Article - Real Property

§8–402.

(a) (1) A tenant under any periodic tenancy, or at the expiration of a lease, and someone holding under the tenant, who shall unlawfully hold over beyond the expiration of the lease or termination of the tenancy, shall be liable to the landlord for the actual damages caused by the holding over.

(2) The damages awarded to a landlord against the tenant or someone holding under the tenant, may not be less than the apportioned rent for the period of holdover at the rate under the lease.

(3) (i) Any action to recover damages under this section may be brought by suit separate from the eviction or removal proceeding or in the same action and in any court having jurisdiction over the amount in issue.

(ii) The court may also give judgment in favor of the landlord for the damages determined to be due together with costs of the suit if the court finds that the residential tenant was personally served with a summons, or, in the case of a nonresidential tenancy, there was such service of process or submission to the jurisdiction of the court as would support a judgment in contract or tort.

(iii) A nonresidential tenant who was not personally served with a summons shall not be subject to personal jurisdiction of the court if that tenant asserts that the appearance is for the purpose of defending an in rem action prior to the time that evidence is taken by the court.

(4) Nothing contained herein is intended to limit any other remedies which a landlord may have against a holdover tenant under the lease or under applicable law.

(b) (1) (i) Subject to § 8–406 of this subtitle and where any tenancy is for any definite term or at will, and the landlord shall desire to repossess the property after the expiration of the term for which it was leased and shall give notice as required under subsection (c) of this section to the tenant or to the person actually in possession of the property to remove from the property at the end of the term, and if the tenant or person in actual possession shall refuse to comply, the landlord may make complaint in writing to the District Court of the county where the property is located.

(ii) 1. The court shall issue a summons directed to any constable or sheriff of the county entitled to serve process, ordering the constable or sheriff to notify the tenant, assignee, or subtenant to appear on a day stated in the

summons before the court to show cause why restitution should not be made to the landlord.

2. The constable or sheriff shall serve the summons on the tenant, assignee, or subtenant on the property, or on the known or authorized agent of the tenant, assignee, or subtenant.

3. If, for any reason those persons cannot be found, the constable or sheriff shall affix an attested copy of the summons conspicuously on the property.

4. After notice to the tenant, assignee, or subtenant by first–class mail, the affixing of the summons on the property shall be conclusively presumed to be a sufficient service to support restitution.

(iii) Upon the failure of either of the parties to appear before the court on the day stated in the summons, the court may continue the case to a day not less than 6 nor more than 10 days after the day first stated and notify the parties of the continuance.

(2) (i) If upon hearing the parties, or in case the tenant or person in possession shall neglect to appear after the summons and continuance the court shall find that the landlord had been in possession of the leased property, that the said tenancy is fully ended and expired, that due notice to quit as aforesaid had been given to the tenant or person in possession and that the tenant or person in possession had refused so to do, the court shall thereupon give judgment for the restitution of the possession of said premises and shall forthwith issue its warrant to the sheriff or a constable in the respective counties commanding the tenant or person in possession forthwith to deliver to the landlord possession thereof in as full and ample manner as the landlord was possessed of the same at the time when the tenancy was made, and shall give judgment for costs against the tenant or person in possession so holding over.

(ii) Either party shall have the right to appeal therefrom to the circuit court for the county within 10 days from the judgment.

(iii) If the tenant appeals and files with the District Court an affidavit that the appeal is not taken for delay, and also a good and sufficient bond with one or more securities conditioned that the tenant will prosecute the appeal with effect and well and truly pay all rent in arrears and all costs in the case before the District Court and in the appellate court and all loss or damage which the landlord may suffer by reason of the tenant's holding over, including the value of the premises during the time the tenant shall so hold over, then the tenant or person in possession of said premises may retain possession thereof until the determination of said appeal.

(iv) The appellate court shall, upon application of either party, set a day for the hearing of the appeal, not less than 5 nor more than 15 days after the application, and notice for the order for a hearing shall be served on the opposite party or that party's counsel at least 5 days before the hearing.

(v) If the judgment of the District Court shall be in favor of the landlord, a warrant shall be issued by the appellate court to the sheriff, who shall proceed forthwith to execute the warrant.

(c) (1) This subsection applies to all cases of tenancies at the expiration of a stated term, tenancies from year to year, tenancies from month to month, and tenancies from week to week.

(2) Except as provided in paragraphs (3) and (4) of this subsection, a landlord shall provide written notice of the intent to terminate a tenancy:

(i) If the parties have a written lease for a stated term in excess of 1 week or a tenancy from month to month, 60 days before the expiration of the tenancy;

(ii) In the case of tenancies from year to year, including tobacco farm tenancies from year to year but excluding all other farm tenancies from year to year, 90 days before the expiration of the current year of the tenancy;

(iii) In the case of tenancies from year to year for all other farm tenancies, 180 days before the expiration of the current year of the tenancy; and

(iv) In the case of tenancies from week to week:

1. If the parties have a written lease, 7 days before the expiration of the tenancy; or

2. If the parties do not have a written lease, 21 days before the expiration of the tenancy.

(3) (i) When the tenant shall give notice by parol to the landlord or to the landlord's agent or representatives, at least 30 days before the expiration of the lease or tenancy in all cases except in cases of tenancies from year to year, and at least 90 days' notice in all cases of tenancy from year to year (except in all cases of farm tenancy, the notice shall be 180 days), of the intention of the tenant to remove at the end of that year and to surrender possession of the property at that time, and the landlord, the landlord's agent, or representative shall prove the notice from the tenant by competent testimony, it shall not be necessary for the landlord, the

landlord's agent or representative to provide a written notice to the tenant, but the proof of such notice from the tenant as aforesaid shall entitle the landlord to recover possession of the property hereunder.

(ii) This paragraph shall not apply in Baltimore City.

(4) (i) This paragraph does not apply to a property that is:

1. In Baltimore City or Montgomery County;

2. Owned by a landlord who offers 5 or more residential dwelling units for rent in the State; or

3. Subject to an order to docket under § 7–105.1(e) of this article.

(ii) If a landlord receives notice of an intent to foreclose on the property under § 7–105.1(c)(1) of this article and desires to terminate the tenancy, the landlord shall provide written notice of the intent to terminate a tenancy:

1. At least 30 days before the expiration of the lease in cases of tenancies from month to month or tenancies from week to week; or

2. At least 60 days before the expiration of the lease in cases of tenancies from year to year.

(5) (i) Acceptance of any payment after notice but before eviction shall not operate as a waiver of any notice to quit, notice of intent to vacate or any judgment for possession unless the parties specifically otherwise agree in writing.

(ii) Any payment accepted shall be first applied to the rent or the equivalent of rent apportioned to the date that the landlord actually recovers possession of the premises, then to court costs, including court awarded damages and legal fees and then to any loss of rent caused by the holdover.

(iii) Any payment which is accepted in excess of the foregoing shall not bear interest but will be returned to the tenant in the same manner as security deposits as defined under § 8–203 of this title but shall not be subject to the penalties of that section.

(d) Unless stated otherwise in the written lease and initialed by the tenant, when a landlord consents to a holdover tenant remaining on the premises, the holdover tenant becomes a periodic week–to–week tenant if the tenant was a week–

to–week tenant before the tenant's holding over, and a periodic month–to–month tenant in all other cases.