

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 Part V of the Rules of Civil Procedure.

PLAINTIFF OR AGENT: The landlord or representative of the owner, the home owner.

DEFENDANT OR TENANT: The person occupying the rental property.

COURT COSTS: Filing and service fee plus additional service fee per Tenant on lease.

VENUE: An eviction suit must be filed in the County and Precinct where the property is located. **NO EXCEPTIONS.** If not sure of Precinct you may call the Election Dept. at 903-683-1400.

GENERAL:

- A. The law requires that, prior to filing the case, the landlord must give the tenant at least a 3 day written notice to vacate, unless otherwise stated in the lease. This notice must be hand delivered 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.)**
- B. 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.
- C. 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 AND PROCESS OF EVICTION SUIT:

The responsibility for filling out your petition and civil case information sheet rests with you. Court Clerks can only assist with procedural questions. Court Clerks CANNOT give Legal Advice.

- 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 a petition is filed, 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 will be set at the time of filing. Hearing dates are between 10 and 21 days from the date of filing.
- 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. (For Courts closing before 5pm, an extra day is given.)
- B. If the Defendant does not show for Court, a default judgment will be issued against them. The Defendant has 5 days to vacate or file an Appeal Bond. (For Courts closing before 5pm, an extra day is given.)
- 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. (For Courts closing before 5pm, an extra day is given.)
- D. When a Writ of Possession is issued the Constable will serve a 24 hour notice to the Defendant(s) to vacate. 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.

**** This information is provided to ALL parties as a courtesy. If you are seeking LEGAL ADVICE you will want to contact an attorney as our offices CANNOT provide legal advice.****