

INSTRUCTIONS FOR DEFENDING YOURSELF IN AN EVICTION

Tenants often have defenses to evictions. To learn more about eviction defenses, read articles in the Housing Law section of our website at www.lawhelp.org/La.

If you are served with eviction papers, you can file an **ANSWER**. The **ANSWER** explains to the court the legal reasons why you should not be evicted. If you don't file an answer, you cannot appeal if you lose.

Try to get a lawyer to help you figure out if you have legal defenses to an eviction. Call your local legal services office if you can't afford a lawyer. A list of legal services offices can be found under the directory at www.lawhelp.org/La. If you live in Orleans Parish, you should call 1-877-521-6242 for possible assistance. If you live in Jefferson Parish, Plaquemines, or St. Charles Parish, call 504-340-1381. If you can't get a lawyer, follow the instructions for using the **ANSWER** below.

HOW TO USE THE ANSWER FORM :

1) COMPLETE THE TOP OF THE ANSWER FORM

- Write the name of the court as it is shown on the eviction papers you got from the court. Write it above the line which says (Name of Court) .
- Write the case number of the eviction in the top of the left hand corner of the Answer form. You can find the case number on the Rrule for Possession court papers. Look in the top left hand corner.
- Write the landlord's name as shown on the eviction papers over the word (Petitioner).
- Write your name over the word (Defendant).

2) REVIEW YOUR WRITTEN LEASE IF YOU HAVE ONE AND ANY OTHER WRITTEN RULES AND REGULATIONS TO FIGURE OUT IF THE LANDLORD'S EVICTION WAS FILED IN THE RIGHT WAY.

Sometimes a written lease will require that a landlord serve you with a "cease and desist" notice before he can start an eviction against you. A cease and desist notice is like a warning notice. Check the lease or rules to see if the landlord has to give you a chance to pay your rent OR move. If it does and the landlord only asked you to vacate the property, you could have a defense. Check the lease or rules for any other special things the landlord must do before he can evict you.

3) FILL OUT THE REST OF THE ANSWER TO FIT THE FACTS OF YOUR CASE

- Read the whole Answer Form. Check the box next to all of the lines which you think fit the facts of your case.
- If you do not live in public housing, Section 8 housing, or any other kind of housing which has government assistance, skip the two sections of the Answer which deal with defenses in that kind of housing.
- Sign and date the Answer form under the section called **Relief Requested**.
- Bring the answer to a Notary to have it notarized. **DO NOT SIGN YOUR NAME UNDER THE SECTION CALLED VERIFICATION UNTIL YOU ARE IN FRONT OF THE NOTARY.** There is a filing fee for an Answer if your case will be in a City Court.
- If you are low-income and cannot afford to pay a filing fee, you should also bring another form called an In Forma Pauperis to the notary to have it notarized so that you can ask for a waiver of the fee. You will have to attach your proof of income with this form and you will have to have a person with you over the age of 18 who knows you and believes you cannot afford to pay court costs to also sign the pauper affidavit. You can call the court to get this form. For more information, see our website at www.lawhelp.org/La in the Evictions section “In Forma Pauperis-When You Can’t Afford Court Costs.”

4) FILING THE ANSWER WITH THE COURT

- You have to file your **ANSWER** with the Clerk of Court to protect your rights. Go to the courthouse at least an hour before the time for your eviction case. You must file before the eviction hearing.
- Bring your completed **ANSWER** along with at least two copies to the Clerk for the court. Tell the clerk you want to file an **ANSWER** in an eviction. The court will keep the original **ANSWER** and you will keep the copies. One s for you and one is for the landlord.
- If you completed an In Forma Pauperis affidavit to ask the court to waive filing fees for the **ANSWER**, you need to let the Clerk know. Give the Clerk the pauper affidavit. If your request for a waiver is denied, then you will have to pay the filing fees. City courts require a filing fee but justice of the peace courts do not have a filing fee. Filing fees in First and Second City Courts of New Orleans are \$42 for Answers. Other courts can tell you how much their filing fees are if you call them in advance.

5) WHAT TO BRING TO COURT FOR YOUR EVICTION

- Of course you bring your **ANSWER** and copies of it . You should also bring all other evidence with you to court that will help prove your side of the case. Your evidence could be your written lease, rules and regulations, any written letters or notices from the landlord, rent receipts, canceled checks, money order stubs, any letters you sent to the landlord, photos, or anything else you think helps your case.
- Bring a Motion for Suspensive Appeal with you if your case is in City Court or a Petition for a Trial De Novo if your case is in Justice of the Peace Court just in case you lose.
- If you live in public housing, Section 8 housing, or other government subsidized housing, be sure to bring any letters from the Housing Authority that help show your side of the case. This could be letters or notices about how much your share of the rent is, the contract the Housing Authority has with your landlord, papers about inspections, copies of notices sent to the landlord, or anything else which helps prove your side of the case.
- If your eviction is about nonpayment of rent, try to bring all of the rent which you think is really owed with you to court. The landlord may also want you to pay his court costs to settle the case.

6) WHAT TO DO AT COURT

- **YOU MUST GIVE YOUR LANDLORD A COPY OF THE ANSWER AS SOON AS YOU SEE HIM AT COURT.** If you filed your answer at any time before the actual court date, you must mail him a copy of the **ANSWER** also.
- If you think your landlord is reasonable, try to discuss the case with him. If you just want more time, let him know. If you want to pay the rent or work out a payment plan, let him know. If you have corrected a problem that was your fault, let him know.
- When your case is called, make sure that the judge knows that you filed an **ANSWER** before your case is heard.
- When it is your turn to talk, be sure to tell the judge the reasons you should not be evicted. Be sure to show the judge any proof you have with you. Tell the judge you want to enter your proof into evidence.
- Be very courteous to the court and the landlord at all times.

7) INFORMATION ON APPEALS

- You only have 24 hours from the time that the court issues a judgment to file for an appeal. Make sure you brought the right appeal forms with you to court. You can get those forms at our website at www.lawhelp.org/La under the Self-Help section..
- If you file for an appeal, the court will set an appeal bond. The appeal bond is usually set at the amount of the monthly rent. But if you owed more than one month of rent in a nonpayment eviction, the judge will probably set the bond at the full rent owed to start the appeal with a requirement that you pay the regular monthly rent when it is due while the appeal is pending.
- There is a fee to take an appeal which varies in different courts. If you filed a pauper affidavit, the appeal costs can also be waived.
- Appeals can take anywhere from 4-6 months to complete. You can keep living in the apartment as long as you are paying the appeal bond on time. But if your landlord really wants to get you out, he may try to evict for a new reason.
- If you decide to take an appeal, you may want to contact a lawyer or legal services office. You will have to file a brief for your appeal. If you appeal from a Justice of the Peace Court eviction, you will have to present your evidence at a new trial in front of a new judge. See the section on eviction appeals at www.lawhelp.org/La for more information.