

EVICTON INFORMATION PACKET
(Landlord/Plaintiff & Tenant/Defendant)

This information is provided for general informational purposes only and is not intended as legal advice.

Please follow the information provided below when making an eviction lawsuit:

1. Threshold Legal Basis:

Eviction actions arise under Texas Property Code Chapter 24 – “*Forcible Entry and Detainer*,” excluding Chapter 24B (“*Removal of Unauthorized Occupants*”), Chapter 91 – “*Provisions Generally Applicable to Landlords and Tenants*,” and Chapter 92 – “*Residential Tenancies*,” and Chapter 93 – “*Commercial Tenancies (If Applicable)*.”

- A landlord-tenant relationship exists between the parties based on a written lease, oral lease, tenancy at will, or tenancy at sufferance.
- The Defendant(s) originally entered the property with the consent of the Landlord/Plaintiff.
- The Defendant has failed to vacate the property after the termination of the tenancy.
- The demand for possession must be made in writing by a person entitled to possession of the property and must comply with the requirements for notice to vacate under Section 24.005.
- Grounds for eviction may include the following, but not limited to:
 - Nonpayment of rent
 - Holding over after lease expiration
 - Violation of lease terms
 - Termination of tenancy at will
 - Termination of tenancy at sufferance.

2. Proper Parties to an Eviction Suit

- *Plaintiff*: Property Owner / Landlord (Individual, Corporation, LLC, or other legal entities).
- *Defendant(s)*: Tenant / Former Tenant / Occupant holding possession under the Tenant.

3. Representation in Justice Court

- In eviction suits in Justice Court for nonpayment of rent or holding over beyond a rental term, the parties may represent themselves, or be represented by their authorized agents, who need not be attorneys, or an attorney.

- In case of a corporation, the entity may be represented by its property manager or other authorized agents, who could be an employee, owner, officer, or partner of the entity who is not an attorney, or an attorney.

4. Is there a proper claim being made for an Eviction?

- An eviction is appropriate when:
 - The Defendant(s) entered the property with the Landlord's consent (written or oral lease);
 - The tenancy has been lawfully terminated; and/or violation(s) of other written lease term(s); and
 - The Defendant(s) remains in possession after receiving proper notice to vacate the property.

5. Proper Delivery of Notice to Vacate (Tex. Prop. Code Sec. 24.005)

- Landlord(s) must decide whether to use a Written Notice to Vacate, or a Notice to Pay Rent or Vacate.
- A **Notice to Pay Rent or Vacate** may be used under any non-payment of lease rent violation but **must** be used if the tenant has **not previously** been late or delinquent in paying rent.
- A **Notice to Vacate** must be used if the eviction involves suit for items not included as "Rent" in your rental agreement (like utilities, unauthorized occupant or pet, damage to property, etc.) **or** may be used if the resident has been **previously** late or delinquent in paying rent to the landlord. (Essentially, it is a Landlord's discretion to choose either Notice to Vacate, or Notice to Pay Rent or Vacate when a Tenant has been previously delinquent in paying rent).
- Refer to the written lease for how the term "Rent" is defined, which could include the above-mentioned items, etc.
- A three-day written notice is required unless the lease specifies a different time period. If the notice does not mention a specific time period, then the Court shall apply a default three-day time period.
- Under the Texas Property Code, the following methods of delivery are appropriate for either **Written Notice to Vacate** or **Written Notice to Pay Rent or Vacate**:
 - Mail (first class, registered, certified, or delivery service with tracking);
 - Hand Delivery to any tenant 16 years of age occupying the property;
 - Delivery to the inside of premises, in a conspicuous place;
 - Electronic Communication (if the parties previously agreed in writing); or
 - Proof of actual delivery.
- (If the Tenant was previously late or delinquent in paying the rent, the landlord may choose either of the Written Notices listed above. If the Tenant was not

previously late or delinquent in paying rent, then the Landlord must deliver the Written Notice to Pay or Vacate.)

6. Filing the Eviction Lawsuit:

- Defendant(s) remained in possession after the deadline stated on the Notice to Vacate.
- The petition is filed in the proper Justice Court precinct and county in which the property is located by paying the appropriate filing and service fees.
- The petition may request:
 - Possession of the property;
 - Rent;
 - Court costs; and/or
 - Attorney's fees (if applicable under law).

7. Evidence Submission

- All parties must submit relevant documents, including:
 - Lease agreements
 - Notice to Vacate
 - Payment Records
 - Property ownership or management authorization
 - Photographs, etc.
- Please review the local Justice Court rules regarding deadlines and methods pertaining to evidence submission to this Court and opposing party.

8. Court Action & Timing:

- The Court will hear the case at Trial within 10 to 21 days from initial filing. (Refer to the Court date provided in your citation).

9. Relief Requested

- Plaintiff may request:
 - Judgment for unpaid rent;
 - Court costs;
 - Attorney fees; and/or
 - Immediate possession of the property (if pled).

10. Appeal

- After the Justice Court issues a judgment, the appeal deadline is within 5 days of the judgment.
- This 5-day period shall be extended by weekends and other holidays.

11. Payment into Court Registry

- Tenant(s) in all residential evictions must pay rent into the Court's Registry within 5 days of the appeal and include the rent amount as due during the appeal process.
- If the tenant fails to make the appropriate payment timely, a writ can be requested from either the Justice Court or County Court, as applicable and will be issued immediately.
- Tenant(s) appealing in a commercial lease suit must pay the appropriate cash, bond, or statement of inability to pay with the Court within five (5) days of the judgment, and pay rent into the appropriate court registry as it becomes due.

12. Writ of Possession

- If no appeal is made, then the writ of possession is available 6 days after the Court renders a judgment for possession, unless the Landlord files a request for immediate possession with the Court, either with their initial eviction petition or before judgment.
- If the Plaintiff files for an immediate possession bond, then the writ of possession is available seven (7) days after service of notice of possession bond on the Defendant.
- The court shall notify a tenant in writing of a default judgment for possession by sending a copy of the judgment to the premises by first class mail not later than 48 hours after the entry of the judgment.

13. Recovery of Rent

- Justice Court or County Court shall disburse the rent paid into the Court Registry on request at any time during or after the pendency of the appeal.
- In case of any questions about rent recovery, please contact the Court.