



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.
- a. If this this case is in Justice Court, check the box by “Justice Court” and enter the precinct number. Also enter the Place number, if applicable. Most urban Justice Courts have Place numbers. You can find this information at the top of the citation.
 - b. If this case is in County Court on appeal, check the appropriate box and enter the court number. You can find this number at the top of the citation. Some places, like Harris County, might call the appeal court “Civil Court at Law.”

- 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 when the landlord joins your application, starts their own application, or sends any information to any rent assistance program to apply for or receive payment.

Note that you can apply for help with rent 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 Rental Assistance – Check this box if you and the landlord are both interested in getting rent assistance funds. If your landlord is willing, this will let you abate and seal your case. See the TexasLawHelp article on [Tenant Protections under the 44th Emergency Order](#).
- 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 Notice – 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 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. 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 or the Fair Housing Finance Agency (including Fannie Mae and Freddie Mac)

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.

f. Local Halt on Evictions – Austin and Travis County have halted many evictions through December 31, 2021. A landlord cannot issue a Notice to Vacate in Austin or Travis County unless:

- 1) The tenant has a monthly rent of over \$2,475 or
- 2) The landlord has applied for and exhausted all rent assistance options.

Check this box if your rent is under \$2,475 and if you believe that your landlord has not applied for all available rent assistance.

Also, Austin and Travis County landlords cannot issue a Notice to Vacate unless you are behind on rent. The number of months you must be behind on rent depends on when the Notice to Vacate is issued.

Check this box if:

- 1) You got a Notice to Vacate dated in November when you were not more than one month behind on rent, or
- 2) You got a Notice to Vacate dated in September or October when you were not more than three months behind on rent.

- g. 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 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 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.

- h. 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 [TexasLawHelp](#). 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 Service** – 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** – You must send a copy of your filed Answer to the Plaintiff. Fill out and sign this section before you file your Answer. Be sure to check the

box next to the method by which you plan to send it. Then file and send a copy of the Answer on that **same day** so that the date is correct.

- 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

v.

Defendant

§ In the
§ Justice Court
§ County Court
§ Civil Court at Law
§
§ Court or Precinct No. _____
§ Place No. _____ (if applicable)
§
§
§ _____ 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: *(check all that apply)*

- Pending Rental Assistance Application:** The Plaintiff has a pending rental assistance application for the Defendant's unit and the court must make this case confidential and abate proceedings for 60 days per the November 10, 2021 Supreme Court of Texas Forty-fourth Emergency Order, or as extended by any subsequent COVID-19-related Supreme Court of Texas emergency order¹;
 - the rental assistance application has been approved;
- Interest in Rental Assistance:** the Plaintiff and Defendant have both expressed interest in applying for rent assistance funds and so the court must make this case confidential and abate proceedings for 60 days per the November 10, 2021 Supreme Court of Texas Forty-fourth 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 the Defendant's unit that cover 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;
- Federal Mortgage in Forbearance:** eviction is prohibited because the multi-family property benefits from mortgage forbearance granted by one of the following:
 - Fair Housing Administration
 - Federal Housing Finance Agency

¹ See The Texas Judicial Branch webpage for current Supreme Court of Texas emergency orders:
<https://txcourts.gov/court-coronavirus-information/emergency-orders/>
CV-House-102 Civil Answer (Eviction) (Rev. 11-2021 B)

- Local Halt on Evictions:** this action is prohibited by local rule or ordinance of: *(check all that apply)*
 - The City of Austin
 - Travis County;
- Texas Notice to Vacate:** the Plaintiff has not given the Defendant proper Notice to Vacate as required by Section 24.005 of the Texas Property Code;
- Notice of Possible Eviction:** the Defendant has not received proper Notice of Possible Eviction prior to receiving a Notice to Vacate, as required by local rule or ordinance of _____
(city or county -- only applicable in some jurisdictions).

Further Information: The Defendant further answers as follows (give any other defenses or necessary information, if any, and attach additional pages if necessary):

Jury Trial: The Defendant asks for a jury trial. The fee is \$22 and must be paid at least 3 days before trial.

Email Service: The Defendant agrees to email service for all documents filed in this case. The Defendant's email address is: _____.

Attachments: The Defendant attaches the following documents:

Plea for Relief: The Defendant asks the Court to enter judgment for Defendant, award the Defendant's costs, and provide such other just relief to which Defendant is entitled.

Respectfully submitted,

Defendant Signature Date

Printed Name: _____

Address: _____

Telephone: _____

Email: _____

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of this Answer to the Plaintiff on the ____ day of _____, 20____, pursuant to Texas Rule of Civil Procedure 501.4 by:

- Hand delivery
- Mail
- Fax
- Email (if both parties have agreed in writing and provided email addresses)
- Another method approved by the court: _____

Defendant's Signature

Signature Date