



YOUR RIGHTS IN EVICTION

Court papers for an eviction are called a Summons and Complaint. If you get a Summons and Complaint for an eviction, these are some of the things you need to know:

- 1. Get legal advice right away.** If you have a low income, call your legal aid office. You do not need a lawyer to fight an eviction, but it can help.
- 2. Don't miss the hearing.** Don't be late or you will lose by default. Go to the hearing even if you have no defense so that you can ask the court for up to 7 days to move.
- 3. Fill out the Answer form** attached to this fact sheet. Bring 3 copies of it to court. Give 1 copy to your landlord, 1 copy to the judge and keep 1 copy for yourself.
- 4. If you owe rent money,** you must bring **all** the money to court, **plus** any late fees that you owe, and the landlord's filing fee (\$252 in Hennepin County). The court might give you up to 7 days after the hearing to pay the filing fees but you have to ask for extra time. You still need to have all the rent money with you.
- 5. If you withheld rent because of repair problems,** you must bring **all** of the rent money to court. The court clerk will hold it until the judge makes a decision. You should not need the filing fees or late fees. Ask the court to order repairs and give you some of your rent money back for the time you lived there with the problems.
- 6. Try to settle the case.** See if you can work out a deal with your landlord. If you owe rent, try to set up a payment plan. If you make a deal, put it in writing. Make sure you and your landlord sign it. Bring it to court on the hearing date. Ask the court to approve it. Do not skip court, even if you have made a deal. The landlord can still show up and if you are not there the judge might order the eviction.
- 7. If the court orders mediation be ready for it.** In some courts, there are mediators at the hearing who try to help you and your landlord agree on how to settle the case. If you make an agreement, it will be written for you and the landlord to sign. The agreement will be part of the judge's order. Think about what you might want as an outcome for your case before you go to court so you are ready in case of mediation. Do not say okay to anything in the agreement that you cannot or will not do. If you do not follow the agreement you will be evicted. You cannot change your mind about the agreement after court.
- 8. Evictions usually stay on your record.** Eviction cases are public records. Tenant screening companies can report evictions for 7 years. If you lose an eviction case, it is very hard to get it expunged (erased). For more information on expungements see our fact sheet *Expunging Evictions*.



9. **If a landlord had no good reason to file the eviction, ask the court to expunge the case from your record.** Expunge means to erase the public record of a case. In order to get an expungement the court must find that:
- the landlord's case is "sufficiently without basis in fact or law,"
 - the expungement is "clearly in the interests of justice," and
 - the "interests of justice" are not outweighed by "the public's interest in knowing the record."

In other words, the court can expunge your eviction if it thinks the landlord was wrong to file the case and it would be unfair to leave it on your record. Examples might be:

- the landlord said you had not paid the rent, but you proved that you had;
- the landlord was getting back at you (retaliating) for complaining about repairs;
- the landlord said you broke the lease, but you proved that you did not.

COMMON EVICTION DEFENSES

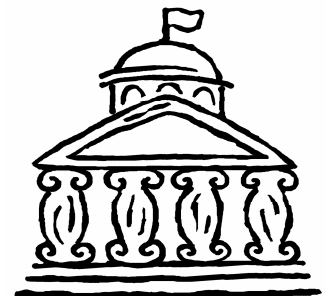
You need to respond to the Complaint. You do this by filling out an Answer form. There is one attached to this fact sheet. You can check off the reasons that apply to your situation. Defenses are reasons to dismiss the case. Some common defenses on the Answer form are listed below:

GETTING THE COURT PAPERS (Service)

- You must get the court papers at least 7 days before the court hearing.
- The papers must be handed to someone who **lives** at your home.
- The papers must be given to someone old enough to understand them.

RENT AND FEES (Nonpayment of Rent)

- You may disagree about how much rent is owed. If you have any receipts, bring them to court.
- If you have repair problems, ask the court to lower the rent. Bring proof of the problems, inspector reports, photos, and witnesses. Bring proof that the landlord knew about the problems. Remember, most judges will not allow this defense unless you bring **all** the rent money to court.
- You may disagree with fees the landlord is charging. Check your lease to see what fees are listed. Unfair high fees for late rent are not legal, even if they are written in your lease.
- Sometimes the court will give you more time to pay the rent or fees. Ask for 7 days and explain why you need the time.



MOVE OUT NOTICE (Holding Over After Alleged Notice to Vacate)

If you have not broken your lease and your rent is paid up, the landlord has to send you a proper written move-out notice. If the notice was not given to you in writing in the proper time period, that is a defense.

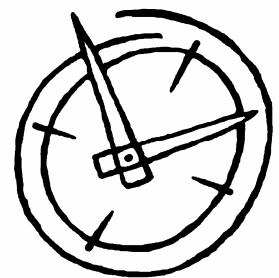
- If you have a lease, it says how much time is “proper notice.” Check it and bring it to court.
- If you do not have a lease and you are renting month-to-month, you have to get a written notice at least a month and a day before the move out date. If the landlord wants you out by June 30, you must get the written notice on or before May 31. Bring the notice to court.

LEASE VIOLATIONS (Breach of Lease)

- If the landlord says you violated the lease, they have to prove that you have an oral or written lease, and that violation of the lease was material (important).
- If the landlord knew about the incident that they say is a lease violation and took rent from you after it happened, they may have waived (given up) the right to evict you for that violation.
- If someone outside of your control caused the violation, you should explain why you are not responsible. Remember that you are usually responsible for what your children and guests do.
- If you have a disability that caused you to violate the lease, explain how your disability is connected to the violation. Ask the judge to order the landlord to make a “reasonable accommodation” of your disability, and dismiss the case.

IF YOU LOSE IN COURT

- **If you think the court made a mistake**, you have 10 days to file an appeal. If a referee made the decision, you also have the right to have it reviewed by a judge but you must act quickly. Ask the court clerk for the forms. Get legal advice right away.
- **You can ask the court for up to 7 days to move out.** Tell the court why you need 7 days. Tell them if children, senior citizens or people with disabilities live in the home. You must **ask** for the time to get it.
- **The landlord gets a court order called a Writ.** The landlord has to have the sheriff deliver it to you or post it on your door. The Writ gives you 24 hours to move out. If you do not leave, the landlord will set a move-out day and time with the sheriff. If your things are packed up and put in storage by the landlord, the sheriff has to be there to supervise. Your property can be stored on-site or at a warehouse. See our fact sheet, *Getting Property Back After You Move Out*.



STATE OF MINNESOTA

DISTRICT COURT

JUDICIAL DISTRICT

COUNTY OF _____

DIVISION: _____

CASE TYPE: EVICTION

**ANSWER AND MOTION
FOR DISMISSAL OR
SUMMARY JUDGMENT**

Plaintiff (Landlord),

vs.

Defendant (Tenant).

CASE NO: _____

For my answer, I state the following defenses and reasons why I should not be evicted, and ask that the case be dismissed.

A GENERAL ANSWER

- 1 The facts in these paragraphs of the complaint are true: _____
- 2 The facts in these paragraphs of the complaint are not true _____
- 3 I do not know if the facts in these paragraphs are true

B SERVICE (Getting the Court Papers)

- 1 The summons and complaint (court papers) were not delivered or mailed at least 7 days before the court hearing.
- 2 The court papers were delivered on a legal holiday.
- 3 The landlord or one of the landlord's employees delivered the court papers to me.
- 4 The landlord gave the court papers to someone who does not live with me.
- 5 The landlord gave the papers to a child.
- 6 The landlord gave me the court papers by mailing them or posting them on my door, but did not do it correctly.
 - a The landlord could have found me in the county
 - b The landlord did not try personal service twice on different days, once between 6:00pm and 10:00pm
 - c The landlord mailed the court papers but did not post them, or posted them but did not mail them.
 - d The landlord posted the court papers before mailing them or filing the affidavit of mailing.

C PRECONDITIONS FOR RECOVERY OF THE PREMISES

- 1 I did not know the names of the owner and manager or their addresses, so they could not be served 30 days before filing this case.
- 2 The landlord is a business and not registered by its trade name with the Secretary of State. This entitles me to \$250.00 in costs or by set off.

D NONPAYMENT OF RENT

- 1 The landlord claims that I have not paid rent and that I violated the lease. I do not have to pay rent into court until the court decides the lease violation claim.
- 2 I do not owe all of the rent the landlord says I do.

- 3 I withheld my rent because the landlord has not made the following repairs:

I ask that the court reduce my rent, starting in _____ and reduce my future rent until repairs are completed.

- 4 The landlord did not follow the rules to raise my rent
- a I am a month-to-month tenant and should get a one-month notice before rent is due
 - b My lease requires _____ days notice of a rent increase.
- 5 The landlord's rent increase was retaliatory and was meant to get me back for:
- a Trying to enforce my rights under my lease or oral agreement; or the law on this date _____
 - b Reporting to a governmental authority about the landlord's violation of a health, safety, housing, or building code ordinance on this date: _____
- 6 The landlord is charging improper late fees or other fees.
- a The lease does not provide for the fees
 - b The fees are unrelated to the landlord's expenses OR are outrageous.
 - c The landlord accepted late payments without objection, so the requirement of prompt payment was waived.
 - d No late fee is due because I had proper reason to withhold my rent.
- 7 The landlord waived the rent claim or cannot claim the rent is unpaid because the landlord accepted a partial payment of rent before or after filing this case. We did not agree in writing that the payment would not waive this case.

E HOLDING OVER AFTER ALLEGED NOTICE TO VACATE

- 8 The landlord claims I am holding over after a notice to vacate. The landlord did not attach a copy of the notice to vacate the complaint. The landlord must give me a copy of the notice at the hearing
- 9 The landlord did not give me proper notice to vacate:
- a I am a month-to-month tenant and should get a one-month notice before rent is due
 - b My lease requires _____ days notice.
- 10 The landlord's notice for me to vacate was retaliatory and meant to get back at me for:
- a Trying to enforce my rights under my lease or oral agreement; or the law on this date _____
 - b Reporting to a governmental authority about the landlord's violation of a health, safety, housing, or building code ordinance on this date: _____
- 11 The landlord waived the notice to end my lease or enforce it by:
- a Accepting my rent after the move out date.
 - b Demanding rent in this case.

F BREACH OF LEASE

- 1 The landlord claims I have broken the lease. The landlord did not attach a copy of the lease to the complaint. The landlord has to give a copy of the lease to me at the hearing.
- 2 I did not commit an essential, an important, or a material violation of the lease.
- 3 The landlord did not give me a copy of the lease before filing this case. This case does not involve disturbing the peace, malicious destruction of property, or illegal drugs.
- 4 The lease is an oral agreement and only provides for payment of rent.
- 5 The landlord waived lease provisions by failing to enforce them.
- 6 The landlord waived the alleged breaches by accepting rent with the knowledge of the action claimed as a breach.

- 7 I have a disability that has caused the alleged breach. The landlord did not reasonably accommodate my disability.
- 8 The landlord/owner is penalizing me for calling the police or emergency assistance in response to family violence or any other conduct.

G OTHER: _____

H REQUEST FOR RELIEF

- 1 Deny my landlord's request to evict me and dismiss this case.
- 2 Reduce the rent that the landlord claims I owe and reduce future rent until repairs are made.
- 3 If there is a hearing order my landlord to provide the following discovery: allow me to review the landlord's file on me, give me a list of the landlord's witnesses and the subject of their testimony, and give me a copy of the landlord's exhibits.
- 4 The landlord is a business that did not register its trade name with the Secretary of State. Continue the hearing to allow the landlord to register its trade name, and award me \$250.00 in costs or by setoff.
- 5 If I owe rent:
 - a The landlord alleged nonpayment of rent and holding over after notice. Allow me to pay the rent and keep my home.
 - b The landlord alleged nonpayment of rent and material lease violations. If I did not commit a material lease violation, but owe rent, give me 7 days to pay.
 - c Give me _____ days to pay any rent I owe.
 - d I have paid or can pay the rent due at the hearing. If I owe additional costs, give me _____ days to pay them.
- 6 If I lose and must move, give me 7 days to move. I did not cause a nuisance, or seriously endanger other tenants, their property or the landlord's property. If I have to move in less than 7 days, it would be a substantial hardship to my family.
- 7 Do not award costs to the landlord.
- 8 Expunge or seal this court file. The landlord's case is sufficiently without basis in fact or law which may include lack of jurisdiction over the case. Expungement is clearly in the interests of justice and those interests are not outweighed by the public's interest in knowing about the record.
- 9 Other: _____

ACKNOWLEDGMENT

To the best of my knowledge, this Answer is not being filed for an improper reason, such as harassment or delay; my claims are supported by the law; and there is evidence for my claims. I know that I can be fined or sanctioned by the Court if this is not true.

Date _____ Signature: _____
 Defendant (Tenant)