

How to Use the Courts

Tenants' Rights in Massachusetts

Deciding to go to court is not an easy decision to make. Going to court takes time and money. Also you cannot be sure what will happen. But if you have a strong case, going to court can lead to negotiating a solution or winning.

Are You a Plaintiff or Defendant?

Plaintiff

If you are taking your landlord to court you are the *plaintiff*.

Defendant

If your landlord is evicting you or taking you to court for another reason, you are the *defendant*.

Going to Court

- Take the whole day off from work.
- If you have children, arrange child-care that is not at court.
- Get to court early so that you do not miss when your case heard.
- Leave your cell-phone at home if the court house you are going to does not allow cell phones. For a list of courts that do not allow cell phones:
mass.gov/courts/banned-electronics

Protect Yourself Get Legal Help

Filing a Case Against Your Landlord

The court system is complicated. It has lots of rules and deadlines. If you take your landlord to court, you are usually better off if you can find a lawyer to represent you.

If you cannot pay upfront, some lawyers take certain types of housing cases that make your landlord pay your lawyer's fees if you win. These types of cases involve:

- Retaliation
- Unfair or deceptive practices
- Consumer protection violations
- Violation of the security deposit law
- Interference with your "quiet enjoyment"

Fighting an Eviction

Many Housing Courts have Lawyer for the Day Programs that help low-income tenants facing eviction. They offer advice, and sometimes they will go into mediation or the court room with you. They also help homeowners facing eviction after a foreclosure.

Ask the clerk's office in your District or Housing Court how to find the Lawyer for the Day Program.



Forms

Use preprinted forms to help make your case. You can get the forms you need online, at court, and from legal services offices and community groups.

- **Massachusetts Trial Court** has court forms: www.mass.gov/courts/forms
- **MassLegalHelp** has self-help housing forms and sample letters you can use: MassLegalHelp.org/housing-forms

Where to File Your Case

You can file most landlord-tenant cases in Housing Court or District Court. If there is a Housing Court where you live, consider starting your case there. Housing Court staff know a lot about landlord and tenant disagreements. They often offer more support to tenants than District Courts.

Court Fees

When you file a complaint in court, you must pay a filing fee. In Housing Court the fee is \$135. In District Court the fee is \$195.

If you cannot afford the fee, file an “Affidavit of Indigency” form. This form asks the court to let you file a complaint without paying a fee. You can get the form at the court or online. See **Affidavit of Indigency (Booklet 9)**.

Defendants do not pay any fee to file an *Answer*.

Serving a Complaint

You must let your landlord know you are taking them to court. When you file a complaint, the clerk will give or mail you a *summons and complaint*. You *must* have the summons and complaint *served* on your landlord. You cannot serve it yourself. You pay a Sheriff or Constable \$50-65 to serve your landlord. You can include these fees in Affidavit of Indigency.

Interpreters

If you do not feel confident communicating in English, you have the right to an interpreter in court. It does not matter what your native language is. The court is supposed to give you a free interpreter.

Tell the court clerk you need an interpreter. You can ask for an interpreter when you get to court, but it is better to ask ahead of time. Use the interpreter request form: mass.gov/courts/interpreter-request.pdf

You can get translated court forms online: mass.gov/courts/translated-forms-info

Mediation

Housing Courts and some District Courts have mediators to help landlords and tenants come to an agreement. Community groups also offer mediation services before you get to court. Mediation is voluntary.

Before you sign an agreement, read it carefully. Be sure that you understand it and can meet its terms.

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MassLegalHelp.org/Use-the-Courts
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