

Eviction

What is an eviction? An eviction is a lawsuit filed by a landlord to remove tenants and their belongings from the landlord's property. In Texas, an eviction is also called a "forcible entry and detainer," and a landlord cannot remove a tenant from the property without filing such a case. You can be evicted for violations of terms listed in your lease, for example:

- Not paying the rent.
- Causing damage to the property.
- Actions that endanger the health and safety of others, like drug activity or violent crime.
- Disturbing other tenants by being too loud or noisy.
- Not vacating when your lease is up and is not renewed, called "holding over."

Whatever the reason, it is important to keep paying your rent as usual so your landlord can't use nonpayment as another reason to evict you.

Can my landlord refuse to renew my lease? Yes. Your landlord can choose not to renew for any reason except for:

- Discrimination based on sex, race, family status, disability, or other reason prohibited by law.
- Retaliation for requesting repairs to the unit or asserting rights you have under the lease or law.

You are legally entitled to advance notice of the non-renewal. The notice period depends upon the terms of your lease and when it expires. *If you are in public housing or subsidized housing, your landlord must have "good cause" not to renew your lease, for example a serious violation of your lease.*

How will I know if I'm going to be evicted? You must get *written notice to vacate* before the landlord can file a lawsuit to evict you. This notice to vacate must give you at least three days, unless your lease allows for a shorter time. The written notice can be delivered by hand to you or anyone in the unit over age 16; by mail, or posted on the *inside* of your front door. *The date in the notice to vacate is not the date you will be kicked out.* Your landlord has to go to court to evict you. The notice requirements are different if you are in public or subsidized housing.

What happens if I don't leave by the date on the notice to vacate? If you don't leave after you get the notice to vacate, your landlord can proceed with the eviction lawsuit in Justice of the Peace (J.P.) court. A constable will serve the papers on you or anyone on the property over 16 years of age. If personal service fails after two attempts, the constable can post it on your door or slip it underneath.

I've been served with the eviction lawsuit. What now? Review the court papers carefully. The petition must state exactly why you are being evicted. The papers will tell you when you must appear in J.P. court to explain your side of the case to the judge. You should closely follow the instructions in the papers. If you would prefer that a jury rather than the J.P. hear your case, you can request a jury and pay \$22.00 (or a sworn statement of inability to pay that fee) at least three days before the date set for your trial. You must appear in the J.P. court at the date and time given to you by the J.P. staff or as listed in the court papers. If you fail to attend the hearing, the landlord will ask for a default judgment against you. If you lose the hearing, you can appeal within five days. For the special rules that apply to eviction case appeals, see our brochure "Appealing an Eviction."

What happens if I ignore the lawsuit? If you ignore the lawsuit, or do not appeal if you lost, the landlord can get a "Writ of Possession." This is an order from the court telling the constable or sheriff to give the landlord possession of the property. Before the constable comes to remove you and your belongings, they must give at least 24 hours' notice and post the notice on your front door. Your property can be placed outside of the unit. Your landlord is not required to store it. Find more help from the Texas Tenant Advisor, www.texastenant.org.