

Can I get evicted from a motel?

If you are living in a motel, hotel, or similar housing, the property owner might be required to go through an official eviction process with the courts before they can remove you from the property. How easy it is for the owner to remove you from the motel depends on if you are considered a guest or a tenant. Understanding the difference is important for knowing your rights, because guests and tenants are treated very differently by Wisconsin laws.

In this article, we use the words hotel and motel interchangeably.

Last updated on March 14, 2025.

Guest versus Tenant: Which one am I?

- **Guest:** A guest is someone who is staying in a hotel or motel for a short amount of time. This can be for travel or any other reason. A guest either lives somewhere other than the motel and is just visiting, or only stays at the motel for fewer than 60 days.
- **Tenant:** Some hotel guests are considered tenants under Wisconsin law. If one of the following applies to you, you may be considered a tenant:
 - The motel is your permanent residence - you don't have anywhere else you consider "home"
 - If this is true, you can be considered a tenant even if you only stay at a motel for one night
 - Or, you do have a permanent residence somewhere else, but you have been staying at the motel for at least 60 days.
 - You have taken steps to establish the hotel as a residence, e.g. have mail delivered there.

Exceptions

Not every motel guest that fits into these categories is a tenant. If one of the following situations applies to you, you are not considered a tenant:

- If you are staying at the motel for free because you are working at the hotel, for example by cleaning, working in security, or working at the front desk.
- If you are staying at the motel for free because you are homeless and a government agency is paying for your motel stay.

Why does it matter?

Tenants and guests are treated very differently by Wisconsin law. If you are a tenant, both you and your landlord (the motel owner) need to follow the state laws for landlords and tenants, which includes rights and responsibilities. These laws are in Wis. Stat. 704 and ATCP Ch. 134, and you can read more about them in our articles [How to be a smart renter](#) and [How to be a smart landlord](#).

One of the biggest differences in these laws is that tenants have the right to a formal eviction proceeding, but guests do not. This means that if you are a tenant, the motel cannot kick you out until they have gone to court and a judge has granted an eviction.

Getting kicked out of a motel: what is legal and what is not

Guests: If you are a guest, the motel owner can tell you to leave without giving you a notice ahead of time. Unfortunately, there are not many protections for guests in motels. If you refuse to leave, the landlord can ask the Sheriff to come remove you.

If you are a guest rather than a tenant and refuse to leave the hotel, you may be subject to citations or criminal charges such as criminal trespassing

However, there are some protections to be aware of. The property owner cannot kick you out for a discriminatory reason. If they kick you out because of your sex, ancestry, national origin, race, sexual orientation, disability (or presence of a service animal), color, creed, or age, that is considered discrimination. If you think that you were discriminated against in this way, you can file a discrimination complaint with the State of Wisconsin Department of Workforce Development Equal Rights Division, or reach out to an attorney for more advice.

Tenants: If you are a tenant, your landlord (the motel owner) has to follow the steps in Wisconsin law before they can legally kick you out. This means you get special protections that guests don't get.

Hotel owners will almost certainly think of you as a guest rather than a tenant. If you fear removal, write a letter to the hotel and give it to the front desk/attach it to your door that explains the steps you have taken to establish tenancy at the hotel: ie. 60 day stay, receive mail at the hotel, pay bills, etc. This will help establish tenancy and may reduce police involvement if they are contacted for trespassing.

The motel owner cannot lock you out of your room or try to evict you on their own in other ways (called "self-help" evictions), even if you are behind on rent. Instead, the motel owner must follow certain steps before they can lawfully make you leave the motel:

1. **Give notice:** The motel owner or operator has to tell you that they plan to file for an eviction in writing. This is called a notice. What is included in this notice depends on your specific situation. For more information, you can read the Wisconsin Law Help article called "[Eviction Notices](#)"
2. **File with the court:** If you stay in the motel past the day written in your notice, and you haven't come to an agreement with the owner to let you stay, the owner can file an eviction action in small claims court. This is a lawsuit against you to get permission from a judge to evict you, so it will show up in public records. For more information about how this eviction process works, you can read the Wisconsin Law Help article called "[What timeline should I expect?](#)"
3. **Get a Writ of Restitution:** Even if the motel owner wins in court, they can't try to remove you on their own. They will be given a piece of paper called a "Writ of Restitution" by the court. Once the motel owner gets the writ of restitution from the Court, they have 30 days to take the writ to the Sheriff. Once the Sheriff has the writ, they have ten days to enforce the writ (move you out). Only the Sheriff can remove you from the motel.
4. **Additional Court Proceedings:** If a writ is issued, check [CCAP](#) using the eviction case number to check and see if there are additional hearings. At these hearings, the court decides if you owe money to the motel. This might include unpaid rent, physical damage to the property beyond normal wear and tear, and the cost of repairing physical damage to the property. You can attend these hearings and present arguments against the amount the motel is charging you.

If you are a tenant in a motel and the motel owner or operator does not follow these steps, or tries to evict you on their own, that is a violation of ATCP 134.09(7) and Wis Stat Ch 704. You should contact an attorney for help immediately.

[Long-stay motels](#) [Alternative Housing Options](#) [Housing](#)

Print

Table of Contents

Our Partners

This website is supported by

LSC | America's Partner
for Equal Justice

LEGAL SERVICES CORPORATION

LSC's support for this website is
limited to those activities that are
consistent with LSC restrictions.

WisTAF
investing in justice for all