

HOW TO RESPOND TO AN EVICTION COMPLAINT

NOTE: If there are any words or terms used in these instructions that you do not understand, please visit Illinois Legal Aid Online at illinoislegalaid.org/glossary. For more information about going to court including how to fill out and file forms, call or text Illinois Court Help at 833-411-1121 or go to ilcourthelp.gov.

If you received an *Eviction Summons* and an *Eviction Complaint* addressed to you or to “unknown occupants” at the property where you live, you are being sued in an eviction case. Read the *Eviction Complaint* to see why your landlord is suing you. If you do not have a copy of the *Complaint*, you can ask for a copy of it from your local Court: ilcourts.info/CircuitClerks.

Being sued does not guarantee you will be evicted. You may have a legal right to stay in the property, or you may be able to make a deal that allows you to stay. These instructions will explain the steps for responding to an eviction case, what forms to fill out, and some of the options for how to respond.

Who is the Plaintiff and who are the Defendants in this case?

- The Plaintiff is the one who filed the lawsuit and is usually the landlord or owner of the property.
- The Defendants are the ones being sued and are the tenants or occupants of the property. If you have received an *Eviction Summons* and an *Eviction Complaint* addressed to you or to “unknown occupants” at the property where you live, you are a Defendant.

What can I do if I am being sued in an eviction case?

- You can hire a lawyer to help you. If you do not have money to hire one, you may be able to find a legal aid lawyer who will help you for free.
- You can look for local services such as legal representation, mediation, rental assistance programs, or other resources to help you resolve the case. You can look for help at: illinoislegalaid.org/evictionhelpillinois or apply for help by texting “Eviction” to 85622.
 - **Cook County:** Cook County Legal Aid for Housing and Debt (CCLAHD) can help resolve housing problems. Call 855-956-5763 or visit cookcountylegalaid.org.
- You can represent yourself. If you don’t hire a lawyer, there is paperwork you can file to get into the case and defend yourself. This is called appearing “pro se.”
- You can do nothing. If you ignore the lawsuit, you will probably be evicted and/or a judgment for money may be entered against you.

What forms can I use to respond to an *Eviction Complaint*?

1. Appearance: Tells the judge and the Plaintiff (for example, the landlord or owner) that you are participating in the case. It also says whether you want a trial by judge only or by judge and jury.

- Whether or not you have filed a written appearance before your court date, you still **must** go to court to tell the judge that you want to be a part of the case.
- You have the right to a jury trial. If you want a jury trial, make sure you check the appropriate box on the *Appearance* form. If you don’t check that box, or if you don’t file your *Appearance* before the court date and time on your *Eviction Summons*, you may lose the right to a jury trial.
- If you haven’t requested a jury by the first court date, the judge may give you additional time to do so if you ask, but there is no guarantee you will get extra time.
- You may have to pay an additional fee if you request a jury trial unless you request and receive a fee waiver. See the information below about how to request a fee waiver.
- The email address (if you have one) or mailing address (if you don’t have an email address) you put on the *Appearance* is where important legal documents will be sent to you. You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.

NOTE: If you are ordered to file an *Appearance* by the deadline and you fail to do so, the judge may enter an *Eviction Order* against you. (For information on the deadline, see the section below, “When do I file an *Appearance* and *Eviction Answer*”).

2. Eviction Answer, Defenses, and Counterclaims (“Eviction Answer”): Tells the judge your responses, counterclaims, and defenses to the Plaintiff’s claims in the *Eviction Complaint*.

Here are some **definitions** to help you understand the sections on the form:

- **Answer:** your response to each paragraph in the eviction complaint.
- **Affirmative Defenses:** your reasons why the Plaintiff should not win the case even if everything in the complaint is true.
- **Counterclaims:** your separate legal claim(s) against the Plaintiff, specifically stating what relief you want from the court. Counterclaims must be directly related to the eviction, or the judge may dismiss them.
 - If the judge dismisses your counterclaim because it is not directly related to the eviction,

you may have to file a separate lawsuit. To make sure you can do this, ask the judge to dismiss your counterclaim without prejudice.

- **You are not required to file an *Eviction Answer* unless a judge orders you to do so.** You should also file if you have any counterclaims.
- If you **do** file an *Eviction Answer* you should respond to the claims made against you in the *Complaint* and state all defenses and counterclaims you want to tell the court.
 - If you do not state a defense or counterclaim in your *Eviction Answer* when you file it, then the judge may not allow you to raise that defense or counterclaim later, including at the trial.
 - You can select the general denial checkbox, **1a**, to deny every claim in the *Complaint*.
- If you **do not** file an *Eviction Answer*:
 - the court will treat it as though you have denied every claim in the *Complaint*.
 - At trial, you can tell the judge your side of the case, but you unless you filed an *Eviction Answer*, you cannot bring up any counterclaims.

NOTE: To learn more about defenses and counterclaims, go to illinoislegalaid.org/legal-information/common-eviction-defenses or contact a legal aid program that is listed on the *Eviction Summons*.

When do I file the *Appearance* and *Eviction Answer* forms?

- You should file your *Appearance* on or before:
 - your court date that is listed on the *Summons*, OR
 - the date the judge orders you to.
- You should file your *Eviction Answer* by the date ordered by the judge. If you are filing an *Answer* without a judge's order, file it as soon as possible.

Where can I find the forms I need?

You can find the forms at: ilcourts.info/forms.

Does it cost to file these forms?

- Yes, there are fees to file your *Appearance* and *Eviction Answer*. The fees may be higher if you file any counterclaims. Contact your local Circuit Clerk for more information about the filing fee.
- If you cannot afford to pay the filing fee, you can ask the judge for permission to file for free or at a reduced cost by filing the *Application for Waiver of Court Fees* found at ilcourts.info/forms.

STEP 1: FILL OUT AND FILE YOUR FORMS

First: File your forms with the Circuit Clerk in the county where the court case is filed.

- There may be fees to file your forms. Contact your Circuit Clerk's Office for more information: ilcourts.info/CircuitClerks.

E-filing:

- After you fill out your court forms, file them with the Circuit Clerk. This is done by electronic filing, called 'e-filing'. You do not have to e-file if:
 - you qualify for an exemption (see "Not E-Filing" below) or
 - your case involves a criminal matter.
- Most people e-file their forms using Odyssey eFileIL at ilcourts.info/efile. Follow step-by-step instructions and watch videos that walk you through the steps for e-filing at ilcourts.info/EfileHowTo. E-filing is easier on a computer. It may not work on a cell phone or tablet.
- If you do not have access to a computer or if you need help e-filing, take your completed forms to a public library or a Circuit Clerk, Appellate Clerk, or Supreme Court Clerks' office. These places offer public computers where you can e-file your forms.
 - You can bring your forms on paper or saved on a flash drive. The public computer will have a scanner where you can turn your paper forms into electronic files.
 - Librarians and courthouse staff may be able to help you e-file, but they cannot provide legal advice.

Not E-filing:

- Some people are not required to e-file, which means they can file paper forms at the courthouse or by mail. People who do not have to e-file are:
 - Inmates in prison or jail who do not have a lawyer
 - People with a disability that keeps them from e-filing
- You may also qualify for an exemption from e-filing if:
 - Do not have Internet or computer access in your home, and it is hard for you to travel.
 - Have trouble reading, writing, or speaking English.
 - Are filing documents in a sensitive case, such as an order of protection.
 - Tried to e-file your forms, but you were not able to because the equipment or help you needed was not available.
- To ask for an exemption from e-filing, use the form at ilcourts.info/ExemptionCircuit. If you can't print this form, then ask for it at your local courthouse.
 - File your *Certification for Exemption from E-Filing* form with your other court forms at the Circuit Clerk's office or by mail.
 - Bring or send your signed court forms and at least two copies of your forms to the Circuit

Clerk's office. Ask them to stamp your copies and return them to you.

- If you need to make copies of your forms, you can do that at the Circuit Clerk's office. They may charge you to make copies.
- If you mail your court forms to the Circuit Clerk's office, include a stamped envelope addressed to you. The Circuit Clerk will file your forms then send your copies back to you in the envelope.

Next: Send a copy of your forms to the other party.

- You must send copies of your forms to the Plaintiff in the case. If the Plaintiff has a lawyer, send the forms to the lawyer.
- If you and the person you're sending the *Appearance and Eviction Answer* to have an email address, you must send them by email or by notification through the e-filing system. If you or the person you're sending the *Appearance and Eviction Answer* to does not have an email address, you may give them to the other parties by personal hand delivery, mail, or third-party commercial carrier (for example, FedEx or UPS).
- You must complete the *Proof of Delivery* with information to show how you sent the forms to the Plaintiff. The form has room for one party. If you are sending forms to more than one party, fill out and add one or more *Additional Proof of Delivery* forms to the *Proof of Delivery* form.

STEP 2: GO TO COURT

Get ready for your court date.

- Decide and write down:
 - What you want to ask the judge to do for you;
 - What you will say to the judge if asked to tell your side of the case; AND
 - Questions you have for witnesses, including the landlord, if there are any.
- Gather and make copies of pictures and documents you want the judge to see. Bring the original for the judge and one copy for you and each of the people in the case. If your court date is by phone or video, contact the Circuit Clerk and ask how you can get a copy of these items to the judge. You might have to e-file them like your other documents. You will also have to get a copy of these items to the other parties.
- If you want the judge to hear from other people, those people will have to attend court and be witnesses (in most cases, you cannot bring in written statements of witnesses). If your court date is by phone or video, you will have to arrange for your witnesses to attend by phone or video.
- You may be able to make a deal with the Plaintiff (or their lawyer) to let you stay in the property or to give you time to move out.
- Any deal made with the Plaintiff (or their lawyer) must be in writing and signed before it is official.

Read any written deal carefully to make sure you understand it and it says what you agreed to.

- Make sure to still show up in court and file any forms or do whatever the judge requires until you have a signed deal.
- If you do not make a deal with the Plaintiff, the judge or a jury will decide who wins the case and whether you will be evicted.

Attend your court date.

Make sure you know how to attend your court date.

Your court date could be in person, by phone or by video. If it is by phone or video it is called a "Remote Appearance." Call the Circuit Clerk or visit their website for more information. To find the phone number for your Circuit Clerk, visit ilcourts.info/CircuitClerks.

- Your court date is listed on your Summons.
- You must get to the court date on time. If you are late, the judge could enter an *Eviction Order* or money judgment against you AND YOU MAY BE EVICTED.
- If your court date is by phone or video:
 - Make sure to have the call-in or login information for your court date and make sure your technology is working.
 - Follow the instructions on the court notice you received. Call the Circuit Clerk or Circuit Court or visit their websites for specific technology instructions.
 - Follow these recommendations to appear by phone or video: ilcourts.info/FAQsRemoteCourt.
- It is possible the judge will hold a trial on your first court date. You should attend court prepared to defend yourself against the claims in the *Eviction Complaint*.
- If you need more time to find a lawyer or prepare your case, you can also ask the judge for a short continuance. The judge may give you a continuance, but it is not guaranteed.
- Have these items with you on your court date:
 - Photo I.D.;
 - A copy of the *Eviction Complaint* and *Summons*;
 - Copies of all the documents you filed with the Circuit Clerk;
 - A copy of the written lease, if any;
 - Any documents that support your defenses or counterclaims.
 - Any photographs that support your defenses or counterclaims; AND
 - Any witnesses that support your defenses or counterclaims. If any witnesses are not willing to

come to court, you will need to subpoena them. A subpoena is a document that you deliver to a person, and it requires that person to appear in court. You can request a subpoena from the Circuit Clerk if they have a subpoena form available. You will need to deliver the subpoena to the witness at least 7 days before the court date and pay a fee and roundtrip mileage to the witness. For details, go to: ilcourts.info/705ILCS35section4_3.

- Arrive for your court date at least 15 minutes early. If you are going in person to court, add more time for going through security.
- If your hearing is in person, find the courtroom number listed on your court forms. If your forms do not have a courtroom number look for a list of cases at the courthouse or ask the Circuit Clerk.
- You may need to check in with the courtroom staff. Then, wait for your name and case number to be called.
- When your case is called, introduce yourself to the judge. If you are attending by phone or video, remember to unmute yourself.

What happens during the court case?

First: The Plaintiff tells the judge (or jury) their side of the case.

- Typically, the Plaintiff will tell the judge about their case first by testifying, giving the judge evidence, and questioning witnesses.
- You will get to see any documents and photos the other party brings to court. If you do not think the judge should consider them in making a decision about your case, tell the judge why.
- You may ask questions of the Plaintiff's witnesses after the Plaintiff is done with their questions. Write down your questions while they are speaking to the other party or judge.

Then: You tell the judge (or jury) your side of the case and answer questions.

- Tell the judge your defenses and counterclaims.
- Show evidence including documents and photos.
 - Give a copy to the judge and a copy to the other party. Be prepared to explain why the document or photo is important.
- Question your witnesses.
 - Tell the judge the name of your witnesses.
 - Ask the witnesses questions you prepared in advance.
 - The judge and the other party can ask questions of your witnesses when you are done.
- The judge decides whether the documents, photos, or witness testimony can be considered in making a decision about your case.

Finally: The judge (or jury) makes a decision after both sides present their case.

- The decision is called a court order.
 - If the judge or jury decides in your favor, the Plaintiff's case will be dismissed.
 - If the judge or jury decides against you, the order will give the Plaintiff possession of their property. This is called an *Eviction Order*. The *Eviction Order* may also award the Plaintiff the rent due, court costs, and attorneys' fees.
 - The *Eviction Order* will give a date and time by which you must move out. If you do not move by that time, the sheriff may come to evict you. Get a copy of the *Eviction Order* that has the court stamp on it.

STEP 3: ENFORCEMENT OF THE EVICTION ORDER

What happens if an *Eviction Order* is entered?

After the judge enters the order, the sheriff is authorized to physically remove you from the property.

- The judge may give you a short amount of time to move out before you can be evicted. This is sometimes called the "stay date." If the judge gives you some time, the sheriff must wait until after that time has passed before they can remove you from the property. **ONLY THE SHERIFF IS LEGALLY ALLOWED TO EVICT SOMEONE FROM A PROPERTY.**
- The plaintiff may not take steps to force you from the property such as changing locks or shutting off utilities, even if they have an *Eviction Order*.
- The sheriff may post a notice on the property 24 hours before coming out, but they are not required to do so.
- The sheriff will enter the property and remove everyone inside. They will try to enter peacefully, but they are allowed to use force if necessary. Once everyone is outside, the sheriff will give possession to the Plaintiff or their representative to change the locks and secure the building.
- After that, your personal property may be removed and placed outside.
- Call your local sheriff's office for more information about their eviction procedures.

Your personal property still belongs to you even if you are evicted. If your personal property is left inside the building, you can still ask the Plaintiff to return your personal property in a reasonable time and way.

What happens if I owe money?

If the *Eviction Order* also says you owe money to the Plaintiff, you are legally required to pay them that money, even if you were evicted. If you don't pay, the Plaintiff may be able to go back to court to get help collecting the money from you.