



HOUSING LAW - Representing Yourself in Court

You have the right to represent yourself in court if you do not have an attorney.

First Court Date

The first court date is not a trial date. It is the date you are summoned to court. On the summons date, you have the right to meet with the attorney for your landlord, or with your landlord if your landlord is not represented by an attorney. You may settle the lawsuit, or your landlord or attorney may ask the Judge to set the case for trial. The trial date may be one to three weeks later.

You have a right to a continuance. If the landlord demands a trial on the summons date, talk to the judge. Tell the judge you want a continuance. The judge will probably set the case for trial, but this is often better than being forced to sign a consent judgment.

Settling the Lawsuit

You and your landlord may decide to settle the above case. A settlement could entail you staying current on your rent and making an additional payment per month towards the rental debt. In such a case, the lawsuit would be continued to a non-trial date. You would then ask for the lawsuit to be dismissed once you paid your debt off in full, and you have stayed current on your rent as it accrues.

Your landlord's attorney may insist on you signing a consent judgment. If so, then **be sure that the consent judgment has the words "stay of execution"**. This stay means that as long as you are paying as agreed, you may remain in possession and you can't be evicted. (If you fail to pay as agreed, your landlord has the right to ask the sheriff to evict you per the consent judgment for possession.)

Also please note, a "consent judgment" is not a payment plan. It is a court order that will be signed by the judge. And it cannot be appealed because it is done by "consent".

Do not sign a consent judgment unless you read it, understand it and agree to it.

(You should review the lease contract. If there is no attorneys fees provision in the lease, your landlord cannot legally charge you with its attorneys fee. Likewise with late fees: if there is no late fees provision in the lease contract, then your landlord cannot legally charge you late fees. If you have a verbal month to month lease, then no money judgment for late fees or attorneys fees can be ordered against you.)

Default Judgment

If you fail to go to court on any court date, then the judge will issue a default judgment against you for all the rent your landlord alleges you owe, PLUS a judgment for possession of the leased dwelling. Under a judgment for possession, your landlord would have the legal right to ask a sheriff to schedule the eviction as soon as ten days after the date of the default judgment.

HOUSING LAW - Representing Yourself in Court

You have the right to set aside the default judgment. To do so, you must file a request, called a motion, to set aside the default judgment. **The motion must be filed within TEN (10) calendar days of the date of the judgment.**

Go to the court or division clerk and tell them you want to file a motion to set aside the default judgment. The clerks will give you a memo to write out the reason for why you failed to appear in court, and to state your defenses for why you are behind on the rent. If it is an unlawful detainer suit, state your defenses to the lease violations alleged by your landlord. The clerks will give you a court hearing date for your motion. If the judge grants your motion, the judge will probably set your landlord's lawsuit for a trial date.

Trial Date and Your Right to Assert Defenses

If the case is not settled, then the case will be tried. At trial, your landlord will present its evidence supporting the claim against you. At the trial, you have the right to question the opposing party. You may also testify and have witnesses testify. You may assert the defenses you believe you have. Be sure to bring evidence of your defenses. Bring all proof of your rent payments. Bring photos if there are bad conditions. If you did not pay rent because of those bad conditions, then you must file a written defense in court prior to the trial stating this defense.

Right to "Pay and Stay"

You may defeat the lawsuit if **before or on** the trial date, you pay all the rent that your landlord claims you owe plus the court costs (filing fees, about \$100). Attorney's fees and late fees are **not** court costs.

Judgment after Trial

If after trial the judge determines that you owe rent, the judge will issue a money judgment against you for rent, (and late fees and attorneys if there is a written lease contract with those charges.) AND the judge will issue a court judgment against you for possession of the dwelling – for eviction.

The court judgment for possession will be final in (10) ten calendar days from the date of the judgment. This means that at any time after ten calendar days from the date of judgment, your landlord has the right to request the sheriff schedule the eviction. Usually the sheriff posts on the front door of the dwelling the date and time of the sheriff eviction.

Appealing the Judgment: Trial De Novo Application

If after the lawsuit is tried and the judge issues a court trial judgment against you, you may appeal the ruling. To do so, you must file the application for a new trial, called a "trial de novo", within Ten (10) calendar days from the date of the judgment. The trial de novo application is available from the civil clerks office in the Courthouses, or on line at the Courts' websites.

Trial de novo is **not** available for unlawful detainer lawsuits. For such a lawsuit, to appeal a ruling against you, file a Notice of Appeal within ten days of the judgment. This appeal is to the appellate courts-you will probably need an attorney to assist you after filing the notice.



HOUSING LAW - Representing Yourself in Court

Please note: to stay in possession pending the appeal or the trial de novo, you must pay into the court's registry the amount of the money judgment against you and any accruing rent.

Please note: A consent judgment is signed by the judge and becomes a court order; it cannot be appealed because you consented and agreed to it.

Moving From a Leased Dwelling

Whenever you move from a leased dwelling, be sure to do the following:

- 1) Remove ALL of your belongings from the dwelling;
- 2) Clean the dwelling;
- 3) Take many photographs of each room as proof you did not damage the dwelling; and
- 4) Obtain a written and signed key receipt from your landlord when you return the keys, which you should do as soon as possible after you vacate the dwelling.

Do not leave the keys in the mailbox.

Do not give your landlord your new home address or your work address. If you want to give a forwarding address, give a PO Box address, or other address, where you do not live or work.