

# Resources for Tenants Facing Eviction in Rochester, New York

*Legal Information for tenants facing an eviction in Rochester City Court that reside in subsidized housing or are facing homelessness. Information does not constitute legal advice nor does it form an attorney-client relationship with Legal Assistance of Western New York, Inc.. Information provided in this article may not be exhaustive.*

## **Financial Assistance**

- Eviction Diversion Resource Center: Mondays and Fridays from 9:30-11:30 am and 2:00-3:30 pm on the mezzanine level of Rochester City Court. Staff from DHS and LawNY are available.
- DHS: 691 St. Paul Street, 7:45 a.m. to 3:00 pm
  - (585) 753-6298
  - Fax (585) 753-6296
  - After hours (585) 442-1742
- Catholic Charities Family and Community Services 87 N. Clinton Ave
  - (585) 232-2050
- Veterans Outreach Center (585) 546-1081
- 211

***For best opportunity to secure assistance from these sources, tenants seeking financial assistance should try to secure and bring the following:***

- Identification for all adult household members
- Proof of income
- Documentation of rental arrears, such as current ledger or court papers.
- Additional documentation may be requested

## **Procedural Information and Rights**

Tenants have the right to a fourteen-day adjournment on the first appearance of their case, but must request it from the Court. The fourteen-day adjournment may be used to prepare a defense or seek counsel to represent the tenant in the eviction proceeding.

If you are facing eviction for non-payment of rent, full payment of the amounts owed may be a defense to a warrant of eviction being issued by the judge. Tenants should make sure to tell the court if the rent arrears demanded by the landlord were already paid, or if payment was rejected by the landlord.

If a warrant of eviction was granted by the judge, full payment before the warrant of eviction is set to execute may prevent the eviction from going forward, but the court may need to get involved if there is already a warrant, or if the landlord does not cooperate with payment. There are forms in Room 6 of the Rochester City Court to ask for a stay of a warrant of eviction, these are called an Order to Show Cause

Tenants are also free to try to arrange a settlement with their landlord or the landlord's attorney, this may look like a payment plan to get caught up on arrears, agreeing to a move out date, asking for time to seek assistance from another agency, etc.

### **Subsidized Housing Issues**

Subsidized housing tenants often have rent based on income. They should make sure that they are being charged based on their current income. If not, they should provide updated information to their landlord or agency, keep copies of all documentation, and make sure the court knows if they encountered trouble with this.

### ***Project Based Housing***

In most cases, tenants with project-based housing subsidies (including USDA housing, public housing, Low Income Tax Credit Housing, project-based Section 8) can only be evicted for good cause, such as conduct that is in violation of the lease

or not complying with program obligations.

### ***Section 8 Housing Choice Voucher Holders***

Section 8 voucher holders (Housing Choice Vouchers) usually have protection from their lease being terminated without cause within the first year. After that, their leases can usually be terminated by the landlord.

**Additional information on subsidized housing can be found [by clicking here](#)**

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### **Trial Rights**

Tenants have the right to a trial, including a jury trial (if requested at the first appearance), if they don't agree with the landlord's claims.

### ***Nonpay cases:***

In non-pay cases, landlords have to prove the rent is owed, and tenants can deny any landlord claims.

In non-pay cases, tenants can also raise concerns about conditions at the property and ask for a waiver or reduction in rent. This is a defense claiming that the Landlord has breached the Implied Warranty of Habitability under Real Property Law Section 235-b. Reports from the City of Rochester Code Enforcement Office may help, especially if financial assistance was denied because of these conditions or violations.

However, even if there are problems with an apartment, a Judge may still find that rent is owed, and issue a warrant of eviction.

### ***Evictions based on lease violations:***

If tenants are facing eviction based on a lease violation, the landlord must prove their allegations, and show that the lease gives the landlord the power to evict for those types of violations. Most evictions based on lease violations require a specific notice causing the lease to terminate as a result of the violation.

If the court issues a warrant of eviction based on a lease violation, New York State Law gives tenants the right to cure the violation. This is based on Real Property Actions and Proceedings Law Section 753(4).

### **Eviction Process**

If the Judge rules in favor of a landlord, it issues a warrant of eviction.

Warrants of eviction provide at least 14 days notice from the Marshall/sheriff before removal. In nonpayment cases, tenants have the right to pay off rent and stay in their home at any time before removal. They may need a court order to prevent their removal. There are forms in Room 6 of Rochester City Court to ask for a stay or cancellation of a warrant of eviction.

### **Help After an Eviction**

If you are evicted, you can seek emergency shelter through Monroe County's Department of Human Services: (585) 753-6044. The after hours number if calling after 4pm or on weekends is (585) 442-1742.

Other shelter and relocation resources:

- Open Door Mission: Samaritan House Crisis Center\*
  - 210 Main St, Rochester, NY 14608
  - \*Doors open daily at 4pm and 6:30pm. Must go in person to obtain a bed.
- Domestic Violence Shelter: Willow
  - Phone: (585) 222-SAFE

- Housing Advocacy Services: Provides connections to rapid rehousing, case management, housing referrals, access to community supports, and affordable housing options.
  - Phone: 585-944-1379
- Monroe Housing Collaborative: Assistance finding affordable housing for individuals with disabilities.
  - Phone: 585-445-5699 or send a message through:
    - <https://www.monroehousingcollaborative.org/contact-us/>
- Person Centered Housing Options (Must be homeless)
  - Phone: 585-736-HOME (4663)
  - Website: <https://pcho.org/>
- Regional Center For Independent Living: For individuals with frequent Emergency visits or hospitalizations.
  - Phone: 585-271-6470
  - Website: <http://www.rcil.org/page/advocacy/housing>
- House of Mercy: Open 24/7 and 365 days a year
  - 285 Ormond Street
  - Phone: 585-546-2580
  - Website: <https://houseofmercyrochester.org/>

More information is available [by clicking here](#).

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