



Tenants, Trespassers, and Travelers: Which Remedy is Just Right?

Melanie Crenshaw

UNC School of Government





Agenda



- Summary Ejectment
- Civil Trespass
- Expedited Removal of Unauthorized Persons
- Criminal Trespass
- Transient Occupants

Two Different Stories



Summary Ejectment



Summary Ejectment

- Action brought by landlord to recover possession of rental property from a tenant
- “simple landlord-tenant relationship” required
- No LL-T relationship=no subject matter jurisdiction

Subject Matter Jurisdiction

- Small Claims Action Defined (G.S. 7A-210)
 - Amount in controversy \$10,000 or less
 - Remedy is money, return of personal property, or **summary ejectment**
 - Plaintiff requested assignment
- Summary Ejectment
 - Restricted to cases of LL-T
 - No LL-T relationship=no authority to hear
 - 4 Grounds for Summary Ejectment

Subject Matter Jurisdiction

- Without it, judgment is invalid.
- Challenged at any point, even on appeal
- Dismiss summary ejectment proceeding if no LL-T relationship

Simple Landlord-Tenant Relationship

- Landlord has right of possession.
- Landlord transfers right to tenant.
- There is an exchange of value.
- There is a contract specifying duration and value.

Was Snow White a Tenant?

- Did the Seven Dwarves possess the property?
- Did they transfer the right to possess to Snow White?
- Was there an exchange of value?
- Was there a contract?





AI-Generated Image

“You can call a camel a horse, but that won’t take away its humps. It’s the substance, not the label that matters.”



Civil Trespass



Trespass to Land

- Intent
- Unauthorized Entry
- Ownership or Possessory Interest
- Damages



Intent

Unauthorized
Entry

Ownership

Damages

Did Goldilocks Commit a Civil Trespass?



AI-Generated Image

Expedited Removal of Unauthorized Persons



G.S. Ch. 14, Art. 22D, Expedited Removal of Unauthorized Person from Residential Property

- Creates an expedited process
- Initiated by private
- Complaint filed (service is closed)
- Law enforcement removal if acts
- Creates a remedy for representative for wrongful removal



**Effective
December 1,
2025**

Authorized representative

Contract for deed

Law enforcement agency

Real estate broker

Residential property

Tenant

Unauthorized person

Definitions

G.S. 14- 159.50

Required Allegations G.S. 14-159.51

1. Property owner or authorized representative
2. Residential property
3. Entry by unauthorized person (UP)
4. Not an accommodation for general public
5. UP directed to leave
6. UP is not a tenant
7. UP is not an owner
8. No pending litigation between owner and UP
9. No valid rental agreement or contract for deed
10. No rent demanded or paid

Removal of Unauthorized Persons

G.S. 14-159.52

- Service by sheriff personally or by posting within 24 hours
- Hearing held before magistrate as soon as practicable, but no more than 48 hours after service
- If court finds for property owner, immediately enter written order for possession and time to vacate
- Time to vacate no more than 4 hours after service of order



AI-Generated Image



2. Residential
Property
4. Not public
accommodation

1. Property
Owner

5. Directed
UP to leave

3. Unauthorized Person
6. Not a tenant
7. Not an owner

8. No pending litigation
9. No rental agreement/contract for
deed
10. No rent

Is Goldilocks Subject to Removal as an Unauthorized Person?



AI-Generated Image

Violation of Court Order G.S. 14-159.54

- Removal of personal property by owner or authorized representative to property line
- Failure to vacate constitutes a criminal trespass under G.S. 14-159.13(a)(1) (second degree trespass)



Criminal Trespass





Second Degree Trespass

G.S. 14-159.13(a)(1)

On premises of another after the person has been notified not to enter or remain there by the owner, by a person in charge of the premises, by a lawful occupant, or by another authorized person





Second Degree Trespass Elements



1. Without authorization
2. Enters or remains
3. On premises of another
4. After having been notified not to enter or remain

Other Crimes to Consider

- G.S. 14-159 possessing/occupying house, uninhabited house or other building without consent
- G.S. 14-159.12(a)(2) First Degree Trespass in building of another
- G.S. 14-159.12(f) Felony First Degree Trespass
 - Returns after removal by writ or order
 - False evidence of ownership/possessory interest



AI-Generated Image

Other Crimes to Consider

- G.S. 14-54 Breaking or entering buildings
- G.S. 14-100 Obtaining property by false pretenses
- G.S. 14-127 Willful and wanton injury to real property
- G.S. 14-160 Willful and wanton injury to personal property



What Crimes Did Goldilocks Commit?



AI-Generated Image

Transient Occupants





Transient Occupancy G.S. 72-1(c)

the rental of an accommodation by an inn, hotel, motel, recreational vehicle park, campground, or similar lodging to the same guest or occupant for fewer than 90 consecutive days



Removal of a Transient Occupant

G.S. 72-1(b)

- At expiration of contract may be restrained from entering
- Property may be removed



Points to Remember about Transient Occupancy

- Summary ejectment does not apply unless expressly provided in the agreement
- Statute is silent about occupant's status on day 90 and after

What if it's unclear if occupant is transient or tenant?

Consider Factors in *Baker v. Rushing*

- Is there a lease?
- Is the property the sole and permanent residence of the occupant?
- What is the length of the party's residence at the property?
- What is the layout of the property?
- Does the property have a hotel license and operate as such?
- Does the owner maintain control over the premises?
- Does the owner retain the room key?
- Does the owner provide maid service?
- Does the owner share facilities with the occupant?
- Does the owner repair and maintain the rooms?
- Does the owner or the occupant pay the utilities?

Is Goldilocks a Transient Occupant?



Summary

- Summary ejectment is only available where the parties have a simple landlord-tenant relationship.
- S.L. 2025-88 creates an expedited procedure for the removal of unauthorized occupants. This civil procedure, **effective December 1, 2025**, is an alternative to criminal charges.
- The unauthorized occupancy could also result in criminal charges.
- Unauthorized occupancy is not the same as transient occupancy.



Thank you

Melanie Crenshaw

910-962-2761

mcrenshaw@sog.unc.edu

[On the Civil Side](#)

