

VIEWICTION

Your Trial Day



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Eviction Process Step 1 - THE Day of TRIAL

How Should I Dress?

You should wear clothes that you would wear to attend church (dress conservatively). If you have tattoos, you should try to cover them up.

What Should I Bring to my Trial?



- **Pictures** of the defects in your apartment;
- **Certified copies** of any health department reports;
- Copies of any **letters** that you had given to the landlord/manager [for example, letters you sent asking for repairs];
- **All your rent receipts or proof of payment** of rent [for example, money order stubs];
- **Witnesses.** A letter from a neighbor is not acceptable. The person must come to your trial to talk with the judge.

If I Do Not Have My Proof on the Day of My Trial, Can I Get a Continuance? NO!!! The judge will NOT delay your trial because you don't have all your documents or witnesses. You must bring any proof you have to your trial.

What Should I Do After I Go Inside the Courtroom?



1. Right away go to the person in uniform ("bailiff") and tell her/him your name then sit down anywhere in the courtroom.
2. The judge will call your name to see if you are in the courtroom. When you hear the judge call your name, stand up, state your first and last name and that you are the "tenant."
3. The judge will ask you if you have talked with the landlord about the case or tried to "settle" the case to avoid going to trial. If you have not talked with the landlord, the judge will tell you and the landlord to go out in the hallway to talk about making a deal ("settling the case").

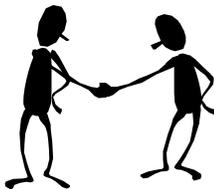


Should You Settle (make a deal)?

YOU HAVE TO SPEAK UP and ask for what you want. The landlord will not make offers. The worst that could happen is that he says no.

For example:

- If you did not pay rent because your apartment was in bad condition and the landlord did not fix the problems, you should try to make a deal with the landlord. Ask the landlord to agree not to make you pay the rent that you owe and ask for extra time to move. Or, ask the landlord to let you pay less rent until repairs are made, then pay what you usually pay.
- If you want to stay, you should tell the landlord or the landlord's attorney that you want to stay.
- If you want to move out, you should ask the landlord to agree that you do not have to pay the rent money you owe or the costs and attorney's fees. Sometimes landlords only want to get the apartment back and will agree to give up the rent you owe if you move out.



You can settle if you feel that what the landlord is offering you is just and fair.



- **If you do not agree** with what the landlord is offering, tell the landlord or his attorney that you want to go trial.
- **But remember**, the judge can only decide legal issues. If you do not have proof to support your defenses, you will probably lose your case. **For example**, if you do not have a rent receipt to prove that you have already paid the rent, telling the judge that you paid may not be enough because the judge has to decide who to believe - you or the landlord.

Eviction Process Step 1 (continued): The Trial Begins - What Happens?



1. The Plaintiff (landlord) Goes First



- The plaintiff (landlord) will call witnesses to prove why you should be evicted.
- After the plaintiff asks his/her witness questions, you also can ask the witness questions. **BUT**, this is **not** the time to tell your side of the story and it is **not** the time to tell the judge that the landlord is lying. You have to wait your turn to tell your side.
- **NOTE:** Even if the landlord or the landlord's witness says something to the judge that is not true, do not react. For example, do not start shaking your head, make any noises, make faces or roll your eyes. The judge **will** see you.

2. Then the Defendant (you, the tenant) Presents His or Her Case



- Tell your side of the story to the judge like you are telling the story. Get right to the point.
- Offer to show the judge all of the documents, photographs or other evidence you brought with you to court.
- You can ask your witnesses questions. Have the questions written down so you won't forget anything.
- After you have finished with your questions, the landlord or the landlord's attorney will ask your witnesses questions.

Eviction Process Step 1 (continued): The Trial Begins - Examples of How To Show the Judge Your Evidence

If you did not pay the rent because the landlord would not fix the problems in your apartment ...



A. You say: "I did not pay the rent because of the bad conditions and the landlord would not make repairs."

B. Then show the judge your pictures. Show the judge one picture at a time and tell the judge the following information about **each** picture:



1. **Who** took the picture and **when** was the picture taken.
2. **What** is the defect that is shown in the picture. Tell the judge exactly what it is. **For example**, say that when you turn on the water, the water leaks underneath the sink and that you have to catch the water in a bucket.
3. **How long has the defect existed.** Be specific. Do not just tell the judge that it's been a problem since you have moved in. Unless you have health reports or other proof from the date that you moved in the judge might not believe you.
4. **When did you tell the manager/landlord about the defect.** How often did you complain about the problem. If you tell the judge, "every day", the judge may not believe you. But maybe you had told the manager the last two months when you paid your rent;
5. **Did the landlord repair the defect.** For example, did the landlord/manager promise to repair the defect, but then never did.
6. **If you or your family or friends did not cause the problem, tell the judge.** For example, if there are cockroaches, you should tell the judge that you do not leave food out, you wash the dishes on a regular basis.
7. If it is true, you should tell the judge that you and your family did NOT refuse a worker access to your apartment to make repairs;
8. **Tell the judge how the defect affects you and your family.** Like when the sink leaks you cannot wash the dishes or that cockroaches will spread disease.



C. Then show the judge your other proof - the health reports and or any letter(s) that you had given to the manager about the necessary repairs.

D. You can have witnesses, but they can only tell the judge things that are related to why you are being evicted AND you must have questions to ask your witness - the judge will not ask the questions for



After you have finished with your questions, the landlord or the landlord's attorney can ask you or your witnesses questions.

ANOTHER EXAMPLE:

If the landlord is evicting you because he gave you a three day notice on the 3rd of the month, you tried to pay on the 8th of the month when you usually pay the rent.



A. You say: "I usually pay my rent on the 8th of the month and the landlord accepts it."



B. Show the judge all of your rent receipts that prove that you have always or usually paid your rent on the 8th of the month and not on the 1st of the month

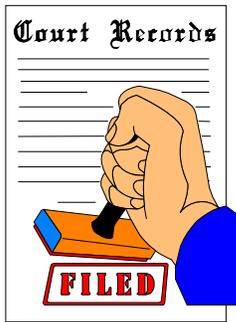
The judge may let you make a final statement at the end.

- In your statement you should tell the judge why you should win - again only legal issues. The judge cannot make a decision based on the fact that you have a family and have no place to go.



Step 2 - The Court's Decision

The judge will usually give his or her decision while you are still in court. If not, you will be notified by mail, usually within a few days after the trial.



The court's written decision will include four things:

1. A statement that will say you are allowed to stay (you win) or the plaintiff wins (you lose);
2. Whether or not you have to pay back rent;
3. Whether the side who wins can get money from the losing side for money filing or other court fees. (If you win and want the other side to pay your costs, you must file a form with the court within 10 days after trial);
4. Whether the losing side has to pay for the winning side's attorney's fees. (if there is a written agreement allowing such fees and the winning party hired an attorney).

Read the decision carefully.

If you do not understand what it says, ask someone to explain it to you.

If You Win At Trial - you do not have to move out but you will have to pay the rent you owe.

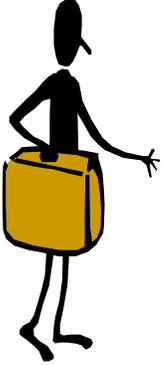


- Even if you don't have to move, sometimes the judge will order you to pay the back rent and that it be paid within 5 days. If it is not paid, the judgment will be reversed meaning your landlord wins and you will have to move out.
- If the judge does not make you pay the back rent, the landlord will probably serve you with a notice to pay rent or quit. If you do not pay the rent or move out, your landlord may start the eviction procedure over again.

**If You Lose At Trial - you have to move out -
See Step three: What Happens If You Lose Your Case**

Eviction Process Step 3: What Happens If You Lose Your Case

If the judge tells you in the courtroom that you lose:



- **Right away** ask the judge for more time to move if you need more than one week.

You say: "With all do respect, your honor, I request 30 days to move."

- Make sure you can explain why you need more time. You might have to pay for the extra time.
- If the judge does not give you more time, **YOU DO NOT HAVE TO MOVE OUT THAT SAME DAY AS YOUR TRIAL.**

Final Notice - Notice to Vacate

The **Notice to Vacate** is a paper that says you have five days to move out. The sheriff will tape a copy of the notice to your door that tells you when you have to move out before the sheriff comes to get you out.



You won't get a Notice until after you lose your case.

You lose when:

- (1) You lose at trial;
- (2) You do not show up at trial;
- (3) The court orders you to pay the landlord a certain amount of money so that you can stay and you don't pay; or
- (4) You do not file an answer to the Summons and Complaint.

If you wait until the last minute to move, the sheriff will not give you time to pack your things. He will give you a couple of minutes to get out. It does not matter if you have children or are disabled or sick. You will have to get out immediately.

Eviction Process Step 3 (continued):

How do I get my personal possessions back if I did not have time to get them out before the sheriff locks me out?

First, You must write a note to the manager (make sure you put the date on the note and keep a copy for yourself) and give it to the manager the day after the sheriff comes.



The note should say this...

(Date)

Dear Manager/Landlord:

I was not able to take all of my things with me before I had to move out. Please do not throw any of my things away. I will contact you soon to set a time to get my things.

Thank you,

(your name)



Second, You might have to pay the landlord a fee for storing your things until you can get them.



Third, If you do not give a note to the manager, the manager can claim that he did not know that you were coming back for your things and throw your things away.



INSTRUCTIONS ON HOW TO USE THE ATTACHED FORM TO PREPARE FOR YOUR TRIAL

DESCRIBE EACH CONDITION IN A SEPARATE BOX and then Write a Number on the Back of Each of the Photos.	WHO TOOK THE PHOTO AND WHEN	APPROXIMATE DATES WHEN YOU COMPLAINED AND TO WHOM YOU COMPLAINED	HOW DOES THE BAD CONDITION AFFECT YOU
1. Falling Plaster [Write on the back of the photo that shows falling plaster, #1]	ME, 9/20/01	The Last Three Months When I Paid the Rent, The Resident Manager	I am afraid that Plaster will fall on My Children
2. Infestation of Cockroaches	ME, 9/20/01	The Last Three Months When I Paid the Rent, The Resident Manager	I am Afraid That the Cockroaches Will Get/Have Gotten into the Children's ears making them sick. Roaches have Fallen in the Food, etc.
3. Etc.			

If You Have Not Taken Your Photographs, TAKE THEM NOW.



Note: Attached is the actual form that you will fill out and take to court to remind **YOU** what to say to the judge. **YOU DO NOT GIVE THE ATTACHED FORM TO THE JUDGE. IT IS A FORM THAT YOU CAN LOOK AT WHEN TELLING THE JUDGE ABOUT THE BAD CONDITIONS SO YOU DO NOT FORGET ANYTHING.**



WHAT CAN I SAY WHEN I AM SHOWING THE JUDGE MY PHOTOS OF THE BAD CONDITIONS ?

DESCRIBE EACH CONDITION IN A SEPARATE BOX and then Write a Number on the Back of Each of the Photos.	WHO TOOK THE PHOTO AND WHEN	APPROXIMATE DATES WHEN YOU COMPLAINED AND TO WHOM YOU COMPLAINED	HOW DOES THE BAD CONDITION AFFECT YOU
1.			
2.			
3.			
4.			
5.			

YOU COULD ALSO TELL THE COURT:

- 4 If you and your family/friends did not cause the bad conditions AND
- 4 If you did not refuse the manager/workers entrance to make the repairs.

If You Have Not Taken Your Photographs, TAKE THEM NOW.



1) Write a letter of the alphabet below and say to the judge:

Your honor, my photograph marked as _____ is a photo of:

2) Write **BELOW** who took **THIS** picture and when was this picture taken.

Who took **THIS** Photo:

What date was **THIS** photo taken:

_____20__

3) Write **BELOW** when you complained to the manager or owner about the bad condition in **THIS** photo:

Date:

1. _____20__
2. _____20__
3. _____20__
4. _____20__

4) Write how the bad condition shown in **THIS** photograph affects you and your family:

1. _____
2. _____
3. _____
4. _____
5. _____

STEPS WHEN TELLING YOUR SIDE OF THE STORY TO THE JUDGE:

1. The clerk or judge may ask you to spell your name.

2. Immediately afterward, ask the Judge:

Your Honor, may I begin?

3. Then start:

"Your Honor, I believe that I have at least one good defense.

4. My defense or defenses are:

A. _____

B. _____

C. _____

D. _____

NOW THAT YOU HAVE TOLD THE JUDGE WHAT YOUR DEFENSES ARE IN 1 OR 2 WORDS -then repeat your **first defense** to the judge.

Your Honor:

- I have photos to show my bad conditions
[SHOW YOUR PHOTOS, ONE BY ONE]

- I have rent receipts or money order stubs or checks to show that I do not owe as much as the landlord says that I owe **[SHOW YOUR RENT RECEIPTS OR PROOF THAT YOU HAVE PAID THE RENT THE LANDLORD SAID THAT YOU DID NOT PAY].**

- I tried or did pay the rent within the 3 days. This is my story. **[TELL THE JUDGE A LOT OF DETAILS, WHAT TIME DID YOU TRY TO PAY THE RENT, WHERE WERE YOU WHEN YOU TRIED TO PAY THE RENT, AND AS MANY OTHER DETAILS AS YOU CAN REMEMBER]**

- The 3 Day notice does not say the name and address and telephone number and hours to pay the rent as required by law.

My **second defense** is:

- I have photos to show my bad conditions
[SHOW YOUR PHOTOS, ONE BY ONE]

- I have rent receipts or money order stubs or checks to show that I do not owe as much as the landlord says that I owe **[SHOW YOUR RENT RECEIPTS OR PROOF THAT YOU HAVE PAID THE RENT THE LANDLORD SAID THAT YOU DID NOT PAY]**.

- I tried or did pay the rent within the 3 days. This is my story. **[TELL THE JUDGE A LOT OF DETAILS, WHAT TIME DID YOU TRY TO PAY THE RENT, WHERE WERE YOU WHEN YOU TRIED TO PAY THE RENT, AND AS MANY OTHER DETAILS AS YOU CAN REMEMBER]**

- The 3 Day notice does not say the name and address and telephone number and hours to pay the rent as required by law.

My third defense is:

- I have photos to show my bad conditions
[SHOW YOUR PHOTOS, ONE BY ONE]

- I have rent receipts or money order stubs or checks to show that I do not owe as much as the landlord says that I owe **[SHOW YOUR RENT RECEIPTS OR PROOF THAT YOU HAVE PAID THE RENT THE LANDLORD SAID THAT YOU DID NOT PAY].**

- I tried or did pay the rent within the 3 days. This is my story. **[TELL THE JUDGE A LOT OF DETAILS, WHAT TIME DID YOU TRY TO PAY THE RENT, WHERE WERE YOU WHEN YOU TRIED TO PAY THE RENT, AND AS MANY OTHER DETAILS AS YOU CAN REMEMBER]**

- The 3 Day notice does not say the name and address and telephone number and hours to pay the rent as required by law.

If you believe that there is another reason why the landlord is trying to evict you, then you can tell the judge:

Your Honor:

5. The **real reason** why the landlord IS TRYING TO EVICT ME:

Because I complained about conditions.
Tell the Judge when the most recent time that you complained about the conditions (needs to be within at least the last 4-6 months.)

Because I pay less rent than a new tenant would pay for my apartment - TELL THE JUDGE HOW MUCH YOU PAY AND HOW MUCH RENT THAT YOU BELIEVE A NEW TENANT WOULD HAVE TO PAY FOR YOUR APARTMENT—AND WHERE YOU GOT THAT INFORMATION.

Other reason:
