

How to Prepare for Trial in Housing Cases

Housing cases usually start with a “first appearance.” If the case is not settled or resolved at the first appearance, a new court date will be assigned for a trial. This brochure is about the trial.

Talk to a lawyer if possible:

If possible, get a lawyer to help you with your trial. Some courts have legal advice clinics at the courthouse or law library. Go to www.mncourts.gov/selfhelp and select **Self-Help Services in the Courts**. For lawyer referral information, go to www.mncourts.gov/selfhelp/?page=252

Read all court orders and notices carefully:

Your trial date will be in a Court Order or a Notice of Trial Date. Make sure you get a copy. If there is a court order, read it carefully. It may require you to do certain things. The order may ask you to exchange lists of witnesses and exhibits. Exhibits are the documents and other evidence you want to use at trial. If you do not exchange information on time, the Court may not allow you to use those witnesses and exhibits. In addition, the order may require you to bring extra copies of exhibits to the trial so that the other party and the Judge have copies of your exhibits to keep. The order may also require the tenant to deposit rent into court.

Pay the court ordered rent on time:

If the court order tells you to deposit rent, make sure you do so on time. “Deposit rent” means that you pay the rent to Court Administration. The Judge will later decide who gets the rent on deposit – the tenant or the landlord. Before bringing the rent money to Court Administration, ask what type of money is accepted. Some courts will accept only cash or certified funds. Some courts will accept money orders. Do not bring non-certified checks.

Scheduling and continuances

The Court generally schedules the trial within seven days of your first court date. If you want the trial postponed, you must ask the other side and the Court for a continuance. Ask as soon as

possible. It is unusual to be allowed a continuance. You may have to ask the Court in writing.

Begin preparing now for your trial:

This is the time to decide who your witnesses will be and what exhibits you want to bring to trial. Exhibits are things that you want the Court to look at, such as pictures, letters, your written lease, rent ledger sheets and inspection reports. You must bring them to court if you want the Court to look at them; the Court does not automatically get reports from other government agencies.

Note: Remember that in all Housing Court cases you should at a minimum bring a copy of your written lease and some record or documentation about your rent payment history.

Evidence and witnesses:

The Minnesota Rules of Evidence control what evidence the Court can accept in a trial. For example, in general, you cannot use oral or written statements from a person unless the person comes to trial to testify. This is called the “hearsay rule.” There are exceptions to it. The rules of evidence are available at the Law Library in the courthouse and online at www.mncourts.gov/selfhelp under “Laws, Rules and Legal Research.” For more information on evidence, see the Court’s booklet “What to Expect as a Self-Represented Plaintiff or Defendant...Civil Trial (without a jury).”

Subpoenas:

You can subpoena witnesses or documents to make sure that they appear at trial. You get a subpoena from court administration for a fee, but the fee can be waived by a judge for persons with low incomes. The subpoena must be served on the witness, along with the witness fees and mileage costs, by an adult who is not a party to the case. If you subpoena a witness, you will need to pay that witness a fee, plus mileage from the witness’ home to the courthouse and back. For more information on the witness fees, see the Instructions on the court Subpoena form, available at www.mncourts.gov/ctforms.

If you want to use a Housing Inspector’s order as evidence, you do not need to subpoena the Inspector. Instead, you can ask the Inspector for a certified copy of the inspection order to bring to court. However, if you are claiming that the Housing Inspector said anything that is not noted on the report or if you want the Inspector to present other evidence, you must subpoena the inspector, unless the Inspector agrees to come to court without being subpoenaed.

If you want a witness, including an inspector, to bring records to court, you must use a subpoena duces tecum to require the witness to bring records. The duces tecum box on the subpoena must be checked and a list of the documents you are requesting clearly written on the subpoena. If a witness agrees to bring a document to court voluntarily, you do not need the subpoena duces tecum. However, a witness is required to appear in court or to bring documents only if a subpoena is served with the witness fees.

Consider discussing settlement with the other side:

Most cases are settled. A settlement can save both sides time, money and the stress of a trial. Either side might win or lose at trial, while settlement might allow each party to get something.

The settlement should be in writing so both sides and the Court are clear about the settlement agreement. If you reach your settlement at Court, ask the clerks for a settlement form. The Court will review and approve your agreement.

Trial Day: Come Early

Check in with Court Administration, along with your witnesses, at least 15 minutes before the trial is scheduled to begin. Always allow extra time for traffic, security screening and finding the courtroom. **If you are not on time for your trial, you may lose your case by default.**

Trial Procedure:

At the start of the trial, the Judge explains how the trial is run. If you have a question, ask it then, before you start presenting your case. The Judge cannot give you legal advice. The Judge's job is to be neutral and fair, and decide the facts and the law. Everything said in the trial is "on the record", which means that the Court reporter or the recording equipment takes it all down. It is your job to prove to the Court what you believe happened. It is also your job to convince the Court to rule in your favor by having good supporting witnesses and documents and by showing the court that the law supports the relief you seek.

Do not interrupt:

Never interrupt the other side, a witness or the Court. If you think that the other side is violating the Minnesota Rules of Evidence, you should stand up and say, "Your Honor, I object." After making this statement, you should explain your objection to the evidence. For example, "that statement is hearsay, because the person who said it is not here to testify." The Court will give the other side a chance to respond, and then the Court will either grant or deny your motion. If the Court grants your motion, then the other side's evidence will not be allowed into the record.

Do's and don'ts:

Do not bring young children to court. No gum, food or drinks are allowed in the courtroom. All cell phones must be turned off. You must treat the Judge and the other side with respect. Address them formally, for example, "Your Honor", "Mr. Smith", or "the Defendant."

Yelling, swearing and using abusive language are not allowed. These actions can be punished as contempt of court with fines and an immediate escort by a court deputy to jail.

The Court may call a recess. If you need a break for a medical reason, ask the Court immediately.

Who sits at the front tables:

Usually, only the parties and their lawyers or agents sit up front at the tables in the courtroom. If you want someone else, like an advocate or building manager to sit with you, ask the Court at the start of the trial. You need the Court's permission first. Stay at your table unless you need to give a witness or the judge or referee a document. Before you can walk up to a witness on the stand or the judge or referee. Ask, "May I approach the witness?" or "May I approach the Bench?"

The end of the trial:

At the end of the trial, the Court may make a decision right away and give you a copy. If the Court takes the case "under advisement", the Court will mail you a copy of the order once a decision has been made. Make sure the Court has your correct mailing address. Do not call the referee or judge about your case. If you write the Court, you must send a copy of your letter to the other side. On the letter to the Court, list the names of all people to whom you sent a copy.