a decision on the Motion. If a writ has been stayed by the court, the property disposal timing is one day after the HP is restored to possession of the rental unit.