

Legal Update

by Allan Garro N.

Evictions without Court Orders are Possible.

The term Eviction can be defined as the action of expelling a person from land, a building, a house, etc., by legal process as well as the action of recovering a property by virtue of superior legal title. This word immediately brings to mind the necessity of a legal process in Court to get a decree permitting the eviction. The most common examples of evictions in Costa Rica are for tenants who get expelled for nonpayment of rent, or when, after a long dispute of a land title, a Judge determines the land must be given back to the legitimate proprietor who does not have possession.

The common denominator in both examples is the existence of a judicial process. The question that comes to mind is: Are there any evictions that can be performed without a Court process? The answer is YES. They are called Administrative Evictions and are performed by the Evictions Department of the Ministry of Security. On August 31st, 2012 a new set of rules on how to apply and handle these procedures were published in the official Gazette, supposedly to make the rules simpler and to expedite processes submitted after that date.

Here are some examples of where an Administrative Eviction can be requested:

- When a person finds that someone is invading his or her property. This also applies when the property invasion occurred within the last 2 weeks.
- In case of occupation by mere tolerance. This is the case when a person lends another person a house to live without paying rent.
- Houses and premises rented to tourists for short periods of time or seasons. Such places need to be classified as being of touristic interest by ICT.
- The rent of parking spaces for vehicles.
- The rent of advertising space.
- Places granted to employees during a labor relationship. Sometimes farm workers are supplied with a place to live while they work for the employer. The same is true of Condo Projects with guards or administrators. Once the business relationship ends they are supposed to leave the premises.
- When a person builds a maximum of two

apartments or premises that have a common entrance with the owner's house on the same property where he or she lives, the minimum 3 year rental term does not apply. The proprietor can terminate the relationship by providing 1 months' notice to vacate the rented premises.

- On a Trust Contract where the Trustee is required to grant the property to a person different than the one having current possession. This is a very common scenario in leases where the Debtor agrees to place the property in a Guaranty Trust where in case of default the property goes to auction.

When the above conditions are met then an administrative Eviction can be requested from the Evictions Department of the Ministry of Security. It is necessary to file a request describing the facts clearly, offering the necessary proof and showing that the claim is legitimate, for example by presenting a Registry Certification of the property that shows that the petitioner is the registered proprietor. Once the petition has been submitted, the department will perform a preliminary evaluation of the case, and if they agree with the proof of the claimant then an eviction order is prepared to notify the other party who is currently in possession of the property.

Once the respondent is notified of the eviction order, they have 3 days to appeal by presenting valid proof to refute the applicant's request. If this notification is not challenged within three days, the eviction will be executed immediately. If the order is challenged, but the submitted proof is not valid, then the objection will be dismissed and the eviction will be executed. Only when valid evidence is presented will the eviction order be revoked and the Ministry of Security will refer parties to litigation in a Court of Law.

Even though the newly published rules establish an expedited process, the reality is that it will usually take a few weeks or months, depending on the case. However, an administrative eviction will still take much less time than a judicial process. The most important thing is to make sure the petition is eligible for this procedure rather than going through a judicial process.

ALLAN GARRO N. Attorney at Law
allan@garrolaw.com
www.garrolaw.com