

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.** Currently, there is no right to a lawyer if you are facing an eviction. That means that many people have to represent themselves.

There are 14 self-help eviction booklets to help you represent yourself if you are facing an eviction in Massachusetts. These booklets do not take the place of a lawyer. Try to get a lawyer.

Low income tenants may qualify for free legal help through a local legal assistance agency. Other tenants can seek representation by contacting their local bar association, or by researching tenant lawyers online or in the yellow pages. Some Housing Courts have Lawyer for the Day Programs that provide limited advice and brief service for tenants and landlords who do not have an attorney.

What Self-Help Booklets Are Available?

Booklet 1

Representing Yourself in an Eviction Case: What to Bring to Court

Booklet 2

Housing Code: Checklist 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 4A

Discovery for Tenants in Foreclosed Properties

Booklet 5

Transfer: How to Transfer a 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

Booklet 7B

Appeals: In All District Courts

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

Booklet 10

Negotiating a Settlement of Your Case

Booklet 11

Error Correction Form: Correcting Errors on Your Online Court Record

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

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BOOKLET

1

What You Should Know to Represent Yourself

The Eviction Process

You do **NOT** have to move out just because your landlord has asked you to or given you a *notice to quit* or court papers. The landlord must go through a legal process and win the eviction in court before taking possession of your apartment. You do **NOT** have to move out unless a judge orders an eviction.

Go to Court

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 automatically lose your case and the chances are a judge will order you to move out quickly.

But if you go to court and speak up for yourself, you may convince the judge to let you stay in your home. A judge can also order your landlord to make repairs or reduce your back rent because of the seriousness of conditions that you lived with. Depending upon your housing situation, a judge may award you money if you prove that your landlord violated certain laws.

In some cases you can win your eviction case or get it dismissed because the landlord has not followed the law. In other cases, you may not win your case. But if you show up and tell your side of the story you are likely to get a better result than if you do not go at all. See **Booklet 10: Negotiating a Settlement of Your Case**.

Did You Miss Your Hearing

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: Removing a Default**.

Read All Court Papers

If you received a *notice to quit* 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*. A landlord must not serve you with a *complaint* until after the time period on the *notice to quit* runs out or the lease expires. You do not have to move if you get a *notice to quit*. A landlord can only evict you with a court's permission.

Read the *complaint*. It is an important document. It tells you the date that your eviction case is scheduled for trial. This is called the Original Trial Date. It is usually a Thursday, but this depends upon the court. If you do not show up on this date, you will most likely lose your case.

The *complaint* also tells you the deadline for filing your court papers.

Complete Your Court Forms

If you have any bad conditions in your home, such as mice, no heat, or leaks, use the **Booklet 2: Housing Code Checklist** 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 form in **Booklet 3: Answer**. To get information from the landlord about your case, complete the form in **Booklet 4: Discovery**.

If you file the Discovery form, your case will automatically be postponed two weeks from the Original Trial Date.

What You Need to Bring to Court

To help you remember what you will need in court, use the **What to Bring to Court Checklist** in this booklet. Bringing the documents and items on this checklist could be one of the most important things you do.

What Are Your Options?

Before you go to trial, think about what is important to you. You can try to negotiate an agreement with your landlord that addresses your needs. 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. Here are some tips:

- Do not agree to move out if you do not have another place to live.
- Do not agree to pay an amount of money that 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 make sure that the agreement is accepted by the court.

If you cannot negotiate a good agreement in advance, when you go to court you and your landlord may be asked to go to mediation to try to settle your case. Tell the mediator what you want. Again—do not agree to move out if you do not 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 do not agree with it, you can still have your case heard by the judge. For more see **Booklet 10: Negotiating a Settlement of Your Case**.

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 **What to Bring to Court Checklist** on the next page to make sure you bring everything you need to court.

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 did not work, and you want to pay the rest of the rent and stay in your home, ask for that.

Do Not 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 do not think that you should have lost, you may *appeal* your case. See **Booklets 7, 7A, and 7B: Appeals**. You may also ask the court to postpone your eviction if you need more time to move. See **Booklet 8: Stay**.

GOOD LUCK!

What to Bring to Court Checklist

- All papers related to the eviction case.**
Court papers, eviction notice (*notice to quit*), notices from the court.
- Copies of inspection reports or citations from the Board of Health or housing authority.**
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 or problems 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.**

