

# **Eviction Part 1: Occupancy**

## **How do I know if the landlord filed an eviction case against me?**

If your landlord filed an eviction case against you, you will be served with a Summons and Complaint. The Summons will state the amount of time you have to respond to the eviction. You **MUST** read the Summons to know how much time you have to file a response to the Complaint. The Complaint lists the reason why the landlord wants to evict you.

## **What should I do if I have already been served with a Summons and Complaint?**

If you are served with a Summons and Complaint for eviction, there is very little time to respond—usually only 3 business days. If you do not respond, the court will issue a judgment against you. This means the court will issue an order to evict you and order you to pay money to the landlord. You should always file an Answer, even if you do not believe you have a defense.

Remember, you usually have only 3 business days to file an Answer. This time starts the day after you were served with the Summons. You must file your Answer with the court by 5:00 p.m. on the third business day. For more information on filing an answer, see [our flyer at the bottom of this webpage](#).

## **What happens after I file an answer?**

The landlord must request a hearing before a judge unless you agreed to everything the landlord said in the Complaint. The hearing will likely be held within 10 business days of filing your answer. You must go to the hearing. If you do not go to the hearing, you may be evicted the same day as the hearing without any further notice! You will get notice of the hearing in the mail or email.

If you agree to everything in the complaint, the landlord will ask the judge for an order to evict you.

## How do I prepare for the hearing?

The landlord should provide you with a copy of the evidence they plan to use at the hearing when they request the occupancy hearing.

Gather all of your evidence and witness information. Get a copy of your evidence and witness list to your landlord/landlord attorney **two days before the hearing**. Make sure to get to court on time. Your case may be the last one called, or it may be the first one. If you are even a few minutes late, the judge may have already called your case and made a decision.

## What happens in court?

Make sure to get to court on time or log in to the online video link from Webex, if you received one. Your case may be the last one called, or it may be the first one. If you are even a few minutes late, the judge may have already called your case and made a decision. When your case is called, let the judge know you are there and go to the front of the courtroom. The judge will then determine whether or not you should be evicted. When the judge asks for your side of the story, briefly tell the judge the facts of your case and any defenses you want to raise. Be polite and calm while you are talking. Do not talk while the judge or someone else is talking. This can be hard when you are nervous or angry, but it helps your case. If you have any evidence, make sure to show it to the judge.

If you are being evicted because your lease is up or because your landlord is claiming you violated the lease, be sure to raise any defenses you have. If you did not receive a proper eviction notice or you are not violating the lease, explain this to the judge. The judge will hear from the landlord before making a decision. If the judge agrees with you, the case might be dismissed and you will not need to move. If the judge agrees with the landlord, he will issue an Order of Restitution. This is the order that evicts you and gives the landlord possession of the rental unit.

If you are being evicted for not paying rent, the judge will see if you owe something to the landlord (rent, late fees, deposit, damages, etc.). Be sure to tell the judge if

you have any defenses. Below are some examples of defenses you can raise:

- You never got a 3-day written notice.
- You moved out before the time on the notice was up.
- You paid the rent already (bring witnesses or receipts to court).
- The Housing Authority is holding back the rent because the landlord won't make repairs. Bring a copy of the notices from your caseworker.
- You offered the rent during the three day period or before you received the eviction notice, but the landlord refused to take it. Bring the rent money and any other evidence you have to court.

Again, if the judge agrees with you, the case may be dismissed and you do not need to move out. If the judge finds you owe money, he will issue an Order of Restitution and you will have to move. Except in rare cases, the judge will not deal with how much money you need to pay the landlord at this hearing. Usually, there will be a second hearing held a couple of months after you are evicted to decide how much money you will be ordered to pay the landlord.

## **If the judge evicts me, when do I have to move out?**

The judge may tell you at the hearing how long you can remain before you must move out. This is usually three (3) calendar days. If the judge does not tell you when you have to be out, you will be served with the order by a constable. The order will usually give you three (3) calendar days to move out. But if at the hearing the judge already gave you three (3) additional days, you may have to move out as soon as the constable comes. If you have not moved out by the time ordered, the constable can remove your property and let the landlord change the locks.

The landlord is supposed to store any property you leave behind somewhere safe. Your property should not just be thrown out, or put on the curb. Your landlord cannot refuse to give back your property until you pay rent, but your landlord may be able to charge you moving and storage fees if you leave your property. The landlord cannot charge you storage fees for necessary items such as prescriptions, personal documents or clothing if you request these things back within five business days. For more information, please see our page on [Getting Your Personal Property Back](#).

**NOTE: You MUST update the court and the landlord with your new address if you moved out before the hearing or you are evicted. You need to file a notice of change of address with the court, give a copy to your landlord and their attorney. You can find the form at [https://www.utcourts.gov/howto/filing/info\\_change/docs/Notice\\_of\\_Change\\_of Address](https://www.utcourts.gov/howto/filing/info_change/docs/Notice_of_Change_of_Address.pdf)**

***The information in this site is not intended as legal advice.***

Last updated on March 06, 2024.

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[SOLICITUD DE DEVOLUCIÓN DE BIENES PERSONALES](#)

[Request for Return of Personal Property](#)

[Basic Guide \(ENGLISH\) to Answering an Eviction Complaint.pdf](#)

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