



This is for information and instruction. Do not file it.



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This packet is not legal advice. It provides general instructions on how to use these forms in your court case. It cannot and does not try to cover everything that might happen in your court case. Your use of the forms does not guarantee you will be successful in court.

How a judge handles a case can vary from county to county. **Your county may have special requirements that are not covered in these instructions.** Ask the Circuit Clerk's office if your county has local rules and, if so, where you can get a copy.

STEPS TO FILE & PRESENT AN EVICTION CASE

1

FILL OUT AND SERVE THE DEFENDANTS WITH WRITTEN NOTICE.

For most eviction cases, you need to fill out and serve a written notice on the Defendants (the tenants or occupants of your property) before you file your eviction case. The type of written notice you use depends on the reason for the eviction. See page 6 for information on which notice to use.

After you fill out the correct notice form, you will need to serve it on the Defendant. There are several different ways you can serve written notice. See page 6 for options.



Some cities, including Chicago, have **different or additional requirements** that these instructions do not discuss. Check with your local government about whether your city has adopted ordinances that apply to your eviction case.

2

FILL OUT AND FILE AN EVICTION COMPLAINT & EVICTION SUMMONS.

Each notice form has a different notice period. The notice period is the number of days you will have to wait after the notice form is served before you can file your ***Eviction Complaint*** and ***Eviction Summons***. These forms can be found at ilcourts.info/eviction-forms. If you file the ***Eviction Complaint*** before the notice period ends, the judge may dismiss the case and you will have to start over. See page 6 for more information on notice periods.

If there is a required notice period, wait until the required notice period has passed before filing the ***Eviction Complaint*** and the ***Eviction Summons***. File these forms with the Circuit Clerk's office in the county where the property is located. If the property is located in Cook County, file the case in the district where the property is located.

3

SERVE THE EVICTION COMPLAINT & EVICTION SUMMONS ON THE DEFENDANTS.

After you file the ***Eviction Complaint*** and ***Eviction Summons***, the sheriff or a private process server must serve each of the Defendants at least 3 days (7 days in Cook County) before the first court date. Make sure the ***Eviction Summons*** has the first court date written on it.

If the sheriff or private process server is able to serve the Defendants with your court forms, they will file or send you proof that they served the ***Eviction Complaint*** and ***Eviction Summons***. If the person serving the paperwork does not file proof that they served the forms with the circuit clerk's office, you will need to file it yourself. If the sheriff or private process server is not able to serve the Defendants, they may be able to serve the Defendants by posting notices of the eviction in the area around the property. You must follow special rules to serve the Defendants by posting. See pages 11-12 for more information.



GO TO COURT TO ASK FOR AN EVICTION ORDER.

Your court date may be in person, by phone, or by video. Your case may go to trial on the first court date, or it may be continued to another date. After the judge considers the court record, facts presented, and the law, the judge will make a decision on your **Eviction Complaint**. If the judge grants an **Eviction Order**, make sure to get a copy of the **Eviction Order** signed by the judge.



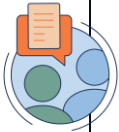
ENFORCE THE EVICTION ORDER.

If the judge grants your request for an **Eviction Order**, **ONLY** the sheriff can evict the tenants. **You cannot evict the tenants by yourself.**

If you want the sheriff to evict the tenants, you must take the signed **Eviction Order** to the sheriff's office. The Eviction Order may be in effect immediately or have a "stay" date, which means the sheriff cannot schedule the eviction until after the "stay" is over. You may need to fill out extra forms, make copies, get certified copies, and pay fees.

The sheriff may pause or reschedule the eviction if additional court documents are filed.

Laws covering these forms: [735 ILCS 5/9-101](#); Illinois Supreme Court Rule [139](#)



If you **cannot pay for a lawyer**, you can contact the following referrals to request legal assistance for free or at a reduced rate:

- If you live in Cook County, contact Cook County Legal Aid for Housing and Debt:
Telephone: (855) 956-5763
Website: www.cookcountylegalaid.org
- If you live outside of Cook County, contact Eviction Help Illinois:
Telephone: (855) 631-0811
Website: evictionhelpillinois.org
Text: Text "Eviction" to (844) 938-4280 for English and (844) 938-4289 para español

EXTRA HELP WITH THE FORMS

Easy Form

Illinois Legal Aid Online has an Easy Form program that helps you complete your forms. Easy Forms ask simple questions and put your answers in the right places on the forms. At the end of the program, you can download or email your forms to e-file or print them.

Easy Forms are free to use. Visit ilao.info/evict-tenant-easy-form or scan the QR code to use the Easy Form.



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 there are any words or terms used in these instructions that you do not understand, please **visit Illinois Legal Aid Online** at ilao.info/glossary. You may also find more information, resources, and the location of your local legal self-help center at ilao.info/lshc-directory.



ARE THESE FORMS FOR ME?

You may **use these forms to ask the court to evict a person from your property** when:

- Your case is a **residential eviction**. Residential eviction cases involve a dwelling unit that is used as a home, residence, or sleeping place.
- You are a landlord or property owner who does not have a lawyer to file an eviction case. If you are not a lawyer, you cannot represent another person's interest in court. You must be the named plaintiff in an eviction and complete and sign all the filings on your own behalf. **If a corporation or LLC owns the property, it must hire a lawyer.**

These **forms will help you**:

- Notify a tenant that the lease was violated or will not be renewed.
- Notify a squatter or trespasser that they have to leave immediately.
- Notify the person about an eviction case.
- Ask a judge to evict a person from your property.

Most of these instructions assume that you are a landlord and that the people you are trying to evict are tenants. If the person is not a tenant, see the sections on page 7 on how to evict occupants, trespassers, or squatters.

Do not use these forms if your eviction case is about:

- Commercial eviction, post-foreclosure, mobile home, condominium action against owners, public and project based subsidized housing, land-only lease, or contract for deed (also called a rent to own agreement or installment sales agreement).

Use The Right Notice For Your Case:

- *Notice of Termination for Unpaid Rent (5-Day Notice)*
- *Notice of Termination for Lease Violation (Other than Unpaid Rent) (10-Day Notice)*
- *Notice That Your Lease or Tenancy is Ending (Non-Renewal/Termination)*
- *Demand for Immediate Possession*
- *Affidavit of Service of a Demand or Notice*

Forms Required To File An Eviction Case:

- *Eviction Complaint*: asks the court for an eviction and gives information needed to begin the eviction.
 - You **must** attach the following to the *Eviction Complaint*:
 - A copy of the *Notice* or *Demand* (if any).
 - *Affidavit of Service of a Demand or Notice*.
 - If there is a written lease, include a copy of the lease or relevant parts of the written lease. If you had a written lease that ended and you accepted rent from your tenants, you must attach the most recent lease to the *Eviction Complaint*.
- *Eviction Summons*: tells the Defendants that you are asking the court for an eviction and gives the court date.
- *Eviction Order*: the judge uses this form to grant or deny your eviction.
- *Missing Documents Affidavit*: use if you did not attach a *Notice*, *Demand*, or lease to the *Eviction Complaint*.

You can find all of the statewide forms online at ilcourts.info/forms.

IMPORTANT INFORMATION

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

- The **Plaintiff** files the eviction case and is usually the **landlord or owner of the property**. If a corporation or LLC owns the property, it must hire a lawyer. Property managers cannot file on behalf of the owner.
- The **Defendants** are the **tenants or occupants of your property** that you are trying to evict.
 - A **tenant** is someone with an oral or written lease.
 - An **occupant** is someone who does not have an oral or written lease but lives in the property.
- The Plaintiff files an eviction case to make the Defendants move out. The Plaintiff can also ask for unpaid rent.

When can I start the eviction process?

You can start the eviction process in any of these circumstances after you've given any notice, if required by law:

- Your tenant hasn't paid their rent and did not pay during the notice period.
- Your tenant's lease is about to end, you do not want to renew it, and you've given them a notice, if required by law. This notice period could be up to 120 days.
- Your tenant has violated the terms of the lease and did not or could not fix the problem within the notice period (if the law allows the tenant to fix the problem).
- Your tenant has no written lease, you want the tenant to move out, and you've given them a notice, if required by law.
- An occupant is living at the property and refuses to leave.

How do I evict someone living on my property?

- There is only one way to evict a tenant or an occupant who does not agree to leave. You must:
 - Give any required notice.
 - File an eviction case.
 - Win the case.
 - Get an eviction order from the judge.
 - Have the sheriff enforce this order by performing an eviction.



- Trying to evict a person without a court order is **against the law**. You cannot change locks, turn off utilities, or take any other action on your own to try to force a person to move. In Illinois, only the sheriff can evict tenants and the sheriff needs an Eviction Order signed by a judge to do so.

What are invalid reasons to evict a tenant?

- Tenants can't be evicted for engaging in an activity the law protects.
- Tenants can't be evicted for complaining to a government official about conditions at the property.
- Tenants can't be evicted because of unlawful discrimination.
 - For example, a tenant can't be evicted based on their religion or race.



Some cities, including Chicago, have **different or additional requirements** that these instructions do not discuss. Check with your local government about whether your city has adopted ordinances that apply to your eviction case.



STEP 1

FILL OUT AND SERVE THE DEFENDANTS WITH WRITTEN NOTICE.



The **notice requirements** and **service requirements** in Step 1 may be different if required by the lease, local landlord-tenant law, or subsidized housing programs. If you are confused about this very important step in the process, talk with a lawyer.

The type of notice you use depends on the reason for the eviction.

- The most common types of notice are:
 - **Notice of Termination for Unpaid Rent** (also known as a 5-Day Notice) if the tenant has not paid rent.
 - **Notice of Termination for Lease Violation (Other than Unpaid Rent)** (also known as a 10-Day Notice) if the tenant has violated the lease in another way other than not paying the rent.
 - **Notice That Your Lease or Tenancy is Ending (Non-Renewal/Termination)** if you do not want to renew an expiring lease.
 - **Demand for Immediate Possession** if you are not renting to the occupants.

You must have the *Notice* or *Demand* delivered to the tenant. This is called “serving” them. You can serve the *Notice* or *Demand* by:

- Handing it to the Defendant; or
- Handing it to a person who is at least 13 years old and lives in the property; or
- Sending a copy of the notice to the Defendant by certified or registered mail, with a return receipt from the addressee (such as a USPS green card); or
- Posting it on the door, but **only** if no one lives in the property.

The person who serves the *Notice* or *Demand* must fill out an ***Affidavit of Service of a Demand or Notice*** describing how and when they served the *Notice* on the Defendants.

- You only need to fill out 1 *Notice* or *Demand* and 1 *Affidavit of Service of a Demand or Notice* even if you have more than 1 tenant or unknown occupant to serve. Be sure to keep a copy of these forms for yourself.

Each notice, except for the *Demand for Immediate Possession*, has a different notice period.

- The notice period is how many days you have to wait after the *Notice* is served before you can file your *Eviction Complaint* in court. If you file the *Eviction Complaint* before the notice period ends, the judge may dismiss your case and you will have to start over.
- During the notice period, the tenant:
 - Can pay you the amount that is owed.
 - May have the right to fix the problem (also called the right to cure).
- If the tenant pays the amount that is owed or fixes the problem (if the law allows) the *Notice* has been satisfied and you cannot evict them for that reason anymore.
- The notice period starts the **day after you serve the *Notice***. The day you serve the *Notice* does not count. Then, you can file your *Eviction Complaint* **the day after** the notice period ends.
- If you served by certified or registered mail, the notice period starts at delivery.
- The **notice period ends** at midnight on the last day of the notice period.
 - If the last day of the notice period is a Saturday, Sunday, or court holiday, the notice period ends at midnight of the next day that the court is open.
 - If you serve a *Notice of Termination for unpaid rent* or a *lease violation*, the notice period begins



the day after the tenant is served with the Notice.

- If you serve a *Notice That Your Lease or Tenancy is Ending (Non-Renewal/Termination)*, the notice period starts at the beginning of the next rental month.
- Count the days on a calendar starting with the day after you plan to serve the tenant with the notice. Counting the days can help make sure you are providing the full amount of days in the notice period. Keep in mind that all calendar months are not the same length. There may be a website that can help you calculate the correct date based on the length of your notice period.
- For example, if you serve a *Notice of Termination for Unpaid Rent* (5-day notice) on a Monday, Day 1 would start on Tuesday. Day 5 lands on Saturday, but since weekends do not count, the notice period keeps going until Monday. That means you can file the eviction case on Tuesday.
 - If that Monday is a court holiday, you wait one more day and file on Wednesday.
- Filing the eviction case before the Notice period ends can result in your case being dismissed. If you're unsure when the Notice period ends, you can wait a day or two before moving forward.

Notice Instructions for Common Situations:

Evicting a tenant whose lease has ended and you do not want to renew:

- Generally, outside of Cook County, if the written lease ends on a specific date (and the lease does not say it automatically renews or changes to a month-to-month tenancy) and your tenant does not move out, you may file an *Eviction Complaint* the very next day.
- However, in Cook County you may **not** file an eviction action the very next day if your local landlord-tenant law requires you to give your tenant advance written notice that you do not want to renew the lease.
- If your local landlord-tenant law or lease requires written notice to not renew the lease, you must first serve the tenant with a ***Notice That Your Lease or Tenancy is Ending (Non-Renewal/Termination)***. Most rental periods go from the 1st of the month to the last day of the month, so you should serve your notice at least 30 days before the end of the month.
- In Chicago, landlords must provide notice that the lease will not renew:
 - **60 days** before the last day of the lease if the tenant has lived in the property for **more than 6 months but less than 3 years**.
 - **120 days** before the last day of the lease if the tenant has lived in the property for **more than 3 years**.
- In Cook County, landlords must provide **60 days of notice** that the landlord will not renew the lease when it ends.

Evicting a tenant who allegedly violated some other lease term:

- You may serve the tenant with a ***Notice of Termination for Lease Violation (Other than Unpaid Rent)*** (10-Day Notice) stating that you are terminating the lease. This *Notice* should be specific about how the tenant violated the lease. If possible, you should name the person who violated the lease, describe the violation, and state when the violation happened.
- If you want to use a lease violation as a reason to evict a tenant, you must include it on the notice.
- Some landlord-tenant laws and leases give the tenant a right to fix the problem before the notice period expires. This is called the **right to cure**. If the tenant has the right to cure, the *Notice* must inform the tenant of this right. Check the lease and check the resources on page 2.
 - If the tenant has the right to fix the problem and does so before the notice period ends, you **cannot** evict them for that lease violation.
 - If the tenant does not have the right to fix the problem, or they do not fix the problem within the notice period, you can file the *Eviction Complaint* after the notice period is over.

Evicting a tenant who has no written lease:

- If someone has paid rent to live on your property, they are legally considered a tenant even if you never had a written lease.
- Most tenants without a written lease are on a **month-to-month tenancy**. Oral leases can also have

other types of time periods that require a different kind of notice. If you think your lease is not a month-to-month tenancy, you may wish to speak with a lawyer or visit ilao.info/eviction-notice.

- If the tenant had a written lease that has now expired, but you are still accepting rent, they are likely now a **month-to-month tenant**.
- You must first serve the tenant with a **Notice That Your Lease or Tenancy is Ending (Non-Renewal/Termination)**. Most rental periods go from the 1st of the month to the last day of the month, so you should serve your notice at least 30 days before the end of the month.

Evicting occupants, like family members, guests, and romantic partners, who are not tenants:

- If someone was allowed to stay in the property and you now want them to leave and they refuse, you still need to follow the eviction process whether or not you have a personal relationship with them.
- Even people that aren't paying rent, like family members or other invitees, may have a right to continue living in the property unless they are evicted.

Evicting squatters or trespassers living in your property:

- If someone was not invited or allowed onto the property and they will not leave when asked, determine whether they are an occupant or tenant. If they are an occupant or tenant, you may be required to honor any prior agreement or to terminate the tenancy using the instructions above.
- You may be able to give a **Demand for Immediate Possession**. Talk with a lawyer prior to filing your *Eviction Complaint* if you think that these or other issues could come up.
- Some qualified renters in **foreclosed properties** may have additional rights to remain or receive relocation assistance.



STEP 2

FILL OUT AND FILE AN EVICTION COMPLAINT & EVICTION SUMMONS.

The Plaintiff is the person filing the eviction case.

- The Plaintiff is someone who believes they have a right to evict someone from the property. This is usually the landlord, owner, or agent of the owner. If a corporation or LLC owns the property, it must hire a lawyer.

You should name every adult that you are trying to evict as Defendants in the *Eviction Complaint*.

- You can also check the box for **"All Unknown Occupants"** as a Defendant. If the sheriff comes out to evict the people on the property and finds someone there who was not named, the sheriff will not evict that person unless you have included "All Unknown Occupants" as a Defendant.
- Only adults who live in the property can be named as Defendants in the *Eviction Complaint*. If you include a minor (someone under 18) as a defendant, the law requires the case be dismissed, and you will have to start the case over again.

In your *Eviction Complaint*, you can ask the court for the following:

- **Possession of the property:** Request an order allowing the sheriff to evict the Defendants and give you possession of the property.
- **Unpaid rent:** Ask for all past due **rent** and any rent that comes due while the case is ongoing, if there is an oral or written lease.
 - **Use and Occupancy:** During the course of the case, you can ask the judge for permission to accept payment for the reasonable rental value of the property (or the total tenant portion for a subsidized unit) for the time the defendants live there. You can ask the judge for this even if there is no oral or written lease.
- **Court costs:** Request reimbursement for filing fees and service fees.
- **Attorney's fees:** Some local laws may prohibit you from requesting attorney's fees. You can only ask for attorney's fees for work performed by a licensed attorney in the eviction case. If you have a

written agreement (such as a lease) that says the Defendants are responsible for attorney's fees, you can ask the judge to award them in the Eviction Complaint.

In your *Eviction Complaint*, you cannot ask the court for:

- Money to compensate you for damages to the property caused by the Defendants.
- Money for other claims against the Defendants that are not related to possession of the property.
- For issues that cannot be addressed in eviction court, you may be able to file a different type of court case.



You need a court date to put on your *Eviction Summons*. You must ask for a court date that gives the sheriff or special process server enough time to serve the Defendant at least 3 days before the court date (7 days in Cook County).

Getting a Court Date

- Before filing your case, contact your local Circuit Clerk's office to ask about their process for filing the *Eviction Complaint*, *Eviction Summons*, and any additional documents as required by law. To find the Circuit Clerk's phone number, visit ilcourts.info/clerks.
- Once you have your court date, fill in that information on the *Eviction Summons*.
- If you are filing in person because you have a *Certification for Exemption from E-filing*, ask the Circuit Clerk for a court date when you file your *Eviction Summons*, and fill it in.



COSTS AND FEES

There may be costs and fees to take part in a court case. This might include fees for filing court documents. Some case types have no fee for filing. Depending on the type of court case, there may be other costs and fees charged – for example, sheriff's fees for serving documents on the other people in the case. If you cannot afford to pay costs and fees, you can ask the court to file for free or at a reduced cost by filing an *Application for Waiver of Court Fees*.

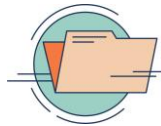
This is a separate form you can find at ilcourts.info/fee-waiver-forms.

HOW TO FILE THE FORMS



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 the Not E-filing section below) or
 - Your case involves a criminal matter or is filed under the Juvenile Court Act of 1987.
- There may be fees to file your forms. See the Costs & Fees section for more information.
- 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/efile-info.
- E-filing is easier on a computer. It may not work on a cell phone or tablet.
- Original wills may not be e-filed.
- 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 Clerk’s office. These places offer public computers where you can e-file your forms.
 - Your courthouse may offer public computers with 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 you:
 - Do not have internet or computer access in your home or can’t meaningfully use it.
 - Do not have an email account.
 - Do not have a credit card, debit card, or bank account.
 - Have trouble reading, writing, or speaking English.
 - Tried to e-file your forms, but you were not able to because the equipment or help you needed was not available.
 - Are filing an emergency case as allowed by local rule or order.
- To ask for an exemption from e-filing, use the form at ilcourts.info/exempt. If you cannot print this form, then ask for it at your local courthouse.
 - File your *Certification for Exemption from E-Filing* form along 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 a fee to make copies.
- There may be fees to file your forms. See the Costs & Fees section for more information.
- 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 and then send your copies back to you in the envelope.



STEP 3

SERVE THE EVICTION COMPLAINT & EVICTION SUMMONS ON THE DEFENDANTS.

- The sheriff or a process server must serve each of the Defendants at least 3 days (7 days in Cook County) before the first court date which is on the *Eviction Summons*.
 - If you want to use a person who is **not** the sheriff or a licensed process server to serve the Defendants, you must request permission from the court by filing a *Motion to Approve Process Server Who is Not Licensed*, found at ilcourts.info/process-server-unlicensed.
- You must give the sheriff or process server one copy for each Defendant of your *Eviction Summons* and *Eviction Complaint*, including all additional pages related to the eviction that were filed with the Circuit Clerk's office.
 - You are required to attach the Court-Based Rental Assistance Notice in English and in Spanish to the *Eviction Summons*, found at ilcourts.info/eviction-rental-assistance. Check with your local court because they may have additional required information.
 - You must give all pages of the *Eviction Summons*, *Eviction Complaint*, and any additional pages you filed to the sheriff or process server.
- If you are using the **sheriff** to serve the Defendants:
 - **In person:** Bring your documents to the sheriff's office.
 - **By mail:** Mail copies of your documents to the sheriff's office. Sending your documents to the sheriff by mail may delay your case.
 - Include the *Letter to the Sheriff* found at ilcourts.info/summons-letter.
 - Speak with the sheriff's office to determine how they will send you the proof that the Defendant was served.
 - **Other ways:** Some sheriff's offices may have a process for doing this electronically. You can speak with the sheriff's office for more information.
 - Give the sheriff a copy of your *Order for Waiver of Court Fees* (if you have one) and pay your portion of the sheriff's fees (if any). An approved *Order for Waiver of Court Fees* must be accepted by all sheriffs in Illinois, but not in other states.
- If you are using a **process server** to serve the Defendants:
 - Speak with the process server you have chosen to determine how to deliver the *Eviction Summons* and *Eviction Complaint* to them.
 - You can include the *Letter to the Process Server* found at ilcourts.info/process-server-letter.

Confirm that the sheriff or process server served the forms on the other party.

- After the sheriff or process server serves the other party with your court forms, they will fill out the *Affidavit of Service of Eviction Summons & Eviction Complaint* section of your *Eviction Summons* form and file it with the Circuit Clerk or mail it to you.
- Call the Circuit Clerk to find out if it has been filed. If it has been filed, ask the Circuit Clerk how to get a copy.
- If the sheriff or process server mails the *Eviction Summons* with the completed *Affidavit of Service of Eviction Summons & Eviction Complaint* to you, e-file the *Affidavit of Service of Eviction Summons & Eviction Complaint*. If you have an e-filing exemption, make a copy for yourself and file the *Affidavit of Service of Eviction Summons & Eviction Complaint* with the Circuit Clerk and have the Circuit Clerk stamp your copy.

If the defendant is not served before your court date:

- Go to the court date and ask the judge to let you file a new *Eviction Summons* (sometimes called an "Alias Eviction Summons") and set another court date. This will give you time to serve the new *Eviction Summons* with the new date and time.

- Go back to Step 2 to file this new *Eviction Summons*. Remember to put the next court date on the new *Eviction Summons*.
- Follow Step 3 and ask the sheriff or process server to try to serve the other party again. Remember to provide a copy of the *Eviction Complaint* with the new *Eviction Summons* and additional pages.



Can I serve the tenants by posting? ([735 ILCS 5/9-107](#))

Not right away if there is someone living in the property. Illinois law requires a “diligent inquiry.” If a sheriff or process server has already tried repeatedly to serve the tenants and been unable to do so, there is a procedure for service by posting through the sheriff’s office.

The procedure requires you to file an *Affidavit* with the court, fill out and mail a *Notice by Posting*, use the sheriff to post the court documents and have a court date. **You cannot post the court document yourself.** Only a sheriff can serve the Defendants by posting.

If the sheriff serves the Defendants by posting and the Defendants do not come to court, you can only ask the judge for possession of the property. The court **cannot** award you money in the eviction case, like unpaid rent or “use and occupancy” payments.

- The sheriff may be able to serve the Defendants by posting notices of the eviction in the area around the property. Serving the Defendants in this way is called “**service by posting.**”
 - You must follow special rules to serve the Defendants by posting. If you do not follow the special rules, the judge may make you serve the Defendants again.
 - This process may take time and effort to find and serve them.
- **Before you can serve by posting**, you must **first** make a “diligent inquiry” to have the sheriff or process server find and serve the Defendants in person. A diligent inquiry means the sheriff or process server has tried every commonsense way to find and serve them. This includes making multiple efforts to serve the Defendants.
 - This should include attempts by the sheriff or process server to find and serve the Defendants at the property on different dates and at different times of day.
 - If you know of other addresses where the Defendants could be served have them served at these addresses as well.
- After you have had the sheriff or process server make a diligent inquiry and they have been unable to serve the Defendants in person, then you may serve them by posting.
- **To serve the Defendants by posting, you must:**
 - **Step 1:** Complete an *Affidavit for Service by Posting*, which states why you need to serve by posting. You have to show at least 1 of the following:
 - The Defendant lives outside of Illinois.
 - The Defendant has gone outside of Illinois.
 - You know the Defendant is in Illinois but you cannot find them.
 - You cannot find the Defendant after trying your best.
 - **Step 2:** Fill out a *Notice By Posting Requiring Appearance in Eviction Case*.
 - You will need to put a new court date on the *Notice by Posting Requiring Appearance in Eviction Case* before you file it. The court date must be at least 10 days after the sheriff is expected to post the *Notice*.
 - If you got a court date from the judge, put that date, time and courtroom on the *Notice*.
 - If you did not get a court date from the judge, call the Circuit Clerk to ask for a court date. Put that date, time, and courtroom on the *Notice*.
 - Once you have a court date, mail the *Notice* to the address you have for the defendants.
 - **Step 3:** File the *Affidavit for Service by Posting* and a copy of the *Notice by Posting Requiring Appearance in Eviction Case* that will be posted.
 - **Step 4:** After you file, give the *Notice* to the sheriff to post and pay your part of any fees. The sheriff may need multiple copies of the *Notice* or other papers before they will serve the Defendants by posting. Call the sheriff’s office and ask for their requirements.

- The sheriff must post the *Notice* at least 10 days before the court date. If the *Notice* is posted less than 10 days before the court date, there may be an additional court date.
- The sheriff will file an affidavit proving they served the Defendants by posting.
- **Step 5:** Go to the court date and bring with you:
 - Any earlier *Affidavits of Service of Eviction Summons & Eviction Complaint* showing the Defendants could not be personally served;
 - The *Affidavit for Service by Posting*;
 - The *Notice by Posting Requiring Appearance in Eviction Case*; and
 - The sheriff's posting affidavit, if available.
- If the judge agrees you did what you reasonably could to try to serve the Defendants in person and that you followed the service by posting rules, then they will proceed with the eviction case. The judge may decide to have a trial immediately or may schedule a new trial date. After you serve the Defendants by posting, prepare for trial before you come to court.
 - If the Defendants are served by posting, the Defendants can still challenge service.
 - If the sheriff serves the Defendants by posting and the Defendants do not come to court, you can only ask the judge for possession of the property. The court **cannot** award you money in the eviction case, like unpaid rent or "use and occupancy" payments.



STEP 4

GO TO COURT TO ASK FOR AN EVICTION ORDER.

Prepare for your court date.

- To 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.
 - Questions you have for witnesses, if there are any.
- You are able to speak with the Defendants before your first court date. Read below for more information about settling the eviction case without going to trial.
- 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 before the hearing date. 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.

Attend court.



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/clerks.

Your court date could be in person, by phone or by video.

- If your court date is in person:
 - Get to the courthouse at least 30 minutes early so you have enough time to get through security.
 - Go to the courtroom number listed on your court form.
 - If your forms do not have a courtroom number, look for a list of cases at the courthouse or ask someone at the Circuit Clerk's office.
 - Check in with the courtroom staff and wait for your name and case number to be called.

- 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.
 - Start trying to log-in to your courtroom at least 15 minutes before the start time in case you have any problems with technology.
 - Follow these tips to attend court by phone or video: ilcourts.info/remote-resources.
- When your case is called, introduce yourself to the judge. If you are attending by phone or video remember to unmute yourself.
- Have these items with you on your court date or file them with the court ahead of the court date:
 - A copy of the *Eviction Complaint* and *Eviction Summons*.
 - Proof that the *Eviction Summons* and *Eviction Complaint* were served on the Defendants.
 - A copy of the *Notice or Demand* (if any).
 - *Affidavit of Proof of Service of a Demand or Notice*.
 - The written lease if your *Eviction Complaint* is based on a lease violation, other than non-payment of rent.
 - *Missing Documents Affidavit* if you do not have a *Notice, Demand, or Affidavit of Service of a Demand or Notice*.
 - If you are evicting the Defendants for unpaid rent, bring a copy of your rent ledger, receipt book, rent payment history, or any other documents to show how much the Defendants owe.
 - If you are evicting the Defendants for a lease violation other than unpaid rent, bring any documents, photographs, or other evidence showing that the Defendants committed the lease violation.
 - Any other evidence or witnesses that you feel may be important to your case.

Your case may go to trial or may get continued to another date.

- The judge may continue the case for any number of reasons:
 - You cannot show you properly served the *Eviction Summons*.
 - The Defendants may ask for time to get a lawyer.
 - The Defendants may file a jury demand (asking that the case be decided by a jury instead of a judge).
 - The judge may grant either party more time to gather necessary evidence. For more information about how to get evidence, see ilao.info/using-discovery.
 - In **Cook County**, your case will not go to trial on the first court date. If you do not have a lawyer, you can get connected to the Early Resolution Program at your court date. This program includes free legal advice, mediation, and connections to other resources including rental assistance.

Settling the eviction case without going to trial:

- You and the defendant can agree to settle the case at any time without going to trial. This can be done in a written agreement, or an “agreed order.”
 - You don’t have to wait for your court date to talk to the defendants and try to reach an agreement.
 - Agreed orders help both sides know exactly what the eviction court outcome will be.
 - Agreements should always be put in writing and include all the details.
 - You can find agreement forms to use at ilcourts.info/eviction-forms under “Orders in Eviction Cases”
- Common types of agreed orders:
 - The Defendant agrees to move out.
 - The defendant agrees to move out by a specific date.
 - If they move out on time, the case is dismissed and no eviction judgment is entered.
 - If they don’t move out on time, the court can grant an *Eviction Order*.

- The Defendant agrees to a “pay and stay.”
 - The defendant stays in the unit and agrees to a payment plan over time.
 - If they don’t make the payments as agreed, the court can grant an Eviction Order.
- The case is dismissed for now.
 - The case is dismissed because the defendant agrees to do certain things like move out or pay money by a certain date.
 - There are no future court dates once the case is dismissed.
 - If the defendant does not do what they agreed to do, the court can grant an Eviction Order.
- For more information about agreed orders in eviction cases, go to ilcourts.info/how-to-eviction-orders.

What to expect during a trial:

- You will be placed under oath. You will have a chance to tell the judge your side of the case.
- If you have witnesses, let the judge know. You can question your witnesses.
- The Defendants can question you and your witnesses.
- The Defendants then have the chance to tell the judge their side of the case.
- You can question the Defendants and their witnesses.
- You and the Defendants can show documents to the judge. The judge will decide what evidence will be used to decide the case.

After both sides present their case, the judge will make a decision and enter an order.

- If the judge needs more information to make a decision, the judge may continue the case to a later date. If the judge wants more information, write down what is needed and bring it with you to the next court date.
- If the judge has enough information to make a decision, they will enter an order.
- If the judge rules in your favor, the *Eviction Order* will give you possession of your property. The *Eviction Order* may also award you the rent due, court costs, and attorneys’ fees. It will give a date and time by which the Defendants must move out. If the Defendants do not move by that time, you may contact the sheriff. **Only the sheriff may evict the Defendants!**
- If the judge rules against you, the judge will dismiss your case.



STEP 5

ENFORCE THE EVICTION ORDER.

If the judge grants your Eviction Order, you must ask the sheriff to evict the tenants.

- The *Eviction Order* may include a “stay” date. This means the tenants have until that day to move out without the sheriff evicting them.
- After court, you must take the *Eviction Order* to the sheriff’s office. You may need to fill out extra forms, make copies, get certified copies, and/or pay fees.
- You will need to ask your sheriff’s office what their process is for:
 - Telling you when they will come to do the eviction (you or someone on your behalf must be at the property when the sheriff arrives).
 - Having the locks changed.
 - Removing any personal property from the unit.
 - Canceling the eviction.
 - Any other requirements.
- If you do not follow your sheriff’s office procedures, it could delay the eviction.
- If you have an *Order for Waiver of Court Fees*, all or a portion of any fee the sheriff charges will be waived. Give a copy of your *Order* to the sheriff.
- The sheriff can only evict defendants you named on the Eviction Complaint, unless you checked the “All Unknown Occupants” box on the Eviction Complaint.

If the tenant does not pay you the money listed on the *Eviction Order*, you may have to go back to court to try to collect the money. It is important to understand that collecting money is a separate legal process. For more information see ilao.info/collecting-judgment.