

# Late Answer & Discovery

## Representing Yourself in an Eviction

### Did you miss the deadline to file your Answer?

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Use this **Motion to Allow Late Answer & Discovery** form to ask the court to accept your Answer and Discovery late. This booklet will tell you how to complete the form.

Before you file a **Motion to Allow Late Answer & Discovery**, fill out the **Answer** and a **Discovery** forms. Use these forms:

- **Booklet 3: The Answer**  
Explains to the court why you should not be evicted  
[MassLegalHelp.org/housing/lt1-booklet-3-answer.pdf](https://www.masslegalhelp.org/housing/lt1-booklet-3-answer.pdf)
- **Booklet 4: Discovery**  
Asks the landlord for information so you can prepare for your case  
[MassLegalHelp.org/housing/lt1-booklet-4-discovery.pdf](https://www.masslegalhelp.org/housing/lt1-booklet-4-discovery.pdf)

Or use the free online Answer and the Discovery forms: [GBLS.org/MADE](https://www.masslegalhelp.org/MADE)

# How to fill out this form

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The letters and numbers in these directions match those on the form.

## Court Heading

- a. Write the name of your county.
- b. Copy your landlord's name from the Summons and Complaint.
- c. Copy your name from the Summons and Complaint. Spell your name the same way it appears on the Summons and Complaint, even if it is wrong. You can ask the court to fix mistakes later.
- d. Copy the name of the court from the Summons and Complaint.
- e. Fill in the Docket Number if you know it. The Docket Number is the number the court has assigned to your case. It may be on the top right corner of the Summons and Complaint or any notice you get from the court. You can ask the court clerk for the docket number.

## Motion Section

1. If you did not know you had to file an Answer, check the boxes under 1.
2. If you are attaching your Answer to this Motion, you only have to check the box under 2. It is much better to file your Answer with this form.

If you are not attaching your Answer, write in the "defenses and counterclaims" you plan to list in your Answer. Review the Answer to learn more about possible defenses and counterclaims.

3. If you are attaching your Discovery request, check the box under 3.

## Notice of Hearing

Call the court clerk to ask for the first date a judge can hear your motion. The court's phone number is on the top left corner of your Summons and Complaint. Write in the date the court will hear your motion in the Notice of Hearing section of your motion. Many courts will not allow you to schedule the motion or provide a hearing date by phone, so in that event, leave this blank.

## Certificate of Service

You must give your landlord or their lawyer a copy of everything you file at court. The Certificate of Service tells the court how and when you gave the Motion to Allow Late Answer & Discovery to your landlord or their lawyer.

Check "delivered," "emailed" or "mailed" and fill in the date you did this. You must get a copy of motion to your landlord or their lawyer **at least 7 days before the hearing date.**

Sign your full name and write in your address, email address and telephone number.

## Deliver your motion

Make 2 copies of the **Motion to Allow Late Answer** form and your Answer and Discovery forms, if you are also filing those forms. **Do not include instructions for the forms.**

File the **original** forms with the court. **Call the clerk before you file and ask them what the best way is to file.** You can:

- Take it to the clerk's office. If you hand-deliver to the court, ask the court to stamp the date on your copy so you have proof that you filed it on time.
- Send it to the court electronically. Use the court's online filing system **This is the best way if you can do it!** For more about how to file electronically see **Learn about eFiling in the Trial Court** go to: [www.mass.gov/info-details/learn-about-efiling-in-the-trial-court#how-to-fill-out-e-file-forms-](http://www.mass.gov/info-details/learn-about-efiling-in-the-trial-court#how-to-fill-out-e-file-forms-)
- Mail it, but **only if cannot file in-person or electronically.** Mail is slow and not reliable.

Deliver a **copy** of your forms to your landlord's lawyer or your landlord. Look at the right side of the Summons and Complaint. If there is a number on the "BBO#" line, your landlord has a lawyer. To deliver a copy, you can:

- Deliver it by hand or email it to your landlord's lawyer. The lawyer's email address is at the bottom of the Summons and Complaint. If your landlord does not have a lawyer you need a written agreement from your landlord that says they agree to get your motion by email. **It is important to deliver this by hand or email it,** because the mail may be too slow.
- **Keep a copy** for yourself. Keep it safe and bring it with you when you go to court.



*(Please type or print)*  
**COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT**

a. \_\_\_\_\_, ss

d. \_\_\_\_\_  
Name of Court

b. \_\_\_\_\_,  
Plaintiff(s)- Landlord(s)

e. \_\_\_\_\_  
Docket Number

vs.

**DEFENDANT'S  
MOTION TO ALLOW  
LATE ANSWER  
AND DISCOVERY**

c. \_\_\_\_\_,  
Defendant(s)- Tenant(s)

Now comes the Defendant and moves that this Court allow the Defendant to file a Summary Process Answer and Requests for Discovery. In support thereof, the Defendant states:

1. Defendant was unrepresented by counsel on their Answer deadline.

- ☐ Defendant was unaware of their legal rights with respect to responding to the landlord's eviction complaint and requesting information to prepare the case.

2. The Defendant has meritorious defenses to this action.

- ☐ The Defendant's proposed Answer is attached. (Check if you attached your Answer.)

I have the following defenses: (List the reasons you should win the eviction)

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3. The Defendant is also seeking Discovery as such information is necessary to adequately prepare for trial.

- ☐ The Defendant's proposed Requests for Discovery is attached. (Check if you attached your Discovery).

4. Granting this motion will cause no undue prejudice to the Plaintiff. Additionally, tenants can assert affirmative defenses even if they have not filed an Answer. *Morse v. Ortiz-Vazquez*, 99 Mass. App. Ct. 474 (2021).

WHEREFORE, the Defendant requests that this Court grant this Motion to Allow Late Answer and Discovery as if timely filed, accept the filing of Defendant's Answer and Requests for Discovery, order the Plaintiff to respond to the Request for Discovery within 10 days, and continue this matter for at least two weeks to allow the Defendant to prepare their defenses and claims.

### Notice of Hearing

This Motion to Allow Late Answer and Discovery is scheduled for a hearing on (the original trial date or other date scheduled by the court) \_\_\_\_\_(date).

### Certificate of Service

I ☐ delivered, ☐ emailed, or ☐ mailed (*check which one applies*) a copy of this Motion to my ☐ landlord or ☐ their lawyer (*check which one applies*) on \_\_\_\_\_(date).

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Your Signature

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Your name (*print*)

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Your email address

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Address

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City

State

Zip

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Telephone number