

Representing Yourself in an Eviction Case

Yes, you can handle your own eviction case!

If your landlord is taking you to court to try to evict you, **you can represent yourself even if you cannot get a lawyer.** The key is to prepare yourself, and the purpose of this series of booklets is to help you do that.

These booklets, however, do not take the place of a lawyer. You should try to get a lawyer if you can. Some Housing Courts have Attorney for the Day Programs that provide limited advice and brief service for landlords and tenants who do not have an attorney. Contact the court where your case is scheduled to be heard to find out if this is available.

Note: If your case is in a District Court and there is a Housing Court in your area, you may want to transfer your case to Housing Court (See Booklet 5).

What Booklets Are Available?

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|-------------------|---|
| Booklet 1 | Representing Yourself in an Eviction Case: How to Prepare for Court |
| Booklet 2 | Housing Code: Checklist with Key Provisions of the State Sanitary Code |
| Booklet 3 | The Answer: How to Defend Your Eviction Case |
| Booklet 4 | Discovery: How to Get Information to Prepare for Your Trial |
| Booklet 5 | Transfer: How to Transfer Your Case to Housing Court |
| Booklet 6 | Removing a Default: How to Get a Trial If You Missed Your Court Date |
| Booklet 7 | Appeals: Where Do You File an Appeal |
| Booklet 7A | Appeals: In All Housing Courts and All Superior Courts |
| Booklet 7B | Appeals: In District Court Counties |
| Booklet 7C | Appeals: For Certain District Court Counties |
| Booklet 8 | Stay: How to Get Time to Stay in Your Home If You Lost Your Case |
| Booklet 9 | Affidavit of Indigency: How to Ask the Court to Pay for Court Costs |

For updates of these booklets, check www.MassLegalHelp.org.

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BOOKLET

1

WHAT YOU SHOULD KNOW TO REPRESENT YOURSELF

Go to Court

You do **NOT** have to move out just because your landlord has given you a *notice to quit* or court papers. The landlord must file the eviction in court and you have to move out **ONLY** if a judge orders an eviction.

While it can feel scary to go to court and represent yourself, if you do not go to court for your eviction hearing, you will lose your case and the chances are a judge will order you to move out quickly.

If, however, you do go to court and speak up for yourself, you may convince the judge to let you stay in your home. A judge may award you money if you have proved that your landlord violated certain laws. A judge can order your landlord to make repairs or reduce your back rent because of the seriousness of conditions that you lived with.

If you missed your eviction hearing and did not go to court, you may still have a chance to be heard by a court, but you must immediately file the forms in Booklet 6.

Read All Court Papers

If you received a *notice to quit*, which is a paper from your landlord telling you that your tenancy has ended or been terminated, or if your lease has expired, a sheriff or constable may *serve* you with court papers called the *summons and complaint* after the time period on the notice to quit runs out or the lease expires. The complaint tells you the date that your eviction case is scheduled for trial. This is referred to as the **Original Trial Date**. It is usually a Thursday. If you don't show up on this date, you will most likely lose your case. In addition, you probably should file an *Answer* (and often *Discovery*) with the court a number of days **before your trial date**. See Booklet 3 and Booklet 4.

Prepare for Your Case

If you have any bad conditions in your home (such as mice, no heat, or leaks), use the Housing Code Checklist (Booklet 2) and call the local housing inspector immediately to get a housing code report.

To present your side of the story to the judge, complete the *Answer* form (Booklet 3). To get information from the landlord about your case, complete the *Discovery* form (Booklet 4). If you file the Discovery form, your case will automatically be postponed two weeks from the Original Trial Date.

Bring What You Need to Court

To help you remember what you will need in court that will help you tell a judge about your situation, use the **What to Bring to Court Checklist** in this booklet.

Think About What You Need and What Your Options Are

Before you go to trial, think about what is important to you. You can try to negotiate a good settlement with your landlord. For example, you might agree to pay part of the rent you owe if your landlord makes repairs by a certain date and *dismisses* the eviction case. **Do not agree to move out if you don't have another place to live. Do not agree to pay money in an amount you cannot afford.**

Make sure any agreements you negotiate before you go to court or when you get to court are in writing and that you keep a copy signed by you and your landlord. If you negotiated an agreement before your trial date, you must still go to court on that date to show the agreement to the judge.

If you cannot negotiate a good settlement, when you go to court you and your landlord may be asked to go to *mediation* to settle your case. Tell the *mediator* what you want. **Again—do not agree to move out if you don't have another place to live. Do not agree to pay money in an amount you cannot afford.** The mediator may make a proposal to resolve your case. If you don't agree with it, you can still have your case heard by the judge.

Prepare for Your Day in Court

When you go to court and it is your turn to speak to the judge, **keep it simple and brief.** Remember to bring to court all the papers having to do with your case and show the judge the documents that you have brought. Also bring witnesses who can testify about events or conversations that are important to your case. **Use the checklist on the next page to help you prepare.**

When you speak to a judge, stick to what you wrote in your Answer. **Figure out what you want the judge to order and be clear about that.** For example, if you want the judge to take \$50 a month off the rent you owe because your heat didn't work, and you want to pay the rest of the rent and stay in your home, ask for that.

Don't Give Up Even If You Lose Your Case

Your case is not necessarily over if you lose your *trial*. If you have a good case and don't think that you should have lost, you may *appeal* your case (see Booklets 7, 7A, 7B, and 7C). You may also ask the court to postpone your eviction if you need more time to move (see Booklet 8).

GOOD LUCK!

What to Bring to Court Checklist

- All papers related to the eviction.**
Court papers, eviction notice (notice to quit), notices from the court.
- Copies of inspection reports or citations from the Board of Health.**
Ask the Board of Health or Inspectional Services Department to *certify* a copy of the inspection report concerning your apartment. This means that the person who inspected your place certifies "under the penalties of perjury" that the report is accurate. It also means that a court can treat the report as evidence and you do not need to bring an inspector in to testify about the conditions.
- Pictures of the conditions in your apartment.**
Write on the back in pen the date the pictures were taken.
- Your lease or other written tenancy agreement, if you have one.**
- Information about your rent.**
 - ___ Receipts or canceled rent checks
 - ___ Papers from the Department of Transitional Assistance showing any *vendor rent* (protective) *payments*
 - ___ Rent determination or recertification papers from the housing authority or landlord
- Security deposit and last month's rent receipts or statements.**
- Letters you have sent to the landlord.**
- Any notices or letters from the landlord.**
- Papers from a housing agency that relate to your tenancy.**
- Gas and utility bills or notices, if there is a utility issue in your case.**
- Any other documents or papers that you think have something to do with your case and that you would like to show to the court.**
- If you have a disability and this relates to your case, bring a doctor's letter explaining your disability.**
- Witnesses who can testify about events or conversations of which they have personal knowledge.**