



Maricopa County Justice Courts

INFORMATION FOR FILING AN EVICTION ACTION IN JUSTICE COURT

AN EVICTION ACTION is filed for alleged violations of the lease or rental agreement or of the Arizona Landlord & Tenant Act. At issue for the judge to decide is the right to possession of the property.

CURING THE NON-COMPLIANCE AND KEEPING POSSESSION: Most tenant non-compliance can be cured during the notice period, before a complaint is filed with the court. If the notice was for unpaid rent and a tenant offers full payment of the unpaid rent, you must accept it.

REPRESENTING AN EVICTION ACTION: The property owner is the plaintiff. If the property is owned by:
AN INDIVIDUAL: that individual may appear personally or by an attorney (an attorney continues to be responsible for the case 30 days after the time for appeal has expired or 35 days from the date of judgment). Supreme Court Rule 31.4C
A CORPORATION may be represented by an officer of the corporation, who has been specifically authorized to represent the corporation in Justice Court and otherwise satisfies the requirements of Supreme Court Rule 31.
A property manager or other agent may not appear for the plaintiff.

IF YOU ELECT TO REPRESENT YOURSELF you have a responsibility to yourself and to the court to acquire a sufficient knowledge to complete the forms properly and to present your eviction case before the court. You should familiarize yourself with important information contained in: Arizona Residential Landlord & Tenant Act and Arizona Rules of Procedure for Eviction Actions. These publications may be accessed online at www.azsos.gov. Also, please read the additional information included in the handout provided in this packet INFORMATION FOR LANDLORDS AND TENANTS.
If you choose to represent yourself, you will be held to the same standard as an attorney. There are certain steps you must follow. This information is provided to assist you in general procedure in processing your case.

THE CLERKS IN THE JUSTICE COURT are not attorneys and cannot give legal advice. The clerks' responsibility is to take your court filing, provide forms and explain court procedure. It is not the clerks' responsibility to advise you if you have a legal claim. The clerk is not responsible for any error you may make in filing, asserting or defending the claim.

NOTICE: A landlord must provide a tenant with written notice saying why the eviction process has started. The tenant should have received this notice before this lawsuit was filed. The proper notice must be served on the tenant. Notice of failure to pay rent is the most common notice. If the notice is a five (5) day notice, you may file the complaint on the sixth (6th) day after the tenant received the notice. If the notice was served by certified mail, you must add five (5) days to the notice period.

IMMEDIATE NOTICE: You may serve a notice for immediate termination based on an irreparable and material breach, i.e., (but not limited to) illegal discharge of a weapon, threatening or intimidating, assault, serious property damage and/or other criminal activity. The immediate notice may be served with the summons and complaint.

JURISDICTION: The total amount claimed can not exceed \$10,000.00.

VENUE: The rental property that is the subject of the eviction action must be located within the court's precinct boundaries.

COURT FEES: Refer to the court's posted schedule of fees for applicable filing fees.

THE SUMMONS AND COMPLAINT must be separate documents. The Court will provide summons, complaint and judgment forms that meet the new requirements. If you use your own forms, the landlord has a duty to make sure all documents meet the requirements and comply with the new rules. A copy of the notice served on the tenant must be filed with the summons and complaint. The summons and complaint must contain the Court's name, address and phone number on the face of the summons AND, the name, address and phone number of the attorney representing the landlord (or the name, address and phone number of the plaintiff (landlord), if the plaintiff (landlord) does not have an attorney). The allegations contained in the complaint must be consistent with the allegations of the notice. The summons will issue on the same day the complaint is filed.

WHEN FILING THE SUMMONS AND COMPLAINT: Submit a copy of the Eviction notice (i.e. five (5) day notice).

SETTING THE COURT DATE: The court will set the court date for not more than six (6) calendar days, nor less than three (3) working days from the date of the summons. If the complaint alleges threats, acts of violence or criminal activity, the court date will be set not more than (3) days away.

CONTINUING THE COURT DATE: Any request made to continue to court date must be in writing and must be supported by an affidavit. A continuance will only be granted for good cause and will not be granted for a period greater than three (3) judicial days.

SERVICE: Make arrangements with a licensed process server to serve the tenant with a copy of the summons and copy of the complaint. The plaintiff must also serve, a copy of the new Residential Eviction Information Sheet (RPEA Appendix A, or substantially in the same form). You may obtain a copy of the Residential Eviction Information Sheet from the court. Service must be made at least two (2) days before the scheduled trial date. Process servers may be found in the Yellow Pages of the phone directory.

RETURN OF SERVICE must be filed with the court by affidavit and prior to the scheduled court date.

AT THE SCHEDULED COURT DATE the judge will review the allegations of the complaint and the sufficiency of the pleadings, the notice and service. The tenant will be asked to enter a plea.

GUILTY/ NO CONTEST If the plea is guilty or no contest, the judge will proceed to determine how much rent is due and owing and will order that the tenant vacate the property.

NOT GUILTY If the tenant pleads not guilty, s/he will be required to file a formal answer to the complaint. If a counterclaim is filed, it will also be considered and decided at the time of trial.

THE TRIAL: Either party can request a jury trial. The party requesting a jury will be assessed jury fees, if judgment is not found in favor of the requesting party. If a jury trial is requested the parties will be required to submit prepared jury instructions to the court before trial. If a jury is not requested, the judge will hear and decide the case (a bench trial).

Both parties may be required to exchange disclosure (names of witnesses and a list of exhibits expected to be called or presented at trial). The plaintiff will proceed first and may call witnesses and/or introduce exhibits. The defendant may cross-examine any witnesses or object to the admission of any exhibit. After the plaintiff rests, defendant will then present his case. The defendant may call witnesses and/or introduce exhibits that may prove or defend his position.

JUDGMENT: The plaintiff is required to prepare and submit to the justice of the peace a judgment form completed with the case caption typed or printed. It is the responsibility of the plaintiff to promptly deliver or mail a copy of a judgment obtained by default, on all defendants.

WRIT OF RESTITUTION: If judgment is entered the judge will order that a Writ of Restitution will issue five (5) days from the date of judgment or, in the case of an irreparable breach, not less than 12 nor more than 24 hours after judgment (or as soon thereafter as normal court hours allow). If the tenant does not move as ordered in the judgment, the writ will direct the constable to enforce the judgment and evict the tenant. An application for a Writ of Restitution must be made within 45 days of the date of judgment. A plaintiff seeking a Writ of Restitution after 45 days from the date of judgment must explain the reason for the delay (by filing a motion for writ of restitution) and shall certify as part of the motion that tenancy has not been reinstated since the date of judgment.

APPEAL: Either party may appeal from a forcible detainer judgment by filing a Notice of Appeal within five (5) calendar days from the date of judgment or prior to the issuance of the Writ of Restitution. The court cannot extend the time for appeal. Ask the court clerk for information regarding bonds and appeal costs.

SANCTIONS: The court may impose sanctions against a party or attorney found to have violated his duties after due process.