



Tenant Guide to Eviction Cases for Non-Payment of Rent

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Please Note

This packet gives you information about how you can defend yourself if your landlord is suing to evict you in DC Superior Court for not paying rent.

If you have a subsidy, or receive help paying your rent each month, this information may not apply to your case.

This packet does not contain legal advice.

This guide contains legal information. Legal information is background information about your rights. Legal advice is advice from a lawyer about what to do in your own specific situation. Legal Aid is not your lawyer in your eviction matter. To find out about help that may be available, please contact the Landlord Tenant Legal Assistance Network at 202-780-2575.

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Section 1: Introduction

What is in This Packet?

This packet tells you what to do when you have been sued by your landlord in Landlord Tenant Court **for not paying rent**.

This packet does not contain information about other types of evictions or about housing subsidies and evictions. If you're facing eviction for any reason, free legal advice and representation is available. Call 202-780-2575.

What is Landlord Tenant Court?

Landlord Tenant Court allows landlords to sue their tenants for eviction. It is part of the DC Superior Court.

- Location: Court Building B, 510 4th Street NW
- Hours: Monday - Friday - 8:30AM to 5:00PM
- Landlord Tenant Clerk: 202-879-4879

What Happens After You Have Been Sued?

You do not have to move just because your landlord has sued you!

- Evictions outside of court are illegal in DC. Your landlord can only evict you through the court process. That means a judge must give your landlord permission to evict you.
- It is illegal for a landlord to change the locks without a court order. It is also illegal for a landlord to do other things to force a tenant to leave, like cut off a tenant's utilities (water, gas, or electric) or remove a tenant's possessions.
- If your landlord takes any illegal steps to force you to leave, you can **call the Landlord Tenant Legal Assistance Network at 202-780-2575** for further assistance.

The eviction process is lengthy and has many steps.

1. The **Initial Hearing** will take place at least 14 days after the case is filed [[see p.10](#)].
2. A **Bell Hearing** could take place within a few weeks after the Initial Hearing [[see p.11](#)].
3. A **Mediation** may be scheduled at the Initial Hearing [[see p. 13](#)].
4. A **Bench Trial** may be scheduled at the Initial Hearing [[see p. 14](#)].
5. **Eviction Date:** If you lose at trial, your landlord must provide you with at least 21 days' notice of the date of your eviction.
 - o You must receive three types of notice of your eviction: phone call/text message or email; mail; and posting on your door.
 - o You have 7 days to remove your personal property after you've been evicted. These 7 days exclude Sundays and federal holidays.
 - o You can arrange a time with your landlord to pick up your items between 8:00AM – 6:00PM over a period of no more than 2 days.
 - o Personal property left in the rental unit will be taken out and thrown away after 7 days.

What are My Options if I'm Facing Eviction?

You have the right to pay the balance and stay in your unit.

Your case will be dismissed if you pay all your past due rent. Your past due rent includes the amount of rent stated in the complaint as well as all the rent that has come due since the complaint was filed.

You can try to negotiate a payment plan with your landlord.

A payment plan requires that you pay your current monthly rent in addition to a percentage of your past due rent each month. For example, a payment plan might require you to pay your current monthly rent on the first of each month and an additional \$200 dollars on the 15th of each month. If you fail to make a payment on time, there can be negative consequences, including eviction.

You can try to negotiate a move-out agreement with your landlord.

If moving is an option for you, then you can try negotiating a move-out settlement agreement. You can agree to move out of your apartment by a certain date in exchange for the landlord dismissing your case. You can also try to ask the landlord for other agreements such as waiving your remaining rent and/or other charges.

You can apply for rental assistance.

- **Emergency Rental Assistance Program (ERAP):** ERAP assists low-income tenants with past due rent, security deposits, and first month's rent. For more information on how and when to apply, please visit: <https://erap.dhs.dc.gov/>
 - If your ERAP application is pending, then your case may be paused until a decision on your ERAP application is made. If your ERAP application is approved, then your case may continue to be paused until the payment has been received by your landlord.
- **Virginia Williams Family Resources Center:** Virginia Williams is for families with children seeking assistance with their housing needs. Intakes should be done in person with all adult family members present.
 - The Virginia Williams central intake office is at 920 Rhode Island Ave NE. It is open Monday – Thursday from 8:30AM to 4:00PM and Friday from 8:30AM to 12:00PM.

You can fight!

You can choose to fight your case in court.

Section 2: Preparing a Case

What Will it Cost to Litigate My Case?

If you do not get a fee waiver, you may need to pay to file documents with the court. The cost will depend on what you are trying to file.

Fee Waiver Application: If you file a fee waiver application and the court approves it, you will not have to pay any court costs or fees. A waiver form is included at the end of this packet.

Protective Order: You may be expected to pay your monthly rent to the court while your case is going [[see p. 11](#)].

If I Choose to Go to Court, How Can I Defend Myself?

To fight your case, you will need to present a legal defense. Inability to pay **is not** a legal defense. The following are examples of legal defenses that you may have:

Housing code violations

Your landlord is supposed to keep your unit in decent condition. If they haven't done that, they may have violated the law. Housing condition violations can reduce the amount of rent that you owe. To prove these violations, you need to show:

- What the problem is;
- How long the problem has been going on;
- That you told your landlord about the problem(s), or that your landlord should have known about the problem(s); and
- The effect the condition had on you and your family.

You will need to show the Judge each of these things. You could bring:

- Pictures or videos of the conditions;
- Testimony from friends, neighbors, or other people who have seen the conditions;
- Text messages or emails with your landlord about the conditions; and
- Any inspection records.

Improper service

Your landlord is required to serve you with a notice of past due rent before they take you to court. The notice of past due rent must be sent to you in two ways: 1) by certified mail and 2) hand delivery to you at your unit or posted on your door.

Once your landlord sues you, they are required to serve you with a copy of the Complaint they filed with the Court. The Complaint must be posted to your door, directly handed to you, or directly handed to someone else in your unit who is over the age of 16.

If you weren't properly given these documents, it may be a defense to your case.

You owed less than \$600 when the Complaint was filed

Your landlord is only allowed to sue you if you owe \$600 or more in past due rent. You have a defense if you owed less than \$600 in past due rent when the Complaint was filed.

Illegal rent increase

Your landlord must provide written notice at least 60 days before any increase takes effect. If your landlord did not provide written notice in time, the rent increase is illegal.

Retaliation

It is illegal for your landlord to retaliate against you for taking any actions you have a legal right to take as a tenant, including:

- Asking them to fix problems in your apartment;
- Contacting the DC government about housing code violations;
- Withholding your rent after you first notified your landlord about housing code violations;
- Organizing or being a member of a tenant organization;
- Enforcing your rights under your lease; or
- Suing your landlord in another case.

How Do I Respond to an Eviction Suit?

Answer

When fighting your case, it is helpful to file a written answer telling the Court your defenses before your initial hearing. A blank answer is included at the end of this packet. In order to file with the Court, you must take it to the Court building and give it to the clerks.

Counterclaim

When filing your answer, you can file a counterclaim against your landlord. A counterclaim means that you would be suing your landlord in the same case. You can file a counterclaim to ask them to make repairs to your unit, or you can file a counterclaim for money.

If you think you have overpaid your rent in the past because of the problems in your apartment, a counterclaim allows you to ask the landlord to pay back some of the money you overpaid for the last three years.

Filing a counterclaim for money can be risky. You may want to talk to a lawyer before doing so.

Recoupment

When filing your answer, you have the option of asking for a Recoupment. If you have overpaid your rent in the past due to housing code violations, a Recoupment allows you to reduce the amount of rent you currently owe based on your previous overpayments.

If you have housing code violations, then you should request a Recoupment.

Set-Off

If you had to spend any of your own money repairing housing code violations in your unit, you may have a claim for a Set-Off. You will need to present evidence of how much money you spent, such as itemized receipts.

Section 3: Hearings

What Happens at the Initial Hearing?

The Initial Hearing is the first time to go before the Judge. The Court should send you a notice in the mail telling you when you must appear for court.

If you cannot attend the Initial Hearing, you may call the Landlord-Tenant Clerk's Office to ask that the hearing be delayed: (202) 879-4879.

The Judge will want to know how you plan to move forward with the case. Refer to [pages 7-8](#) to review your legal options.

Preparing for Your Initial Hearing

You should bring some evidence with you to your initial hearing if you have it. The type of evidence you should bring includes:

- Evidence about what your monthly rent is if you disagree with your landlord about it.
- Evidence of any repair needs in your home if you have it, including pictures of any problems in your home and proof (texts, emails) that you told your landlord about those problems.

What to Expect at an Initial Hearing

You can be at the hearing either in person or on your computer/phone. At the time of the hearing, there will be other cases too. You will need to wait until the judge calls for your case. Have your case number with you.

- When your case is called, walk to the front of the courtroom or come off mute on your computer/phone.
- You and your landlord (or your landlord's attorney) will state your names. The Judge will then ask if you consent to a Magistrate Judge. [See page 11](#) for information on Magistrate Judges.
- Your landlord or its attorney will tell the judge how much they say you owe in missed rent. You have the right to get an updated ledger.
- The Judge will then ask you how you would like the case to go forward.
- If you have defenses and would like to fight your case through the court process, you can request a Trial.
 - You have the right to a trial by a jury. Please speak with a lawyer for advice if you are interested in asking for a Jury Trial.

- The Judge will schedule Mediation as the next date in the case.
- Your landlord may ask the Judge to require you to pay your monthly rent to the Court (these are called “Protective Order” payments). **If they ask, the Judge will order you to pay your monthly rent to the Court.**
 - If you disagree with the amount of monthly rent that is stated in the Complaint, you should bring proof of your monthly rent with you.
 - If you need repairs in your home, you can argue that you should pay less than your current monthly rent. **See page XX** for types of evidence you should bring with you to show the judge. Always remember that your testimony is evidence too.
 - The Judge might lower the monthly rent you will be required to pay the Court. Or, the Judge might require you to pay the full monthly rent.
 - If you disagree with the amount the Judge requires you to pay to the Court, you should:
 - Tell the Judge you want a hearing on what amount you should be required to pay. This is called a Bell Hearing. [Refer to page 11](#) for more information on Protective Orders and Bell Hearings.
 - Ask the Judge what will happen if you don’t pay before the next hearing date.
- Once these hearings have been scheduled, the Judge will ask you if you have anything else to say before the hearing ends. **This hearing is not the time to go into details about your case. You will be able to do this at later hearings.*

Consenting to a Magistrate Judge

A type of judge called a Magistrate Judge will be present at your Initial Hearing. At the beginning of the hearing, the Judge will ask you if you consent to have a Magistrate Judge hear your case.

The alternative is to have your case heard by an Associate Judge, whose role in the court system is slightly different. Depending on your case, there may be a strategic reason to request an Associate Judge; however, this is rare and will likely delay your hearing. In most cases, the tenant consents to a Magistrate Judge at the Initial Hearing. You should speak with an attorney before deciding against a Magistrate Judge.

What is a Protective Order?

While your case is making its way through the court process, your landlord can ask the Court to make you pay your monthly rent to the Court. The Court will hold this money until the case is over.

If there are problems in your apartment, or you can't afford the rent, you can argue that you should pay less than your current monthly rent. The most common reason for seeking to lower your Protective Order payment amount is housing code violations.

What is a Bell Hearing?

If you disagree with the amount of rent the Judge decides you need to pay to the Court at the Initial Hearing, you can tell the Judge you want a hearing on what amount you should be required to pay. This is called a Bell Hearing.

At the Bell Hearing, you can explain to the Judge that you should not have to pay as much rent because of the problems in your home. You should also bring pictures of the current problems in your home and any evidence you have that you told your landlord about these conditions (such as texts or emails).

The Judge will decide how much monthly rent you will be required to pay while your case is going on. The Judge cannot order a payment amount above your current rent.

The Court will mail you information on how to make the monthly payments.

What Happens if I Miss a Protective Order Payment?

If you miss a Protective Order Payment, the Judge can order penalties or sanctions against you. Examples of the penalties Judges often order are taking away your right to a Jury Trial, taking away any counterclaims you have against your landlord, or taking away defenses and entering judgment against you. This means you could lose your case automatically.

You can typically avoid penalties or sanctions if you catch up with your payments before the sanctions hearing.

Section 4: Mediation and Settlement

What is Mediation?

Mediation is meant to help people agree to settle the case and avoid trial. Your mediation may be virtual or in person. If you aren't sure, you can call the Landlord Tenant Clerk's Office at 202-879-4879.

What Happens at Mediation?

On the day of your mediation, you will either go in person or join the mediation online. Everything said in mediation is confidential.

The conversation will be led by a mediator. The mediator is not a judge and will not make decisions about your case. The mediator is not supposed to take sides. They are supposed to help both sides come to an agreement. If you are able to agree, the mediator can help you write down the agreement.

Your landlord or someone from the management office will be there. Your landlord will probably have a lawyer with them.

You will have a chance to explain your side of the case. You should raise any defenses you have. ([Refer to page 7](#) for more info on defenses). If you want repairs to your apartment, be sure to talk about the problems in your apartment. You do not need to bring evidence, but you can bring pictures or reports showing any issues.

What Would a Settlement Agreement Include?

A settlement agreement could include many different things, depending on what you and your landlord want.

- You could agree to move out in exchange for the landlord forgiving some or all of the rent they say you owe.
- You could agree to a payment plan if your landlord makes some repairs.
- Your landlord could forgive some of the rent because of the issues in your apartment.

Do I Have to Agree to Settle the Case?

No! If you don't settle at mediation, you will still have a trial.

What Happens if We Settle the Case, But One of Us Breaks the Agreement?

If you agree to a payment plan but don't make the payments, the landlord may be able to go back to court and ask for a judgment against you. If that happens, your landlord may be able to evict you.

If your landlord agrees to make repairs, but doesn't make them, you may be able to go back to the Court and ask the Court to enforce the Settlement Agreement.

Section 5: Trial

If My Case Goes to Trial, How Should I Prepare?

To prepare for your trial, you should organize your evidence and help your witnesses practice explaining what they know about your defenses.

What Evidence Should I Bring to Trial?

- **Proof of rent payments:**
 - Rent Receipts
 - Money Orders
 - Cashier's Checks
 - Bank Statements
- **Proof of problems with the conditions in your home:**
 - Pictures and videos of the problems in your home
 - Be prepared to explain when these problems started
 - Be prepared to explain how these problems have affected you and your family's lives
- **Notice you gave your landlord of the problems in your home:**
 - Emails, texts, and letters you sent your landlord about the problems in your home
 - Print-outs from online portals your landlord uses to track repair requests
- **Evidence of any other defenses you believe apply to your case.**
- **Prepared witnesses.**
 - Your witnesses can be whoever knows about the important facts in your case. Friends and neighbors who have seen the problems in your home would be especially helpful.
- **Be ready to explain how your evidence and witnesses are relevant to your defenses.**
- **Be honest.**

What Happens If I Lose?

An eviction date will be scheduled.

If you lose at trial, your landlord must provide you with at least 21 days' notice of the date of your eviction. You must receive three types of notice of your eviction:

1. Phone call, text message, or email;
2. Mail; and
3. Posted on your door

You have 7 days to remove your personal property after you've been evicted.

- You have 7 days excluding Sundays and federal holidays. You can arrange a time with your landlord to pick up your items between 8:00AM and 6:00PM over a period of no more than 2 days.
- Personal property left in the rental unit will be considered abandoned after 7 days and will be thrown out.

Will Future Landlords Be Able to See Records of My Case?

Eventually, the Court will hide the records of your case so that future landlords cannot see them. How quickly that happens will depend on how your case ends.

The records of your case will automatically be hidden 30 days after your case ends in the following situations. You will not have to take any action to ask the Court to hide the records of your case.

- The judge dismisses your case.
- You win at trial.
- Most of the time, if you reach a settlement agreement with your landlord, the Court will hide the records of your case within 30 days of your case ending. However, if you agree that the landlord can have "a judgment" against you, then it may take longer for the Court to hide the records of your case.

The records of your case will automatically be hidden 3 years after your case ends in the following situations. You will not have to take any action to ask the court to hide the records of your case.

- You sign a "Consent Judgment," agreeing that your landlord can evict you, even if the landlord promises not to move forward on evicting you.

- Your landlord wins at trial.
- If you tell the judge that you do not have any defenses, then they may decide the landlord can have “a judgment” against you.

If you want the records of your case hidden more quickly, you can ask the Court to hide the records sooner. You will have to file a motion with the Court. This is called a “Motion to Seal.” Here are some arguments you can make that the records of your case should be hidden.

- You owed \$600 or less when your landlord sued you.
- Your landlord sued you as retaliation.
- There were problems with the conditions of your home that your landlord failed to fix quickly enough.
- Your landlord tried to evict you because you are a survivor of domestic violence.
- You and your landlord reached a settlement agreement which allowed you to stay in your home.

Additional Resources

Landlord Tenant Court

- Location: Court Building B, 510 4th Street NW
- Hours: Monday - Friday - 8:30AM to 5:00PM
- Landlord Tenant Clerk: (202) 879-4879

Landlord Tenant Legal Assistance Network: To speak to a lawyer about your specific housing case, please call 202-780-2575.

Emergency Rental Assistance Program (ERAP): Residents seeking emergency rental assistance can go to <https://erap.dhs.dc.gov/> to find out more.

- **Documents required for your application include:**
 - Proof of residency: Lease or a letter from your landlord
 - Government-issued photo ID for all adults in the household (like a driver's license or passport)
 - Proof of Income for the last 30 days: paystubs, SSI, SSDI, unemployment benefits, retirement income, child support, TANF
 - If you do not have income, you must sign a zero-income statement
 - Proof of resources or benefits: Bank statement from the last 30 days for all accounts
- **Proof of Emergency**
 - Temporary job loss (termination letter, unemployment statement)
 - Lost or reduced employment (termination letter, change in pay documentation)
 - Medical emergency resulting in unforeseen medical expenses for self or as a caregiver (medical documentation)
 - Increased expenses (car repair expense that prevented travel to employment/job)
 - Reduced income due to change in household composition (death in family, updated lease with household change)

Virginia Williams Family Resource Center: Virginia Williams provides services and resources to stabilize families at risk of homelessness. Virginia Williams only assists DC residents with children.

- To conduct an intake with Virginia Williams, visit Virginia Williams in-person with your family. Virginia Williams is located at 920 Rhode Island Avenue NE
- You can visit Virginia Williams Monday – Thursday from 8:30AM to 4:00PM and Friday from 8:30AM to 12:00PM.
 - All adult family members must be present to complete intakes.
 - Each adult family member must bring an ID and Proof of DC Residency if it's not already demonstrated on the ID.
 - Birth Certificates must be provided for all family members under 18.
- Families may access emergency shelter by calling the Virginia Williams shelter hotline at (202) 399-7093
 - The shelter hotline is open every day from 8:00AM – 12:00PM. From November 1 to April 15, the shelter hotline is open 24 hours a day.
 - Make sure you bring identification, birth certificates for each child, proof of income, and proof of District residency if not already established through identification.