
Attorney's Guide to Removing an Eviction from the Internet Record

Value of the Eviction “Expungement”

Landlords with a small number of properties rely on the Clerk of Courts website when reviewing a potential tenant's eviction history. Landlords with more resources request background checks through third-party vendors, and those vendors pull data from court websites.

Once the present eviction action is dismissed, or if judgment is entered in the Client's favor, it is helpful to have the case removed from the internet record (like a civil expungement).

Erasing the Eviction from the Clerk's Website

Like a criminal record-sealing, it is within the Court's discretion to remove a case from the internet record. Unlike a criminal record sealing, the physical file remains in the possession of the Clerk of Courts, and the Clerk is required to provide the file to anyone who requests it.

The request can take three forms, depending on the procedural posture of the case and the landlord's agreeability:

1. Agreed Entry

First, ask opposing counsel (or opposing party, if pro se) to agree to have the eviction removed from the internet record. If they agree, you can style the request as an Agreed Entry, with a signature from opposing counsel/party. Though the Court must still approve the request, the magistrate or judge is much more likely to grant it if both parties have consented.

2. Post-Judgment Motion

If an eviction case is assigned to a judge and subsequently resolved/completed under the judge's authority, it may be easiest and fastest to ask that same judge grant a post-judgment motion. Whether the case was dismissed related to an out-of-court settlement, or whether the judge presided over a trial and entered a judgment in the tenant's favor, the judge is more likely to grant the motion when he/she, unlike a magistrate, is familiar with the facts of the case.

3. Plain Motion

If the opposing party will not agree to clear the internet record AND if the eviction was never assigned to a judge, the remaining option is to file a motion, which the Clerk of Courts will assign to a magistrate. The Clerk of Courts will set the Motion for a hearing before a magistrate in Courtroom 236. The hearing is brief—less than 5 mins. There will be an opportunity for the opposing party, if they appear, to voice objections; for your client to offer testimony; and for you to make brief remarks.

VLP has samples of these different motions to clear the internet record in its Housing Brief-Bank.