

JUSTICE OF THE PEACE COURT FOR THE PARISH OF \_\_\_\_\_

STATE OF LOUISIANA

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
**Petitioner (or Plaintiff)**

vs.

\_\_\_\_\_  
**Defendant**

**SWORN ANSWER TO RULE FOR POSSESSION**

1. My name is \_\_\_\_\_. I am a defendant in this Rule.
2. I admit my domicile and deny all other allegations in the Rule for Possession.
3. Petitioner (or Plaintiff) is not entitled to possession of my apartment or home for the reasons checked below:

**Tenancy Not Properly Terminated and/or Rule Not Properly Brought**

4.  The Notice to Vacate was untimely. A longer notice period is required to end my lease.
5.  The Notice to Vacate was not served in the manner required by the lease or law.
6.  The Notice to Vacate and/or Rule for Possession are too vague for me to respond to. They do not state sufficient grounds to terminate the lease. La. Code Civ. Proc. art. 4731; *Louisiana State Museum v. Mayberry*, 348 So.2d 1274 (La. App. 4<sup>th</sup> Cir. 1977).

7.  The Rule for Possession and the Notice to Vacate state inconsistent reasons for eviction.
8.  The landlord filed the Rule for Possession before the Notice to Vacate ran out. Thus, the Rule for Possession must be dismissed. La. Code Civ. Proc. art. 4701, 4731; *Lichtentag v. Burns*, 258 So.2d 211 (La. App. 4<sup>th</sup> Cir. 1972).
9.  The Rule for Possession was not served on me in the way the law requires. La. Code Civ. Proc. art. 4732. [Note: Rules for Possession on the Eastbank of Orleans Parish must be served by mail in addition to tacking service. *Sylvester v. Detweiler*, U.S.D.C. No. 84-3399 (E.D. La. 1985) (class action judgment)].
10.  I am living temporarily outside of Louisiana due to a recent natural disaster. I have not abandoned my apartment. The Rule for Possession must be served on me through the Long-Arm Statute, La. R.S. 13: 3204. Also, no trial can be held on the Rule for Possession until 30 days after service of the Rule. La. R.S. 13: 3205. Therefore, the Rule must be re-set for trial.
11.  My lease requires a Notice to Cure before an eviction can be brought. The landlord did not give a Notice to Cure before filing this Rule for Possession.
12.  The landlord accepted or held rent from me after the Notice to Vacate. *Adams v. Dividend, Inc.*, 447 So.2d 80, 83 (La. App. 4<sup>th</sup> Cir. 1984).
13.  I have a lease that has not ended. I cannot be evicted for “no cause” before the end of my lease. La. Civil Code art. 1983, 2678, 2728.
14.  The person who filed the Rule for Possession is not my landlord or the owner and cannot legally file this Rule.
15.  I am a co-owner of the premises and cannot be evicted by this Court.

**Eviction for Non-Payment of Rent Should Not Be Granted in My Case**

16.  I paid the rent owed or offered to pay the rent on time or within the grace period or custom for payment of rent. *Adams v. Dividend, Inc.*, 447 So.2d 80, 83 (La. App. 4<sup>th</sup> Cir. 1984); *Versailles Arms Apts. v. Pete*, 545 So.2d 1193 (La. App. 4<sup>th</sup> Cir. 1984).
17.  The rent claimed is not owed because my apartment was partially destroyed or

substantially impaired by a recent natural disaster or fire. La. Civil Code art. 2715.

18.  I do not owe the rent because my landlord is making repairs to my apartment which entitle me to a reduction or abatement of rent. La. Civil Code art. 2693.
19.  The rent claimed is not owed because I properly or in good faith made repairs to the apartment. These repairs were made under the tenant's "repair and deduct" remedy provided by La. Civil Code art. 2694.
20.  The rent claimed is not owed because the landlord does not have the right to increase the rent:
- My lease does not allow him to increase the rent.
  - My landlord's increase of the rent was untimely and therefore ineffective for the period claimed.
  - The increase violates the Louisiana price gouging statute, La. R.S. 29: 732 *et seq.*
21.  My lease states that I must be given a notice to cure or correct an untimely payment of rent. My landlord did not give me this notice.
22.  This Court has equitable discretion not to terminate my lease for non-payment of rent. My alleged non-payment of rent was not willful or in bad faith. I am willing to make the landlord whole by paying the landlord the rent owed as determined by the courts. Under the equities and circumstances of my case, this Court should not terminate my lease for the non-payment of rent alleged by my landlord. (*See e.g., Porter v. Miller*, 782 So.2d 1123 (La. App. 3d Cir. 2001); La. Civil Code art. 2013).

**Special Rent Liability Defenses for Public and Subsidized Housing Tenants Only**

23. My apartment is either:
- public housing, or
  - subsidized housing,

and termination of tenancy is governed by federal laws for these programs.

24.  The housing authority is responsible for its share of the rent. I am only responsible for my share of the rent. I cannot be evicted for its failure to pay the rent when I

have paid or offered to pay my share of the rent. 24 CFR 982.310 (b).

- 25.  The housing authority stopped payments of rent to the landlord because repairs were not made. In this case, the landlord cannot evict for a problem that his negligence created.
- 26.  The landlord has charged me rent in excess of the amount allowed by the housing authority/agency and federal law.
- 27.  I am a public housing tenant. The housing authority has failed to repair serious defects in my apartment within the required time after my notice of the defects to the housing authority. Therefore, my rent is abated or extinguished under federal law. (*Housing Authority of New Orleans v. Wilson*, 503 So.2d 565 (La. App. 4<sup>th</sup> Cir. 1987)).

**Other Defenses for Public and Subsidized Tenants Only**

- 28.  I am a tenant in public or subsidized housing and:
  - a. The landlord did not terminate my tenancy as required by the lease, program rules or federal law.
  - b. I am a Section 8 tenant and the landlord did not provide a copy of the Notice to Vacate to the public housing agency. 24 CFR 982.310(e).
  - c. The landlord does not have good cause to evict me as required by my lease, program rules or federal law.
  - d. The landlord did not give me my right to a grievance hearing or conference as required by the lease, program rules or federal law.
  - e. I am a public housing tenant and the grievance decision on my proposed eviction was in my favor. Thus, my eviction is barred.

**Defenses to Alleged Lease Violations—All Tenants**

- 29.  I did not commit the lease violations claimed by the landlord. The landlord has failed to prove that I did things that were serious enough to end my lease.
- 30.  Evictions are subject to judicial control and may be denied even if a lease violation is proved. (*Carriere v. Bank of Louisiana*, 702 So.2d 648 (La. 1996); *Ergon v. Allen*, 593 So.2d 438 (La. App. 2d Cir. 1992). Under the circumstances

of my case, this Court should exercise its equitable discretion not to terminate my lease.

### **Other Defenses**

- 31.  The landlord may only evict for *total* destruction of the premises by a natural disaster or fire. My apartment is only partially destroyed. Thus, the landlord may not evict me for this reason. La. Civil Code art. 2714-15.
- 32.  This eviction is in violation of a Governor's Executive Order or rule issued by the Supreme Court under La. R.S. 29: 721 *et seq.*
- 33.  I filed for bankruptcy on \_\_\_\_\_. A bankruptcy stay order prohibits my landlord from seeking my eviction at this time.
- 34.  I have a bond for deed for the premises. I have not been given my 45 day notice to cure. Thus, this eviction is barred. La. R.S. 9: 2945; *Thomas v. King*, 813 So.2d 1127 (La. App. 2d Cir. 2002).
- 35.  The landlord/owner cannot sue me for rent or damages in this Rule for Possession.
- 36.  In addition to any of the defenses checked above, my landlord should be denied possession of my apartment for the following reasons:

### **Relief Requested**

Defendant requests that this Court:

- 1. Dismiss the landlord's Rule for Possession at its costs, and
- 2. Grant all other relief that is just and proper.

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Defendant or Defendant's Attorney  
Address:

**VERIFICATION**

STATE OF LOUISIANA

PARISH OF \_\_\_\_\_

BEFORE ME, the undersigned Notary, personally came and appeared the Defendant,  
\_\_\_\_\_, who after being duly sworn, did say that s/he has read the  
foregoing Answer (or had it read to her/him) and all of the allegations of fact therein are true and  
correct to the best of her/his information and belief.

\_\_\_\_\_  
Defendant's Signature Only

Sworn to and subscribed before  
me this \_\_\_\_ day of \_\_\_\_\_,  
2005.

\_\_\_\_\_  
NOTARY PUBLIC  
No.  
My commission is for life.