

## Justices of the Peace

### Eviction Instructions

#### How to File an Eviction Suit

1. Eviction suits cannot be filed in the Justice Court unless there is a landlord-tenant relationship, either expressed or implied.
2. 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.)**
3. If the reason for the 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 and give the tenant at least **3 days** to vacate before the eviction can be filed. If there is a written lease contract that provides for a different notice time, then the lease must be followed. **The eviction case cannot be filed until the notice time has expired.**
4. 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, however, the naming and serving of one tenant and the statement of "and/or all other occupants" may be sufficient.

**Plaintiff or Agent:** Is the landlord or representative of the owner.

**Defendant or Tenant:** Is the person occupying the rental property.

**Court Costs:** Filing fee is \$106.00.

**Writ of Possession:** \$155.00

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

1. An **Eviction Petition** will be needed.
2. Once the petition is filed and filing fee accepted the clerk of the Court will issue a citation and give it to the Constable.
3. When the Constable receives the citation from the clerk he will attempt to serve the Defendant. 7 days after the Constable serves the Defendant a hearing date will be set, usually at 10:00AM. The clerk will notify the Plaintiff of a Court date by phone.
4. On the Court date it will be the Plaintiff's responsibility to prove their case against the Defendant.
  - o If the Defendant shows for Court and the Judge gives judgment for the Plaintiff, the Defendant has 6-10 days to move out of the property or file with the Court an Appeal bond.
  - o If the Defendant does not show for Court, a Default judgment will be issued against them. The Defendant has 5 days to move or file an Appeal bond.

- If the Defendant has not moved 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.
- 5. When a Writ of Possession is issued the Constable will instruct the tenant to remove or to allow the landlord, the landlord's representatives, or other persons acting under the officer's supervision to remove all personal property from the rental unit other than personal property claimed to be owned by the landlord.

Please contact the appropriate court to receive information pertaining to your suit filed in their court.

[Return to Instructions & Forms](#)