

# INSTRUCTIONS

## Request for Rent Escrow

Minn. Stat. § 504B.385

### 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.

#### Have questions about court forms or instructions?

- Visit [www.MNCourts.gov/SelfHelp](http://www.MNCourts.gov/SelfHelp)
- Call the Statewide 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 court administration or call the Minnesota State Law Library at 651-297-7651.

### Forms you may need to request a Rent Escrow:

- *Affidavit of Rent Escrow* (HOU302);
- *Affidavit of Inability to Pay Filing Fee - Housing* (HOU1002) (if you cannot afford the filing fee); and
- *Affidavit of Service (if repairs are more than \$20,000)*.

The “Tenant’s Rent Escrow Packet” of forms are available online at [www.mncourts.gov/forms](http://www.mncourts.gov/forms) under the “Housing/Landlord-Tenant” category.

### Resources and General Information about Rent Escrow

#### Important Information:

- A rent escrow action is a legal way for a residential tenant to bring a claim that requires the landlord to make needed repairs or to comply with the terms of the lease.
- The court can only hear cases involving residential property located in its own county.

- A tenant cannot be evicted on the basis of demanding repairs, calling a Housing Inspector or starting a rent escrow action. The tenant can be evicted for not paying the rent due to the landlord up to the time of filing the rent escrow action or not depositing the full amount with the court at the time the action is filed. The landlord may allege that there are other reasons the tenant should be evicted.
- The tenant must reside in the problem property. The tenant cannot file a rent escrow action after they have moved.
- The tenant can ask the court to order the landlord to make repairs, reduce the rent until repairs are complete, refund a portion of past rent when repairs were not made and other relief.

One of the following must have occurred before the tenant may file:

- The tenant must provide the landlord with written notice listing the needed repairs or describing what part of the lease the landlord has not completed. The notice must have been personally delivered to the landlord or mailed to the place where rent is usually paid. If it has been at least 14 days since the tenant provided the landlord with a written notice, then the tenant may file.
- A local housing inspector completed a code violation report and the deadline the inspector gave the landlord to make repairs has passed without the repairs being completed. The tenant must ask the inspector for a copy of the report.
- A local housing inspector completed a code violation report and the tenant believes the inspector gave the landlord too much time to complete the repairs. The tenant must ask the inspector for a copy of the report.

### **Requirements to File a Rent Escrow:**

- Complete an *Affidavit of Rent Escrow* (available at the Court Administrator/Housing Court office or online at [www.mncourts.gov/forms](http://www.mncourts.gov/forms) under the “Housing/Landlord-Tenant” category).
- Attach a copy of the Code Inspection Report by the inspector OR the tenant’s letter to the landlord requesting repairs (Case can be filed if the tenant does not have a copy).
- Pay the filing fee or complete the *Affidavit of Inability to Pay Filing Fee - Housing* (HOU1002)
- Deposit any rent that is owed with the court. Personal checks are not accepted. Cash or cashier’s check is acceptable. Check with the Court Administrator/Housing Court for acceptable forms of payment.

## **Step 1**

### **Fill out the *Affidavit of Rent Escrow* (HOU302)**

#### **Caption of the Affidavit**

- The tenant(s) is the plaintiff.

- The landlord is the defendant. The landlord may be a corporation or an individual. Be sure to list the landlord, not their agent.

### Body of the Affidavit

1. Fill in your complete address including your apartment number, city, state, ZIP, county and phone number including area code.
2. Fill in the landlord's name, complete address, city, state, ZIP and phone number including area code.
3. If the property manager is different from the landlord, fill in their name, address, city, state, ZIP and phone number including area code.
4. List all problems or violations with your housing that have NOT been repair. Attach additional pages if needed.
5. Give an estimate of how much it would cost to repair the problems or violations listed in #4. If you don't know, contact someone to give you a professional estimate.
6. If the inspector issued a code violation report, complete "a". If you mailed or personally delivered a letter requesting repairs, complete "b".
7. Fill in the amount of your monthly rent and when it is due. If rent is paid in full to date, check "a". If rent is due, check "b" and be prepared to deposit that amount with the court. Check with Court Administrator/Housing Court for acceptable forms of payment.
8. If there is something you would like the court to do, indicate by checking the appropriate boxes. You may leave this question blank.

### Acknowledgement and Signature Block

Read the "Acknowledgement" before you date and sign the form. When you sign the *Affidavit for Rent Escrow*, you are signing under penalty of perjury. This means you are saying that everything in the form is true and correct; if you know something in the form is not true when you sign it, you could be found guilty of the crime of perjury (see Minn. Stat. § 609.48, [www.revisor.mn.gov/statutes/?id=609.48](http://www.revisor.mn.gov/statutes/?id=609.48)).

- Date and sign the form.
- Include the county and state you were in when you signed the form.
- Include your name and contact information in the blanks under the signature line.

## Step 2

### File with the Court and Get a Court Date

- File the required forms with the court. Addresses for courthouses are online at <https://mncourts.gov/Find-Courts.aspx>. Use the drop-down menu or map to find your

county. A filing fee will be due. If you cannot afford the filing fee, fill out the *Affidavit of Inability to Pay Filing Fee - Housing* (HOU1002) to file with your *Affidavit*.

- Once your *Affidavit of Rent Escrow* has been filed with the court, the clerk will prepare a *Notice of Hearing for Rent Escrow* and attach a copy of the *Affidavit of Rent Escrow* and either the code violation report or your letter to the landlord requesting repairs.
- A court date will be set within 10 to 14 days after the rent is deposited with the court unless there is a pending eviction action. If so, both the eviction and the rent escrow will be set for the same date (Minn. Stat. § 504B.385, subd. 8).

### Step 3

#### Notify (serve) the Landlord of the Court Date

(Minn. Stat. § 504B.385, subd. 5)

##### Cost of Repairs is \$20,000 or Less:

- The court clerk will serve the landlord at the address provided by the tenant. Service will be by first class mail.

##### Cost of Repairs is More than \$20,000:

- The tenant is responsible for arranging for personal service on the landlord(s). Service may be done by any one 18 years of age or older who is not a party to the case. The tenant can not serve the landlord. Service must be made at least 5 days but not more than 10 days before the date of the hearing. The person doing the service must complete an *Affidavit of Personal Service*. The tenant must file this affidavit with the court at least 3 days before the court date.

### What to Expect Next...

#### At the Hearing

Once the case is decided, the judicial officer will issue a Decision and Order. The Decision and Order will address who is to receive the rent that is deposited with the court. The court may order a portion to the landlord and a portion to the tenant or may order all the monies to one party. The court may schedule a future date to ensure the landlord has complied with its court.

#### If the repairs are made before the court date

The tenant notifies the court in writing that the needed repairs have been made, the clerk will release the rent to the landlord. The hearing will be cancelled. If the tenant and landlord enter into a written agreement signed by all parties distributing the rent between them, the clerk must release the rent in accordance with the written agreement.

#### What can happen if rent due is not deposited with the Court (Minn. Stat. § 504B.385, subd. 2)

The landlord may file a Counterclaim for Possession of the Premises or a separate eviction action if the tenant did not or does not deposit all rent due.