



Maricopa County Justice Courts

INFORMATION FOR FILING A COMPLAINT BY TENANT IN JUSTICE COURT

In a Complaint by Tenant case, the tenant is the plaintiff and the landlord is the defendant.

This form should not be used if the plaintiff is seeking money damages and not possession or termination of a lease. For a complaint of money damages, the plaintiff will need to file a civil suit in a Justice Court's Civil Division.

If the rental agreement is terminated the defendant shall return all security recoverable under section 33-1321.

AN UNLAWFUL OUSTER is when a defendant unlawfully locks the plaintiff out of the rental unit. The plaintiff can file an Unlawful Ouster case in the Justice Court asking for the following:

- 1) Recover possession of the rental unit.
- 2) Terminate the rental agreement (plaintiff must return the security deposit as required by the law).
- 3) Sue for an amount not more than 2 months rent or twice the actual financial harm suffered, whichever is greater.

FAILURE TO PROVIDE ESSENTIAL SERVICES is when a landlord willfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service. **This type of eviction action requires the plaintiff to serve the defendant with a 5 day notice.** The tenant can file an Failure to Provide Essential Services in the Justice Court asking for the following:

- 1) Terminate the rental agreement (landlord must return the security deposit as required by the law).
- 2) Sue for an amount not more than 2 months rent or twice the actual financial harm suffered, whichever is greater.

REPRESENTING AN EVICTION ACTION: A property manager or other agent may not appear for the defendant.

The property owner is the defendant. If the property is owned by:

- AN INDIVIDUAL: that individual may appear personally or by an attorney.
- 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.

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 Complaint by Tenant case before the court. You should familiarize yourself with important information contained in the Arizona Residential Landlord & Tenant Act. 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 procedures 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 procedures. 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.

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

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

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

COURT FORMS: You must file a Summons, Complaint and a Judgment. These forms are available at the court. If you use your own forms, you have a duty to make sure all documents meet the requirements and comply with the rules. 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 defendant (or the name, address and phone number of the defendant, if the defendant does not have an attorney). The summons will issue on the same day the complaint is filed.

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.

CONTINUING THE COURT DATE: Any request made to continue a 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 defendant with a copy of the Summons and the Complaint. Service must be made at least two (2) days before the scheduled trial date.

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. The defendant 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 the tenant is entitled to and in the case of an Unlawful Ouster, whether the tenant can retake possession of the property.
- **NOT GUILTY** If the landlord 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, the defendant will then present his/her case. The defendant may call witnesses and/or introduce exhibits that may prove or defend his position.

JUDGMENT: 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 (for Unlawful Ouster): If the judgment is for the plaintiff and the defendant has possession of the premises, possession of the premises shall, at the request of the tenant, be awarded to the plaintiff with a writ of restitution to issue after five calendar days of the judgment.

APPEAL: Either party may appeal from a Complaint by Tenant Judgment by filing a Notice of Appeal within five (5) calendar days from the date of judgment. The court cannot extend the time for appeal. Ask the court clerk for information regarding bonds and appeal costs.

Please review valuable information and videos at

<https://www.azcourts.gov/selfservicecenter/Landlord-Tenant-Disputes-Eviction-Actions>