

# INSTRUCTIONS

## Eviction Action Complaint

### **Forms you will need for your Eviction case:**

- Instructions (HOU101);
- Eviction Action Complaint (HOU102);
- Affidavit of Service (HOU106); and
- Additional Litigants Form (HOU125) – if needed.

### **Overview of Steps in an Eviction Case**

1. Fill out and sign the Eviction Action Complaint, following all of the steps in these instructions.
2. Make copies of the signed Eviction Action Complaint.
3. File your forms (electronically or at the courthouse), and pay the filing fee (or ask for a fee waiver if you cannot afford to pay the fee). They will issue you a Summons.
4. Have someone (not you) serve a copy of the Complaint and Summons on each tenant. No later than 3 days before the court hearing, file proof with the Court that each tenant was served. Steps for personal service are explained in greater detail in Step 5 below.
5. Go to the court hearing. Each “step” is explained below in detail.

### **Important Notices and Resources**

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions, but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Got a question about court forms or instructions?

- Visit [www.MNCourts.gov/SelfHelp](http://www.MNCourts.gov/SelfHelp)
- Call the MN Courts Self Help Center at (651) 435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit [www.MNCourts.gov/Find-a-Lawyer.aspx](http://www.MNCourts.gov/Find-a-Lawyer.aspx)

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

## **General Information about Eviction Action Complaints**

**Minn. Stat. § 504B.321**

Use the *Eviction Action Complaint* (HOU102) to ask the Court to evict a tenant from residential or commercial rental property. Carefully read through the steps laid out in these instructions to complete the forms to file.

The information in these instructions is a general guide to you to explain the legal process for filing for an eviction. If you do not understand any of the following steps or do not know if these forms are right for your situation, you should speak with an attorney for legal advice. **Court staff cannot give legal advice.**

To evict a tenant, the landlord must have a valid reason for the eviction under Minnesota law, and the landlord must properly complete all the steps for the eviction, as required by Minnesota Statutes Chapter 504B and the Minnesota Rules of Civil Procedure. In Hennepin and Ramsey Counties, eviction cases are heard in “Housing Court” governed by General Rules of Practice for District Courts, Rules 601-612. There may be other legal requirements in City Ordinances, Minnesota Statutes and Rules, or Federal law affecting your eviction action.

### **Step 1**

#### **Fill Out the *Eviction Action Complaint* (HOU102)**

The Eviction Action Complaint form is broken up into sections below with guided numbers to help you fill out the form. This guide is not meant to be legal advice. If you have questions on how to fill out a question you should speak with an attorney for legal advice.

## State of Minnesota

County	<b>1</b>
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Judicial District:	<b>2</b>	District Court
Court File Number:		<b>3</b>
Case Type:		Housing

**EVICTION ACTION COMPLAINT**  
(Minn. Stat. § 504B.321)

**Plaintiff #1 (Landlord)**

Name	<b>4</b>
Address	
City/State/Zip	

**Plaintiff #2 (Landlord)**

Name	
Address	
City/State/Zip	

**Defendant #1 (Tenant)**

Name	<b>5</b>
Address	
City/State/Zip	

vs.

**Defendant #2 (Tenant)**

Name	
Address	
City/State/Zip	

**6**

Check Box if there are more than two plaintiffs or more than two defendants. List the information for the other parties on the *Additional Litigants Form*, HOU125.

**A – Caption**

- In the upper left corner, fill in the county where the property is located.
- In the upper right corner, fill in the Judicial District number.
- Leave the Case File Number blank for now.
- On the line marked “Plaintiff #1,” write the name and address of the property owner (or the person entitled to possession). The plaintiff is a person, or the legal entity that is the owner (corporation, partnership, or sole proprietor) or a court-appointed receiver or fiduciary.
  - If there are co-owners, such as a husband and wife, you may list one or both as plaintiffs in “Plaintiff #2” of the caption.
  - If business is conducted using an assumed name, list the owner’s name followed by the assumed name. *Example: John Jones, doing business as Lakeview Apartments.* Note: [Minn. Stat. § 333.01](#) requires a commercial business to file a certificate of assumed name with the MN Secretary of State before conducting business using the assumed name.
  - A property management company or property manager that does not own the property should not be listed as the plaintiff.

- If you have questions about who to list as a plaintiff, read Minnesota Statutes Chapter 504B or ask an attorney for advice. You can also visit the Landlord-Tenant Help Topics page for information to laws and rules at <http://www.mncourts.gov/Help-Topics/Landlord-and-Tenant-Issues.aspx>.
5. On the line marked “Defendant #1,” write the name and address of the tenant. Include all adults on the lease, and any other adults known to be living there. If there are more than two tenants, you should use the *Additional Litigants Form* (HOU125). If unknown persons are living there, you can list “John Doe” or “Mary Roe” along with the known persons.
  6. If you have more than two landlords or two tenants, then check this box and be sure to fill out the *Additional Litigants Form* (HOU125) with their information.

**B**

**1. Rental Agreement**

Landlord leased or rented the property located at: \_\_\_\_\_ **7** \_\_\_\_\_  
 Apartment # \_\_\_\_\_, in the city of \_\_\_\_\_, the state of  
 Minnesota, zip code \_\_\_\_\_, in the county of \_\_\_\_\_ and  
 does  does not include a garage.

The agreement for the property, beginning from **8** \_\_\_\_\_ and ending \_\_\_\_\_ is an  
 ORAL or  WRITTEN agreement and is for: (check all that apply)

**Payment of Rent.** The current rent due and payable under this agreement each month  
 is \$ **9** \_\_\_\_\_ due on the \_\_\_\_\_ day of the month;

**Exchange of Services.** The agreement for exchange of services was: (explain in detail)

\_\_\_\_\_ **10** \_\_\_\_\_

**B – Rental Agreement**

7. Fill in the street address, apartment, city, zip code and county where the property is located. Check if the property “does” or “does not” include a garage.
8. Write in the beginning and end date of the agreement. Check if the agreement was an “Oral” or “Written” agreement.
9. Check the box if the agreement was for payment of rent. Write in the amount of rent and on which day of the month rent is due.
10. Check the box if the agreement was for an exchange of services. Note: an agreement can be both for payment of rent and an exchange of services (for example, an agreement for reduced rent if the tenant cleans the common areas of building). Explain in detail the agreement on services to be provided by the tenant.

**Is your situation different?** The *Eviction Action Complaint* form was created for use in the typical situation where a tenant agrees to pay rent each month to landlord. An eviction can also be filed if there is an agreement for an exchange of services instead of rent, or if unlawful activities are occurring at the property that are covered in [Minn. Stat. § 504B.171](#). If this is not your situation, talk with an attorney for advice on what steps you may take to evict someone.

**C**

**2. Notice of Right of Possession by Landlord for Residential Leases**

Landlord having present right of possession of the residential property, has followed Minn. Stat. § 504B.181 by: (you must check either A **and** B, or C)

a. informing the Tenant, either in the rental agreement or otherwise in writing, before the beginning of the tenancy the name and address of:

**11**

- i. the person authorized to manage the property **AND**
- ii. a landlord or agent authorized by the landlord to accept service of process and receive and give receipt for notices and demands, **AND**

b. posting in an obvious place on the property a printed or typewritten notice that includes the information above. Explain where the notice is posted:

\_\_\_\_\_, **OR**

c. The Tenant knew of the name and address of the person authorized to manage the property and accept and give receipt for notices and demands, at least 30 days before the filing of this action because: \_\_\_\_\_

**12**

**C – Notice of Right of Possession by Landlord for Residential Leases**

This section only applies to residential property only (not commercial leases) where there is an agreement to pay rent. You cannot file an eviction unless A **and** B are true, or C is true. See [Minn. Stat. § 504B.181, subd.4](#). If you have not given the tenant the required information at this point, speak with an attorney for legal advice.

11. Before the tenant moves in and pays rent, the landlord must give the tenant certain information in writing **AND** must post the information on the property. Read Paragraphs 3 (a) and (b). If both are true, check both boxes and fill in the line at (b) explaining where the information was posted.
12. If you are not able to check both box A **and** B, then you must check box C and explain, in detail, how the tenant knew this information at least 30 days ago.

**NOTE:** You cannot file an eviction unless A and B are true, or C is true. If you have not given the tenant the required information in writing at this point, talk with an attorney for legal advice.

**3. Grounds for Eviction**

Landlord seeks to have the Tenant evicted for the following reasons: (check all that apply)

- a. The Tenant is still in possession of the premises and has failed to pay rent for the month(s) of \_\_\_\_\_ **13** \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ per month payable on the \_\_\_\_\_ day of each month for a total due of \$ \_\_\_\_\_.
- b. The Tenant failed to vacate the property after written notice was given: (check all that apply)
- Landlord gave written notice to Tenant on \_\_\_\_\_ (date) to vacate the property by \_\_\_\_\_ (date). Tenant has failed to vacate the property. **14**
- Tenant gave written notice to Landlord on \_\_\_\_\_ (date) that they would vacate the property by \_\_\_\_\_ (date). Tenant has failed to vacate the property.
- c. The Tenant has broken the terms of the rental agreement with property landlord by: (be specific) **15** \_\_\_\_\_.
- d. The Tenant has breached the covenants as stated in Minn. Stat. §504B.171 by: (be specific): **16** \_\_\_\_\_.
- e. The Tenant defaulted on the mortgage and the property has been sold at a Sheriff's sale. The Redemption period has expired and Plaintiff is entitled to possession. **17**
- f. The Tenant defaulted on a Contract for Deed and is holding over after proper cancellation of the contract. **18**

**D – Grounds for Eviction****13. Check box A if the reason for the eviction is that the tenant did not pay the rent.**

- State which months are unpaid (such as Jan, Feb).
- State the amount of rent that is unpaid per month (such as \$500 for Jan, and \$900 for Feb).
- Fill in the day of the month when rental payments are due.
- Fill in the total rent owed at the time the Complaint is signed.

**NOTE:** Tenant may be able to redeem or “pay and stay” if the only reason for filing the eviction action is nonpayment of rent, and they bring to the court hearing the amount of rent that is past due (plus interest), the costs of the court action, and an attorney’s fee (not greater than \$5), and performs any other agreements of the lease.

If the rent is paid by the day of court, the Judge can give the tenant up to 7 more days to pay the other costs. See [Minn. Stat. § 504B.291, Subd. 1](#). For purposes of “pay and stay” court costs include only the court filing fee and reasonable service of process fees. Court costs do not include management fees, or fees paid to an agent. If the total amount due on the *Complaint* includes utilities or late fees, the Judge will decide if these amounts must be paid by the tenant to “pay and stay.”

**14. Check box B if tenant failed to move out (vacate) after notice was given.**

- Landlord gave notice to Tenant - Check the first box if the landlord asked the tenant to move out. First write in the date you gave the notice to the tenant and then write in the date they were to move out of the property.
- Tenant gave notice to Landlord – Check the second box if the tenant gave notice that they would be moving out. First write in the date notice was given and then write in the date they were to move out of the property.

**NOTE:** If landlord asked tenant to move, a copy of the letter telling tenant to move out should be attached to the *Complaint*.

**Common Problems with evictions for failure to move out :**

**Improper Notice to Vacate:** In general, a full rental period’s notice must be given.

If you have a written lease, read the lease to see if some other notice period is required. If the property was foreclosed, other notice periods may apply. An eviction case may be dismissed for improper service. Speak with an attorney for legal advice if this was not done.

**Example 1:** *If rent is due on the 1<sup>st</sup> of the month and you want the tenant to move out by March 1, you must deliver the notice to vacate on or before January 31.*

**Example 2:** *If you give the tenant a notice to vacate letter on April 10, the earliest date the notice can tell the tenant to leave is May 31, so you have given notice of a full rental period (the month of May)*

**Filing the Eviction Action Complaint before the vacate date:** If tenant was asked to move out by January 1, do not file the *Complaint* until after January 1, even if the court date will be after January 1. The tenant must be in violation of the request to move out at the time you file the *Complaint*. If the tenant tells the landlord they do not plan to move out by January 1, landlord still must wait until after January 1 to file the *Complaint*.

**Waiting to File if tenant fails to pay rent:** Generally, if the tenant gives or is given a notice to move out, the tenant must still pay rent through the move-out date. An exception to this rule is if the lease allows tenant to apply a damage deposit as the last month's rent, or a specific law allows it, such as with mortgage foreclosures. If the tenant must pay the last month's rent and does not pay by the due date, landlord can file an eviction case for non-payment of rent. Landlord does not have to wait until tenant fails to move out per the Notice to Vacate. Failure to pay rent creates a separate reason to file for eviction.

**15. Check box C if tenant violated the rental agreement (for something other than not paying rent.)**

- Describe the dates and specific details of how the tenant broke the terms of the rental agreement. The breach of lease should be material, meaning something that is significant.
- If the agreement was for an exchange of services and tenant did not perform those services as part of the agreement, explain in detail what was not done.

**NOTE:** A copy of the lease should be attached to the *Complaint*. Be sure to read [Minn. Stat. § 504B.115](#) to see if you are required to give the tenant a copy of the written lease before filing an eviction action.

**16. Check box D if the tenant has violated Minn. Stat. § 504B.171 (drugs, prostitution, guns, stolen property at the rental property)**

- Be sure to read [Minn. Stat. § 504B.171](#) before deciding if this ground for eviction applies to your situation. You must be detailed about the alleged unlawful activities. Attach a copy of any police report(s) to the *Complaint*.

**17. Check box E if the tenant defaulted on the mortgage and the property has been sold at a Sheriff's sale.**

- This should only be done if the redemption period has expired and Plaintiff has right to possession. Read [Minn. Statute §504B.285 subd. 1\(a\)](#) for more information and requirements. If you are not sure if this applies to your situation, talk with an attorney for legal advice.

**18. Check Box F if Contract for Deed was cancelled and the tenant is still living in property.**

- Please read [Minn. Stat. §504B.285 subd. 1\(b\)](#) to be sure you have followed all of the steps for notice and meet the requirements. If you are not sure if this applies to your situation, talk with an attorney for legal advice.



## E – Date of Birth and Military Status

E

5. Tenant #1 date of birth:  /  Unknown; Tenant #2 date of birth: \_\_\_\_\_ /  Unknown. *If a tenant is a business, leave this section blank for that tenant.*

6. Military status for Tenant:   
Tenant # 1  is in the military service /  is not in the military service /  Unknown  
Tenant # 2  is in the military service /  is not in the military service /  Unknown  
*If a tenant is a business, leave this section blank for that tenant.*

19. Fill in the tenant’s birthdate, if known. If unknown, check “unknown.” If the tenant is a business, you can leave this question blank.
20. Check whether the tenant, to the best of your knowledge, is in the military service. If you do not know whether they are in the military service, check “unknown.” If a tenant is in the military, special laws may apply. Talk with an attorney for legal advice before signing the *Complaint*. If a tenant is a business, leave this section blank for that tenant.

### Step 2 Sign the *Eviction Action Complaint*

1. Sign the *Complaint* under penalty of perjury. By signing the *Complaint* under penalty of perjury, you are stating that the information in the document is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth.
2. The *Complaint* must be signed by the owner, a licensed attorney, or the person entitled to possession of the property.
3. *Print* your name, title if filing on behalf of a plaintiff, and fill in your address, city, state, zip, daytime phone number, and e-mail address. E-mail addresses are required if documents are served or filed using electronic means.

**NOTE:** If the owner of the property is a business, an attorney must sign the *Complaint* and appear in court with the owner or owner’s agent. There is an exception in filing in Hennepin County Housing Court. You can read the [Housing Court Rules](#) online. See Step 6 for more information on attorneys representing businesses in court.

## Step 3

### Make Copies of the *Eviction Action Complaint*

Make a copy of the signed *Complaint* with attachments, if any, for each tenant named in the *Complaint*. You should be sure to make a copy for yourself as well.

## Step 4

### Bring the *Eviction Action Complaint* to the Court Administrator

**File the following documents with the Court Administrator:**

- The *Eviction Action Complaint*, and any attachments such as a copy of the written lease, a copy of the Notice to Vacate, Power of Authority (used only in Hennepin County), or police report.
- If needed, be sure to also file the *Additional Litigants Form* (HOU125).
- Pay the court [filing fee](#) . If you have a low income and cannot afford to pay the filing fee, you can use Form IFP102 and IFP104 to ask that a judge waive the fee.

Court administration cannot accept your *Complaint* for filing without the fee or a request to waive the fee. If the filing fee is not waived you are then required to pay the fee before the Court can take any action.

**Interpreter Needed?** If you need an interpreter at the hearing, tell court administration when you file. If you think your tenant needs an interpreter, consider asking the tenant to call court administration. Generally, 48 hours (2 full days) notice is needed, not including weekends and holidays, to schedule an interpreter. Less notice may cause a delay or a rescheduling of the hearing.

The Court will create a *Summons*. A *Summons* is a written notice telling the tenant that a legal action has been filed and will be heard in court on a certain day. It also states that if the tenant disagrees with the action or wants to tell a different side of the story, they must appear in court at the time of the hearing.

**You will need a copy of the *Summons* for each tenant.**

## Step 5

### Serve the *Summons* and *Eviction Action Complaint* on the Tenant

- You (the plaintiff) **cannot be the person who serves the *Summons* and *Complaint***. If you gave Power of Authority to an agent, do not ask the agent to serve the papers. It is best not to

ask the building manager to serve papers. Use a neutral person who is over the age of 18, or pay a service of process agency or the Sheriff to serve the papers.

- Service of the *Summons* and *Complaint* must be completed **at least 7 days before** the hearing date. *Example: If court is on Friday, the last day to serve is Friday of the week before.*
- A *Summons* and *Complaint* cannot be served on a legal holiday.
- Each named tenant must be served. **Example:** *if there are 3 tenants, each tenant must be served with a separate copy of the Summons and Complaint. If there is a husband and wife and 2 children, the husband and wife must each be served with a separate copy of the Summons and Complaint. Minor children should not be named as defendants or served.*
- A separate *Affidavit of Service* **for each tenant** must be filed with the Court at least **3 days before** the court hearing (when counting the 3 days, don't count Saturdays, Sundays, or legal holidays). **There is more information about the *Affidavit of Service* below.**
- *If Section 8 is involved*, the contract between the landlord and the Housing Authority may require the landlord to serve a copy of the *Summons* and *Complaint* on the Housing Authority at the same time the papers are served on each tenant.

**PERSONAL  
SERVICE OF  
THE SUMMONS  
& COMPLAINT**

***Personal  
Service:***

An adult who is not involved with the case may act as the server and may hand the *Summons* and *Complaint* directly to the tenant at least seven days before the court date.

***Substitute  
Service:***

An adult who is not involved with the case may “serve” the *Summons* and *Complaint* by leaving a copy of the documents with a responsible person who lives with the tenant. This person is then responsible for delivering the *Summons* and *Complaint* to the tenant. **Example:** *Joe and John are adult roommates. If only Joe is home, the server can leave 2 copies of the Summons and Complaint with Joe, one for Joe and one for John.*

The server fills out one *Affidavit of Service* **for each** tenant. The server must sign the *Affidavit of Service* under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. The *Affidavits of Service* are your proof that you had the tenant served. **File the completed *Affidavits* with the court at least 3 days before the hearing** (not counting Saturdays, Sundays, or legal holidays).



It is always best if the tenant is personally served with the *Summons* and *Complaint*. However, if you cannot find the tenant, you may be able to have the tenant served in another way called *mailing and posting*.

**MAILING AND POSTING of the SUMMONS & COMPLAINT**

*Use this method of service when:*

1. Tenants cannot be found in the county **AND**
2. Personal or substitute service has been tried at least twice on different days with at least one of the attempts at service made between 6 and 10 p.m.  
If the property is commercial instead of residential, the attempts to serve are not required. Instead, there must be proof that the commercial property is not occupied.

See the form [Instructions – Service by Mail and Post \(HOU107\)](#) for instructions on using this form of service.

**Step 6  
Go to the Hearing**

The plaintiff, the plaintiff’s attorney, or the plaintiff’s agent with power of authority (in Hennepin County only), must attend the hearing.

If the plaintiff is a business, the plaintiff must have an attorney in court. There is one exception to this rule. In Hennepin County, an officer or agent with power of authority may appear and represent the corporation without a lawyer in Housing Court. If a decision is appealed to a judge or appellate court, however, then an attorney will be required.

Many eviction cases settle at court. The landlord and tenant should try to work out an agreement. In some counties, if a trial with witnesses and evidence is needed, the trial will be scheduled for a separate date. In other counties, you may be expected to have your witnesses ready at the first hearing date. For more information about what to expect at an eviction hearing, contact court administration for the county where you are filing, and/or look at the court’s website at <http://www.mncourts.gov/Find-Courts.aspx> and then pick your district/county.

## Other Information

<b>Requesting an Interpreter</b>	<p>If you need interpreter services for the hearing, call court administration right away. The court generally needs 48 hours notice (2 full days), excluding weekends and holidays, to provide an interpreter.</p>
<b>Expedited Hearing</b>	<p>If tenant’s behavior is seriously endangering the property or safety of other residents or the owner, landlord can request that the eviction court date be scheduled within 5 to 7 days, rather than 7 to 14 days. An additional affidavit is required, and a judicial officer must pre-approve the request before court administration sets the date. A landlord can be fined up to \$500 for abuse of the expedited hearing process. See <a href="#">Minn. Stat. §504B.321 Subd.2</a>.</p>
<b>Collecting the Rent</b>	<p>An eviction action decides if the tenant must move. It does not include a judgment for rent or other money owed.</p> <p>Claims for rent and other money issues cannot be brought in housing court with the eviction complaint and must be brought separately in either conciliation court or district court. Claims that are less than \$15,000 can be brought in Conciliation Court.</p> <p>Claims over \$15,000 must be filed in District Court.</p>
<b>Eviction Notice (Writ of Recovery of Premises and Order to Vacate)</b>	<p>A “Writ of Recovery of Premises and Order to Vacate” is a legal notice ordering the tenant to move and authorizing the sheriff to take certain actions if the tenant does not move voluntarily. It is issued by the court if the landlord wins an eviction action in court, the landlord asks for the Writ, and pays a Writ <a href="#">fee</a>.</p> <p>Landlord takes the Writ to the sheriff. If the sheriff cannot find the tenants to serve the Writ, the sheriff may post it in a noticeable place at the property.</p> <p>The Tenant has 24 hours to remove all property and turn in keys. If the Tenant ignores the notice, Landlord may contact the sheriff to schedule a “move out” time.</p> <p>For more information, read <a href="#">Minn. Stat. § 504B.365</a> (Unlawful exclusion or removal; action for recovery of possession).</p>
<b>Tenant’s Personal Property</b>	<p><a href="#">Minn. Stat. § 504B.271</a> covers what the landlord can do with property a tenant leaves behind after moving out. For more information, see links to booklets published by the Attorney General and other agencies at <a href="http://www.mncourts.gov/selfhelp/?page=415">www.mncourts.gov/selfhelp/?page=415</a></p>