



**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, Legal Aid of Northwest Texas, and Lone Star Legal Aid.

**Do not file this page.**

# Eviction Answer Instructions

## Step 1: Fill out the Caption

The caption is the heading at the top with all of the case information.

Enter the Cause No., Plaintiff, Defendant, County, and Precinct No. or Court Number exactly as they appear in the documents the court sent you.

## Step 2: Check the Boxes for Your Defenses

Read each box and see if the box applies to your case. You may select each one that applies to your case. You don't have to check any boxes. Here is an explanation of each defense:

- ⇒ **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](#).

- Check the box by “the rental assistance application has been approved” if applicable.

- ⇒ **Interest in Rental Assistance:** Check this box if you and the landlord are both interested in getting help paying rent. If your landlord is willing, this will let you abate and seal your case. See the TexasLawHelp article on [Tenant Protections under the 48<sup>th</sup> Emergency Order](#).

- ⇒ **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.

- ⇒ **CARES Act:** 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 [How to Find Out if the CARES Act Applies to Your Home](#).

⇒ **Federal Mortgage in Forbearance:** Check this box if:

- You live on a property with five or more units; **and**
- 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. 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.

⇒ **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:

- Less than the period stated in your lease, or
- 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.

⇒ **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: Enter any Additional Information**

You may list any further defenses or information that you think the court should know about. If there is not enough room, you can attach the information to the Answer form.

### **Step 4: You May Ask the Court for a Jury Trial**

Check this box if you want a jury to decide your case instead of a judge. Be aware that there is a fee for this. (If you use a Statement of Inability to Pay, you won't have to pay for this.)

If you ask for a jury trial, note that every court has their own jury procedure. You should ask the court for their rules for jury trials.

### **Step 5: Get Email Notifications**

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 them to a separate document. You will add that document as 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."

If you have a Statement of Inability to Afford Payment of Court Costs (for an appeal or a jury trial), you must attach a copy to your Answer. If you are appealing by bond or by cash deposit, be sure to attach a copy of your [appeal form](#) to your Answer.

### **Step 7: Signature and Contact Information**

Sign and fill out your contact information.

### **Step 8: Give the Document to the Other Side**

You must serve the other side. This means you need to 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 Is Required**

You must send a copy of your Answer to the Plaintiff. You also must tell the court what method you used to send the Answer to the other side. On the Answer document, check the

box next to the method you will use to send the Answer to the other side. Fill out and sign this section before you send it to the other side.

### **Step 10: File Your Documents**

File the completed Answer with the court. You can call the court on your court papers to see how the court wants you to file your document. You will also want to file any attachments that you create. Once you file your documents, you will receive a case number and a date to appear in court.

If you are appealing your case after losing in Justice Court, file the Answer with the County Court that is hearing your appeal. Otherwise, file with the Justice Court. If you have already filed an Answer in Justice Court, you do not have to file another one for your appeal.

### **Step 11: 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.

**Additional 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 February 25, 2022 Supreme Court of Texas Forty-eighth 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 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 February 25, 2022 Supreme Court of Texas Forty-eighth 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;

<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/>

- 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):*

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**Jury Trial:** The Defendant asks for a jury trial. The fee 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:

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**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