

Form 20: Motion to Dismiss

How to Use this Form

You can use this sample Motion to Dismiss form to ask the court to dismiss your eviction case. Courts also have blank motion forms you can use.

How to Fill Out this Form

Complete this form by following these instructions. The letters and numbers in these directions match those on the form.

Court Heading

- a. Write the name of your county.
- b. Write the original trial date, which you will find in the *summons and complaint* you received. If you are filling out the **Discovery Form**, check the box that says "Rescheduled Trial Date" and write the date that is exactly two weeks after the original trial date. If you are not doing Discovery, check box before "Original Trial Date."
- c. Write your landlord's name as it is written on the summons and complaint.
- d. Write your name as it is written on the summons and complaint.
- e. Copy the name of the court from the summons and complaint.
- f. Fill in the Docket Number that is listed on the summons and complaint. The Docket Number is the number the court has assigned to your case. If it is unclear what the docket number for your case is, ask the court for this number when you bring your motion to court.

Motion Section

Check off the reason or reasons (boxes 1 through 6) that a judge should dismiss your case. Bring to court any documents or receipts that will prove what you are saying.

Notice of Hearing

Under the section in the motion you notify your landlord when your motion will be heard by the court. This will be on the date and time when your eviction was originally scheduled.

Note: If you are filing for Discovery, the original trial date will be automatically postponed for two weeks to a rescheduled trial date. The Motion to Dismiss will, however, be on the original trial date. If the judge dismisses your case after the hearing, you will not have to go back to court on the rescheduled trial date for the eviction trial.

Certificate of Service

This is the part of the form that tells the court how and when you gave the Motion to Dismiss to the landlord or her lawyer (if a lawyer signed the summons). Circle either "delivered" or "mailed" and fill in the date you did this. Mailing is easier if you have the landlord's correct address. Be sure to send the motion by first class mail, not certified mail.

When you are done filling out the motion, sign your full name and print your address and telephone number.

How to Deliver the Motion

- Make two copies of the completed motion.
- Deliver the original motion to the court. **The court should receive your motion no later than seven days before your original trial date. If you cannot get the form in within that time, get it to the court with as much advance notice as you can.**
- Deliver or mail a copy to your landlord (or her lawyer). The landlord (or her lawyer) should also receive it no later than seven days before your original trial date. Get it to her with as much advance notice as you can.
- Keep a copy for yourself to bring to court.

