

PREJUDGED

THE STIGMA OF EVICTION RECORDS

KEY FINDINGS

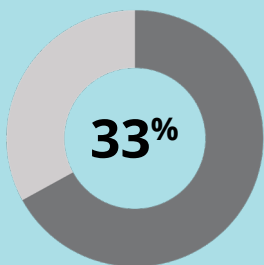
Each year, more than 15,000 people in Cook County ended up with a public eviction record despite having no eviction order or other judgment entered against them.

Tens of thousands of families and individuals face eviction in Illinois each year. The vast majority live in Cook County, which has more rental units than the other 101 Illinois counties combined. In this report, we analyze data from 105,272 cases in Cook County that were filed from 2014 to 2017 and interviewed tenants, legal aid attorneys, and landlords to better understand the issue of eviction in Chicagoland.

The majority of cases (61%) end with a ruling in favor of the landlord. When there is an eviction finding against a tenant, this is understandably part of the public record. **However, in 39% of completed cases, the eviction filing did not result in an eviction order and/or other judgment against the tenant.**

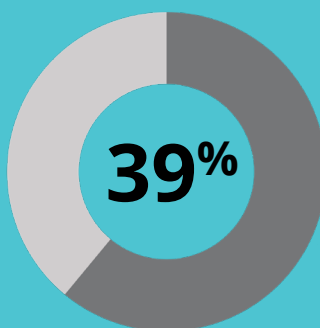
We estimate 15,091 people each year ended up with a public eviction record despite having no eviction order or other judgment against them. This can have lasting consequences for a tenant. Having an eviction filing on your record—a publicly accessible history of having sued or been sued by a landlord—can be a serious obstacle to finding housing in the future. Too often, people do not understand that an eviction filing does not mean someone was actually evicted. This is why we believe that **Illinois should pass a law to seal eviction case records at the point of filing.** Cases would remain sealed until the case is resolved, at which point, if there is a judgment against the tenant, it would be unsealed and enter the public record.

1/3 OF FINAL JUDGMENTS HAPPEN AT THE FIRST COURT DATE



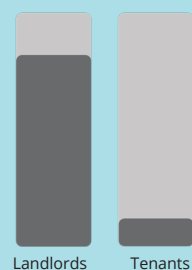
In 33% of completed cases (and in over half of all judgments), the final judgment was entered on the first court date. This often happens after only minutes in front of a judge.

MORE THAN 1/3 OF CASES DO NOT RESULT IN A JUDGMENT AGAINST TENANT



Between 2014 and 2017, 39% of completed cases did not end in a judgment against the tenant. We estimate that 15,091 people ended up or will end up with an eviction filing on the public record each year, despite not having a judgment against them.

FEW TENANTS ARE REPRESENTED BY ATTORNEYS



While 81% of landlords had attorneys, only 12% of tenants did. This puts tenants at a serious disadvantage in their ability to successfully defend themselves in court.

THE EVICTION PROCESS

IN ILLINOIS



NOTICE

EVICTION NOTICES DEFINE THE REASON THE LANDLORD WANTS THE TENANT TO MOVE OUT.

Legal evictions start with a notice. If tenants do not do what the notice demands, the landlord can file an eviction. Common reasons include non-payment of rent, a lease violation, or the end of a lease.



FILING

THE LANDLORD FILES AN EVICTION CASE IN COURT AGAINST THE TENANT AFTER THE NOTICE EXPIRES IF THE TENANT STILL OCCUPIES THE PROPERTY.



COURT

EVICTION CASES ARE DECIDED BY THE COURT OR BY AGREEMENT BETWEEN THE LANDLORD AND TENANT.



FORCED EVICTION

ONLY THE SHERIFF CAN FORCIBLY REMOVE A TENANT.

The Sheriff can only do so after an eviction order has been entered by the court.

OTHER EVICTIONS

An untold number of informal evictions do not actually end up with tenants and landlords appearing in court. People may be forced from their home through an informal eviction process—such as a landlord telling a family to leave, changing the locks, or threatening to call immigration or family services—which is often a less expensive and more efficient means of getting someone to vacate than filing for a formal eviction. Other tenants are forced to move from buildings condemned for code violations leading to unfit living conditions through vacate orders in building court.

10 APPLICATIONS AND 10 REJECTIONS LATER,

A LEGAL AID LAWYER HELPED PHYLLIS SEAL HER EVICTION FILING RECORD AND SHE WAS FINALLY ABLE TO FIND A HOME

PHYLLIS' STORY

Phyllis consistently paid her rent to a property management employee who stopped by her unit to collect the rent because the property management office was difficult for her to access as a senior with a disability. At the beginning of January, she paid the employee with a money order—but just six days later, she received a 5-Day Notice of eviction for nonpayment of rent.

While the property management office did acknowledge receiving her money order, they claimed there was an error in her payment and told her they sent it back. Phyllis never received the returned money order, putting her in a tough situation; she did not have enough money in her account to pay the rent a second time within the notice period.

Her landlord decided to proceed with the eviction process. An attorney from the Poverty Law Project at the Legal Aid Society of Metropolitan Family Services managed to negotiate a settlement for Phyllis, but the landlord refused to agree to seal her record.

Initially, Phyllis believed having an eviction filing on her record wouldn't matter because she had a Housing Choice Voucher that guaranteed payment of a large portion of her rent. **After submitting ten applications, paying ten application fees, and receiving ten rejections, she realized she was sorely mistaken. Only after her attorney returned to court requesting that her record be sealed was Phyllis able to secure a new apartment.**

"A pending case shouldn't leave someone's housing pending."

- Victoria Ogunsanya, Attorney
Lawyers' Committee for Better Housing
Prejudged: The Stigma of Eviction Records

A FILING IS NOT A JUDGMENT

—BUT CAN HAVE THE SAME EFFECT ON FUTURE RENTAL PROSPECTS

Having an eviction filing on your record—a publicly accessible history of having sued or been sued by a landlord—can be a serious obstacle to finding housing in the future. Too often, people do not understand that an eviction filing does not mean someone was actually evicted.

When there is an eviction finding against a tenant, this is understandably part of the public record. However, a record is also publicly available when there has been no judgment against the tenant. This includes:

- Cases that were dismissed.
- Cases where tenants were able to successfully defend against the eviction.
- Cases where tenants are named as necessary parties, but did no wrong, such as when they are renting a condo or their landlord is facing foreclosure.

Consumer reporting agencies cannot report on most information after it is seven years old. However, eviction records older than that are currently available online through both court- and privately operated services.

Especially in a digital age when personal information is easily accessed and aggregated as soon as a case is filed, eviction court filings should not automatically damage someone's rental prospects. Incomplete or unclear court records—whether accessed directly through the online court records or presented by a third party such as a tenant screening company—only make this problem worse.

LANDLORD SCREENING IN A DIGITAL AGE

Before renting properties, landlords almost always screen applicants. Common criteria include checking credit history, criminal history, and often for eviction court history. Increasingly, landlords go online to the court's website to run searches themselves. Many landlords purchase reports from tenant screening companies, which collect information from eviction courts and aggregate it with other publicly available data. Some make recommendations that are often based solely on the existence of a recent case, regardless of context or outcome.

Landlords have an understandable interest in access to background information on applicants, but that must be balanced with ensuring that eviction records are used in a way that accurately reflects a case's outcome.

SEAL RECORDS, EXPAND HOUSING OPPORTUNITIES

Having a court record sealed means the court record still exists, but it is not available to the general public. Sealed records can still be seen by government agencies, law enforcement agencies, or a specific person if a judge orders that they can see it. Expanding access to sealing for people with eviction records—a civil, not criminal matter—can help expand access to housing.

**“I felt tainted, diminished.
Like I had no options.”**

- Janet, Tenant
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A COMMON SENSE FIRST STEP:

HOLD RECORDS FROM PUBLIC VIEW UNTIL CASES ARE COMPLETED

A critical first step to tackle the broader issue of eviction is to protect tenants from the harmful effects of the existence of an eviction filing on their record.

Illinois should pass a law to seal eviction case records at the point of filing.

Cases would remain sealed until the case is resolved, at which point, if there is a judgment against the tenant, it would be unsealed and enter the public record.

Such a law would protect tenants whose cases could eventually be sealed from ever having the case come up in the public record.

- Records of new eviction filings would be sealed, and court records, with some exceptions, would only be made available to the parties in the case.
- If the eviction case is resolved against the tenant and an eviction order is entered, the case would generally be unsealed and enter the public record.
- Tenants who are being evicted without good cause—for instance, due to foreclosure, the dispossession of a condominium, or because their lease is not being renewed (through no fault of the tenant)—would have their record remain sealed.

Finally, state law should provide for all eviction records to be sealed after a specified number of years. For example, bankruptcy filings appear on credit reports for 7–10 years. After a certain amount of time has passed, people should be allowed to make a fresh start.

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LEGAL PRECEDENT IN OTHER STATES

This proposed policy has precedent in a long-standing California state law, amended in 2016, which also seals eviction case records at the point of filing. The original state law, in effect since 1991, provided that eviction cases were not available to the public for 60 days after the filing of the case. The 2016 amendment mandates that all eviction records remain private unless landlords prevail within 60 days of filing eviction lawsuits—a change that keeps more cases permanently sealed. Other states and local governments limit the use of eviction records by other means, including regulating the use of eviction court records in rental decisions, limiting the visibility of online court records and/or regulating the content of tenant screening reports.

“I’ve never been evicted.

I’ve never even been served an eviction notice. But my application was denied.”

- John, Tenant

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