

HOW TO FILE AN EVICTION SUIT IN THE JUSTICE OF THE PEACE COURT

JURISDICTION:

An eviction case is a lawsuit to recover possession of real property under Chapter 24 of the Texas Property Code, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any. Eviction cases are governed by Rules 500-507 and 510 Party V of the Rules of Civil Procedure.

PLAINTIFF OR AGENT: Is the landlord or representative of the owner.

DEFENDANT OR TENANT: Is the person occupying the rental property.

COURT COST: Filing and service \$101.00 (\$41.00 & \$60.00)

VENUE: An eviction suit must be filed in the County and Precinct where the Defendant resides. (No exceptions)

GENERAL:

- A. Eviction suits cannot be filed in the Justice Court unless there is a landlord-tenant relationship, either expressed or implied.
- B. The law requires that, prior to filing the case, the landlord must give the tenant a written demand to vacate the premises. This notice must be hand delivered to someone at the premises over 16 years of age, or affixed to the inside or outside of the main entry door, or mailed by U. S. certified mail. **(If the tenant contests the eviction in Court the burden is on the landlord to prove that the proper notice to vacate was given.)**
- C. If the reason for eviction is because the tenant did not pay rent or violated the lease in some other way justifying eviction, the law requires the notice state the reason for eviction. If there is a written lease contract then the lease must be followed for the time period allotted in the lease. The eviction case should not be filed until the notice time has expired.
- D. If there is a written lease contract signed by 2 or more tenants, all of the tenants should be named and served with a citation.

FILING & PROCESS OF EVICTION SUIT:

The **responsibility for filling out your petition and civil case information sheet rests with you.** Court clerks will assist you if you have *procedural questions*.

- A. A Justice Court Civil Information Sheet, Original Eviction Petition, and Service Members Civil Relief Act Sec. 201(b) will be needed for filing.
- B. Once the petition is filed and filing fee accepted, the clerk of the Court will issue a citation and give it to the Constable for service.

- C. When the Constable receives the citation from the clerk he will attempt to serve the Defendant(s). A hearing date will be set at the time of filing. Hearing dates are calculated 14 days after **filing date** of the Original Eviction Petition. Hearings are usually at 10:00 AM.
- D. On the Court date it will be the Plaintiff's responsibility to prove their case against the Defendant.

HEARING:

- A. If the Defendant shows for Court and the Judge renders judgment for the Plaintiff, the Defendant has 5 days to vacate the property or file with the Court an Appeal bond.
- B. If the Defendant does not show for Court, a Default judgment will be issued against them. The Defendant has 5 days to vacate the property or file an Appeal bond.
- C. If the Defendant has not vacated the property or filed an Appeal bond after the expiration of 5 days from the date of judgment, the Plaintiff can ask for a Writ of Possession.
- D. When a Writ of Possession is issued the Constable will contact the Plaintiff and work out a date to turn over the property to the landlord. It will be the Plaintiff's responsibility to remove any items of the Defendant's off the premises. The Constable acts only as an observer.

**PLEASE CONTACT THE APPROPRIATE COURT TO RECEIVE INFORMATION
PERTAINING TO YOUR SUIT FILED IN THEIR COURT.**

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