



**Texas**  
LawHelp.org

# Defendant's Answer – Eviction

This toolkit tells tenants how to file an Answer in an eviction case.

Forms are included.

You can use this form to file an Answer if you have received an Eviction Citation with a hearing date.

This packet was developed by TexasLawHelp.org in collaboration with Texas RioGrande Legal Aid and Legal Aid of Northwest Texas.

**Do not file this page.**

## Instructions for Eviction Answer

- Step 1: Caption** – Fill out the Cause No., Plaintiff, Defendant, Precinct No., and County blanks at the top exactly as they appear in the citation that the court sent you.
- Step 2: Defenses** – Check the applicable boxes, if any:
  - a. Pending Rental Assistance Application – Check this box if you know that the landlord has applied for assistance to cover rent they say you owe. This includes where they have joined any rental assistance application that you submitted.

Note that you can apply for help with rent through [TexasRentRelief.com](https://www.texasrentrelief.com) or through local programs such as those found [here](#), [here](#), and [here](#).

- i. Check the box by “the rental assistance application has been approved” if applicable.
- b. Interest in Texas Eviction Diversion Program – Check this box if you and the landlord are both interested in the [Texas Eviction Diversion Program](#) (TEDP). You can apply for the TEDP as part of your Texas Rent Relief application. If your landlord said they were interested in TEDP after you applied to Texas Rent Relief, contact [TexasRentRelief.com](https://www.texasrentrelief.com) to update your application.
- c. Plaintiff Has Received Rental Assistance Funds – Check this box if rent assistance paid for at least one period of rent that the landlord is accusing you of not paying in this eviction suit.

For example, if you used rent assistance to pay last month’s rent, but the petition says that you should be evicted for owing last month’s rent, then check this box.

- d. CARES Act – The CARES Act says that landlords of certain properties cannot give tenants a Notice to Vacate for unpaid rent until July 25, 2020. After July 25, 2020, landlords of covered properties must give a 30-Day Notice to Vacate before filing for eviction.

Check this box if you live on a **covered property** and any of the following apply:

- The landlord gave you a Notice to Vacate or filed an eviction for nonpayment between March 27, 2020 and July 25, 2020
- The landlord did not give you a 30-Day Notice to Vacate, or
- The landlord gave you a 30-Day Notice to Vacate (at any time) but filed for eviction before the 30 days ended.

**Covered Properties:** Go to the [National Low Income Housing Coalition](#) for a list of properties that fall under Section 4024 the CARES Act. There is also a [map](#) from BASTA, Texas RioGrande Legal Aid, and Texas Housers [here](#). **Note that the list and map are not complete.** If you check the list and the map and are still unsure whether you live on a covered property, see this TexasLawHelp [article](#).

- e. Thirty-fourth Emergency Order Petition Requirements (petitions prior to April 1, 2021) – The Supreme Court of Texas gave an [emergency order](#) that required landlords to include certain things in their Petition for Eviction. **This order has expired, but it may still apply to cases filed before April 1, 2021.** Check this box if the petition was filed between March 27, 2020 and April 1, 2021 and any of the following four things apply:
- i. Covered Dwelling – Check this box if the petition does not say whether your home is a “covered dwelling” subject to Section 4024 of the CARES Act.
  - ii. Federal Housing Administration Mortgage – Check this box if the petition does not say whether the property is subject to or used to secure an FHA single-family mortgage. (The FHA temporarily banned eviction of owners who defaulted on single-family FHA mortgages.) The Petition must say this even if you did not own the home.
  - iii. CARES Act Notice – Check this box if the petition does not say whether the landlord gave you a 30-Day Notice to Vacate under Sections 4024(c) of the CARES Act. (Not all cases require 30 days’ notice. Many only require three days’ notice or less. However, your landlord must still say whether they gave you 30 days’ notice.)
  - iv. Signed CDC Declaration – Check this box if the petition does not say whether you gave the landlord a signed [CDC Declaration](#). The petition must say this even if you did not give the landlord a signed CDC Declaration.
- f. Thirty-ninth Emergency Order Petition Requirements – The Supreme Court of Texas’ [emergency order](#) requires eviction petitions to say that the landlord has reviewed information about something called the Texas Eviction Diversion Program. You can find information about the program at [TexasRentRelief.com](#), the [State Court website](#), or at [TexasLawHelp](#). (You may be able to get help with rent and seal your eviction case record.)

Check this box if the petition was filed after September 25, 2020 and does not say that the Petitioner reviewed information about the Texas Eviction Diversion Program.

- g. Federal Foreclosure Related Eviction Prohibition – Check this box and the box by the appropriate entity if you are being evicted due to a foreclosure on your single-family home and the mortgage is insured or guaranteed by any of the following:
- i. Fair Housing Administration – In addition to many traditional mortgages, this includes all Home Equity Conversion Mortgages, a common type of reverse mortgage.
  - ii. Fair Housing Finance Agency – This includes mortgages held or insured by Fannie Mae and Freddie Mac.
  - iii. Department of Veterans Affairs
  - iv. United states Department of Agriculture
- h. Federal Mortgage in Forbearance – Check this box if:
- 1) you live on a property with five or more units; **and**
  - 2) your landlord is in forbearance on a mortgage from the Fair Housing Administration, the Fair Housing Finance Agency, the Department of Veterans Affairs, or the Department of Agriculture.

You can go to the [Consumer Financial Protection Bureau’s website](#) to find this information. Any owners in this type of forbearance cannot evict tenants for nonpayment.

If this defense applies, also check the box next to the entity that holds your landlord’s mortgage.

- i. Local Halt on Evictions – Some cities and counties have halted evictions independently. Be aware of your local rules before checking this box. You can find these rules on your city or county website. If possible, enter the name of the city or county that made the rule.

Note: As of publication, [Austin](#) and [Travis County](#) are the only major local governments that have independently halted evictions. Unless extended, these local eviction bans last until October 15 in Austin and May 1 in the rest of Travis County.

- j. Texas Notice to Vacate – Check this box if you did not get a Notice to Vacate. Texas law requires all landlords to give tenants a Notice to Vacate at least three days before filing for eviction unless the lease states a shorter time period.

You can also check this box if the time between when you received a Notice to Vacate and the date on your citation is 1) less than the time period stated in your lease, or 2) less than three days if the lease does not state a time period.

Note: This Notice to Vacate is separate from the CARES Act Notice above and the Notice of Possible Eviction below.

- k. Notice of Possible Eviction – Some local governments, including [Dallas](#), temporarily require landlords to give you an extra written notice and a chance to pay missed rent before giving you a Notice to Vacate for unpaid rent. (The Notice to Vacate is what they are supposed to give you right before they file for eviction.) Be aware of your local rules before checking this box. You can find these rules on your city or county website, or they may be listed on the TexasLawHelp.org [COVID Evictions page](#). If possible, enter the name of the city or county that made the rule.

**Step 3: Further Information** – You may list any further defenses or information that you think the court should know about.

**Step 4: Jury Trial** – Check this box if you want a jury to decide your case instead of a judge. There is a \$22 fee for this.

**Step 5: Email** – Check this box if you agree to get case information through email.

**Step 6: Attachments** – If your explanations do not fit in the form, feel free to add an attachment. You can also attach other evidence, such as a copy of the lease, evidence that the CARES Act applies, etc. List the title of each attachment.

For example: “Lease Agreement”

**Step 7: Signature and Contact Information** – Sign and fill out your contact information.

**Step 8: Service** – Give a copy of the Answer to the Plaintiff or the Plaintiff’s attorney, if they have one. You can give them a copy by hand, mail, or fax. If you and the Plaintiff agree, you can email them a copy.

**Step 9: Certificate of Service** – Enter the date on which you sent a copy of the Answer to the Plaintiff. Check the method you used.

**Step 10: Sign** – Sign the Certificate of Service.

**Step 11: File** – File the completed Answer with the court.

**Step 12: Hearing** – Go to the court hearing. If you absolutely cannot show up to the hearing, file a [Motion for Continuance](#) to ask for another date. **You must have a very good reason to move the court date.** The court does not have to give you a new court date just because you ask. Note that having to work is not usually an acceptable reason.

Cause No. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff § In the Justice Court  
§  
v. § Precinct No. \_\_\_\_\_  
§  
\_\_\_\_\_  
Defendant § \_\_\_\_\_ County, Texas

### Defendant's Answer (Eviction)

The Defendant, \_\_\_\_\_, submits this Answer.

**General Denial:** The Defendant generally denies all of the Plaintiff's allegations and demands that Plaintiff prove each allegation.

**Affirmative Defenses:** Based on information and belief, the Defendant asserts that:

- Pending Rental Assistance Application:** The Plaintiff has a pending rental assistance application and the court must make this case confidential and abate proceedings for 60 days per the July 19, 2021 Supreme Court of Texas Thirty-ninth Emergency Order, or as extended by any subsequent COVID-19-related Supreme Court of Texas emergency order<sup>1</sup>;
  - the rental assistance application has been approved;
- Interest in Texas Eviction Diversion Program:** the Plaintiff and Defendant have both expressed interest in the Texas Eviction Diversion Program and the court must make this case confidential and abate proceedings for 60 days per the July 19, 2021 Supreme Court of Texas Thirty-ninth Emergency Order, or as extended by any subsequent COVID-19-related Supreme Court of Texas emergency order;
- Plaintiff Has Received Rental Assistance Funds:** the Plaintiff has received rental assistance funds for one or more rental periods for which the Plaintiff is alleging nonpayment;
- CARES Act Notice:** the property is a "covered dwelling" under Section 4024 of the CARES Act and the Plaintiff did not provide 30 days' notice of this action;
- Thirty-fourth Emergency Order Petition Requirements (petitions prior to April 1, 2021):** the Plaintiff's sworn petition was filed prior to April 1, 2021, and fails to state one or more of the following, as required by the January 29, 2021 Supreme Court of Texas Thirty-fourth Emergency Order (check all that apply):
  - Covered Dwelling:** the Plaintiff fails to state whether the premises is a "covered dwelling" subject to Section 4024 of the CARES Act;
  - Federal Housing Administration Mortgage:** the Plaintiff fails to state whether the premises are a property securing an FHA-insured single-family mortgage;

<sup>1</sup> See The Texas Judicial Branch webpage for current Supreme Court of Texas emergency orders: <https://txcourts.gov/court-coronavirus-information/emergency-orders/>



