

**Title XIII
(13)
Landlord & Tenant Proceedings**

Standing Rock Sioux Tribal Code of Justice



Standing Rock Sioux Tribal Council

TABLE OF CONTENTS

TITLE XIII. LANDLORD AND TENTANT PROCEEDINGS	Page
13-101. Landlord and Tenant Proceedings	XIII-1
13-102. Forcible Detainer or Eviction	XIII-1
13-103. Notice to Quit	XIII-1
(a) When Required—When, on Whom, and How Served	XIII-1
(b) Service of Notice to Quit on Tribal Chairman and Superintendent	XIII-2
13-104. Proceedings in Tribal Court	XIII-2
(a) Complaint	XIII-2
(b) Order and Notice	XIII-2
(c) Service of Complaint, Order and Notice of Tribal Court	XIII-2
(d) Service of Order and Notice on Tribal Chairman and Superintendent	XIII-3
(e) Deferment of Eviction	XIII-3
13-105. Forcible Eviction	XIII-3

TITLE XIII. LANDLORD AND TENANT PROCEEDINGS

XIII-1

13-101. Landlord and Tenant Proceedings.

It is hereby declared that the civil jurisdiction of the Tribal Court as defined in Section 1-107 of this Code, as amended, includes jurisdiction over all landlord and tenant proceedings.

13-102. Forcible Detainer or Eviction.

An action of forcible detainer, or eviction, to recover the possession of real property is maintainable in the Tribal Court when:

- (1) A party, by force, intimidation, fraud, or stealth, has entered upon the prior actual possession of real property of another and detains the same;
- (2) A party, after entering peaceably upon real property, turns out by force, threats, or menacing conduct the party in possession;
- (3) A party, by force or by threat of violence, unlawfully holds and keeps the possession of any real property, whether the same was acquired peaceably or otherwise;
- (4) A lessee, or tenant, in person or by subtenant, holds over after the termination of the lease or expiration of the term, or fails to pay the rent for seven (7) days after the same shall be due;
- (5) A party continues in possession after a sale of the real property; or
- (6) A party continues in possession after a judgment in partition or after a sale under an order or decree of a court of competent jurisdiction.

13-103. Notice to Quit.

- (a) When Required—When, on Whom, and How Served. In all cases arising under Subsections (4), (5), and (6) of Section 13-102, three days written notice to quit or remove must be given to the lessee, tenant, subtenant, or party in possession, before proceedings can be instituted for forcible detainer or eviction. Notice shall be in writing and must be served and returned by a person at least eighteen (18) years of age, by delivering the notice to the tenant or person in possession, or to some person of suitable age residing on the premises, or, if neither can be found with reasonable diligence, the notice may be served by affixing it on a conspicuous part of the premises where it may be read conveniently. The person making service shall make a return of service, which need not be verified, and which shall be filed in the case if suit is instituted.

(b) Service of Notice to Quit on Tribal Chairman and Superintendent.

If the lessee, tenant, subtenant, or party in possession depends on social security, or public assistance, for funds to pay the rent, the notice to quit, or remove, shall be served on the Chairman of the Tribe and on the Superintendent, Standing Rock Indian Agency, by delivering a copy of the same to each, or to the respective persons acting in such capacities, or to the respective persons designated by the Chairman and Superintendent to receive service.

13-104. Proceedings in Tribal Court.

(a) Complaint. Eviction proceedings may be instituted in the Tribal Court by filing a complaint setting forth the facts supporting the demand for eviction and supporting such other relief as may be demanded. The complaint shall be accompanied by the notice to quit required by Section 13-103 together with proof of service of such notice. The complaint shall request the Court to issue an order requiring the defendant and persons in possession to vacate the premises not less than 5 days from the date of filing the complaint on penalty of forcible eviction from the premises.

(b) Order and Notice. Promptly when the complaint is filed the Court shall issue an order and notice setting the demand for eviction for hearing on a date not more than three days after service of the order and notice. The order and notice shall inform the defendant that unless the defendant appears at the hearing and makes defenses satisfactory to the Court, the defendant and all other occupants of the premises and their personal belongings will be forcibly evicted. The order and notice shall also fix a date, not more than 15 days after the complaint is filed, for a hearing on the demand for a judgment for money or other relief, unless the defendant consents that such matters be heard at the hearing set on the demand for eviction.

(c) Service of Complaint, Order and Notice of Tribal Court. The order and notice of the Court, together with the complaint, shall be served without delay and at least within 24 hours after the complaint is filed. The service and return shall be by a person at least eighteen (18) years of age, by delivering a copy of the complaint, order and notice to the defendant, or to some person of suitable age residing on the premises, or, if neither can be found with reasonable diligence, by affixing a copy of the complaint, order and notice on a conspicuous part of the premises where such papers can be seen. The person making service shall make a return of proof of service promptly, and in any event before the date set for hearing. The return of proof of service need not be verified.

- (d) Service of Order and Notice on Tribal Chairman and Superintendent. In any action for eviction, if the lessee, tenant, subtenant, or party in possession depends on social security, or public assistance, for funds to pay the rent, a copy of the order and notice of hearing issued by the Court shall be served on the Chairman of the Tribe and the Superintendent of the Standing Rock Indian Agency by delivering a copy of the same to each, or to the respective persons acting in such capacities, or to the respective persons designated by the Chairman and Superintendent to receive such service.
- (e) Deferment of Eviction. In an action for eviction for failure to pay rent, where the defendant depends on social security or public assistance for funds for payment of rent, the Court may defer eviction for nonpayment of rent, where the reason for nonpayment of rent is delay in the receipt of such social security or public assistance funds, provided that the defendant agrees in writing and on penalty of contempt, that when the check for social security or public assistance funds is received, it shall be delivered to the Court for payment of the rent.

13-105. Forcible Eviction.

Where the Court orders an eviction, and the defendant or any other occupant of the premises refuses to vacate voluntarily by the effective date of that order, the defendant or other occupant may be forcibly removed from the premises by an officer of the Court.