

INSTRUCTIONS

Eviction Action Complaint

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
- 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

Helpful materials may be found at your public county law library. For a directory, see <https://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

- *Instructions* (HOU101);
- *Written Notice of Possible Future Eviction Action* (HOU121) – if needed;
- *Eviction Action Complaint* (HOU102);
- *Affidavit of Service* (HOU106); and
- *Additional Litigants Form* (HOU125) – if needed.

Forms are available online at www.mncourts.gov/forms under the “Housing / Landlord-Tenant” Category.

Helpful information about Landlord-Tenant issues including Frequently Asked Questions (FAQs), links to court forms, and related laws can be found on the Landlord Help Topic at www.mncourts.gov/help-topics.aspx under “Landlord Resources.”

What You Need to Do

Each “step” in the Instructions is described in more detail below.

1. If the lease is for a residential property (not commercial) and the eviction action is for nonpayment of rent or other unpaid financial obligations, complete and serve a copy of the *Written Notice of Possible Future Eviction Action* on each tenant. Wait the necessary amount of time for the tenant to pay the money that they owe or move out. If they do not, you can proceed.
2. Fill out and sign the *Eviction Action Complaint*, following all of the steps in these instructions.
3. Make copies of the signed *Eviction Action Complaint*.
4. 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). The court will issue you a *Summons*.
5. 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.
6. Go to the court hearing.

General Information

Eviction Actions

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 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 a lawyer for legal advice](http://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx) (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx).

Minnesota Guide & File

Another option for creating forms to start an Eviction case (for residential leases only) is to use [Minnesota Guide & File](http://www.minnesota.tylertech.cloud/SRL/SRL) (www.minnesota.tylertech.cloud/SRL/SRL). Depending on the facts of your case, you may be able to **file** the forms electronically (eFile) through Guide & File, otherwise you can still create your forms. For more information, visit our [Guide & File Help Topic](http://www.mncourts.gov/guide-and-file) (www.mncourts.gov/guide-and-file).

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 Statute chapter 504B](http://www.revisor.mn.gov/statutes/cite/504B) (www.revisor.mn.gov/statutes/cite/504B) and the [Minnesota Rules of Civil Procedure](http://www.revisor.mn.gov/court_rules/cp/) (www.revisor.mn.gov/court_rules/cp/).

In Hennepin and Ramsey Counties, eviction cases are heard in “Housing Court” governed by [General Rules of Practice for District Courts](http://www.revisor.mn.gov/court_rules/gp/) (revisor.mn.gov/court_rules/gp/), Rules 601-612. There may be other legal

requirements in City Ordinances, Minnesota Statutes and Rules, or Federal law affecting your eviction action.

Public Housing in Evictions

Under Minn. Stat. § 504B.268 a tenant in a public housing eviction action that alleges breach of lease under Minn. Stat. § § 504B.171 or 504B.285 who is financially unable to obtain counsel has the right to counsel appointed by the court. If your property qualifies as “public housing” as that term is used in Minn. Stat. § 504B.268, please check the box on page one of the Complaint.

Fill out the forms completely and accurately.

- If something does not apply to you, you may answer "N/A" (meaning "not applicable").
- If the answer to a question is "none," fill in "none."
- If you do not know the answer to a question, write "unknown." **But try not to leave blanks in your forms.**

Step 1 (if needed) Give your Tenant Written Notice

You may need to give your tenants notice that you are considering starting a court case for eviction. If you have a written lease, read through the terms to see whether it requires a specific kind of notice. You should also check whether there are any city ordinances in the city where the rental property is located to see if they have their own notice requirements.

If you plan to bring an eviction case because the **tenant has broken terms of the lease that are not related to payment of rent or another financial obligation**, you generally do not have to give notice before starting the case. However, if you want to end the tenancy and the tenant has not broken the terms of the lease (for example, you simply wish to end a month-to-month lease), notice is usually required. The MN Judicial Branch does not publish forms for giving this kind of notice, sometimes called “notice to quit” or “notice to vacate.” If you need these forms, you can get help from a lawyer or try contacting a law library for sample forms.

If you give the tenant a proper written notice to vacate and they do not leave by the date in your notice, you may be able to bring an eviction case based on their failure to leave.

Notice requirements can be complicated. If you are not sure whether notice is required or what kind of notice to give, talk to a lawyer for legal advice.

Written Notice of Possible Future Eviction Action (HOU121)

If you plan to bring a residential eviction case because of **nonpayment of rent or another unpaid financial obligation**, a written notice must be served on the tenant at least 14 days before you can file the eviction. [Minn. Stat. § 504B.321, subd. 1a](#). The MN Judicial Branch has created the *Written Notice of Possible Future*

Eviction Action (Written Notice) that can be used for this, but you are able to use your created form as well. If your local government requires a longer notice period than 14 days, follow those rules instead.

The *Written Notice of Possible Future Eviction Action* form is broken 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 a lawyer for legal advice (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx).

Amount You Owe

Fill in the fields on form HOU121 *Written Notice of Possible Future Eviction Action*:

1. Fill in the current date and the total amount of money that is currently due by the tenant from unpaid rent and/or other financial obligations. You must include a specific detailed accounting of the total amount owed.

| |
|---|
| Amount You Owe: |
| The total amount due as of _____ (date) is \$_____. |

2. Fill in each blank section with the dollar amount owed by the tenant along with a detailed description of how that amount was reached. Be as specific as possible for each amount. When added together, the amounts in this section should equal the total that you listed above.

| |
|---|
| The total amount listed is based on the following: |
| • \$_____ in unpaid rent for the following months: _____ |
| • \$_____ in late fees, if any |
| • \$_____ in other charges allowed under the lease, if any: _____ |

Person Authorized to Receive Rent and Fees on Behalf of the Landlord

| |
|--|
| Person authorized to receive rent and fees on behalf of the landlord: |
| Name: _____ |
| Street Address: _____ |
| City/State/Zip: _____ |

- Fill in the name and address where any unpaid rent and/or fees can be sent so they will be received by the landlord.

Serve the Written Notice of Possible Future Eviction Action

When you have completed the *Written Notice*, make copies. You will need to make one copy of the *Written Notice of Possible Future Eviction Action* for each party, which means each tenant and yourself.

Serve the *Written Notice* on the tenants. Each tenant must be sent or given a copy of this *Written Notice*. This is called "service of process." The papers can be served personally served (handed directly to tenants) or sent by first-class mail by yourself, another person over the age of 18, or the Sheriff. CANNOT be served on legal holidays as defined in Minn. Stat. § 645.44

(<https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>).

Next Steps after Serving the *Written Notice*

The tenants have 14 days from being personally serving or mailing the notice to either:

- Pay the total amount owed for the unpaid rent and/or other financial obligations; OR
- Move out of the property.

Note: Follow local government rule or law for required notice period before filing an eviction if longer than 14 days.

Step 2

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 a lawyer for legal advice.

The Caption

| | |
|---|--------------------------|
| See Instructions (HOU101) for help in filling out this form. | |
| State of Minnesota | District Court |
| County of: _____ | Court File Number: _____ |
| Judicial District: _____ | Case Type: Housing _____ |

At the very top of the page of form HOU102 *Eviction Action Complaint*, you will fill in 2 lines:

- The **county** where the property is located; and
- The **judicial district number**. Each county belongs in one of ten judicial districts. If you need help finding the correct judicial district number, see <http://www.mncourts.gov/Find-Courts.aspx>.
- Leave the court file number blank. The court will assign a number after you file the paperwork.

| | |
|---|---|
| <p>Plaintiff #1 (Landlord) Name: _____ Address: _____ City/State/Zip: _____</p> <p style="text-align: center;">VS</p> <p>Defendant #1 (Tenant) Name: _____ Address: _____ City/State/Zip: _____</p> | <p>Plaintiff #2 (Landlord) Name: _____ Address: _____ City/State/Zip: _____</p> <p style="text-align: center;">VS</p> <p>Defendant #2 (Tenant) Name: _____ Address: _____ City/State/Zip: _____</p> |
|---|---|

- 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.

Use the lines marked for “Plaintiff #2” of the caption to list a second plaintiff.

- If there are co-owners, such as a husband and wife, you may list one or both as plaintiffs.
- 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 (<https://www.revisor.mn.gov/statutes/cite/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 <https://www.mncourts.gov/Help-Topics/Landlord-and-Tenant-Issues.aspx>.
- On the line marked “Defendant #1,” write the name and address of the tenant. If there is a second tenant, use the lines marked for” Defendant #2”. 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. Minor children should not be listed as defendants.

Fill out the rest of form

PLEASE TAKE NOTICE: If financially unable to obtain counsel, the defendant has the right to a court-appointed attorney in a public housing eviction case that alleges breach of lease under Minn. Stat. §§ 504B.171 or 504B.285.

Check box if the leased or rental property qualifies as “public housing” as that term is used in Minn. Stat. § 504B.268.

Check box if the tenancy is affected by a federal or state housing subsidy program through project-based federal assistance payments, the Section 8 program, as defined in Minn. Stat. § 469.002, subd. 24; the low-income housing tax credit program; or any other similar program. Name of agency that administers the housing subsidy program _____.

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.]

The section after listing the parties includes check boxes that you will need to read and check only if they apply to your case. Please be sure to read them carefully and check the boxes that apply to your case.

- Check the box if your property qualifies as “public housing” as used in Minn. Stat. § 504B.268. If you are not sure if your property qualifies as public housing you should get legal advice.
- Check the box if the tenancy is affected by a federal or state housing subsidy program. If there is a subsidy, include the name of the agency that administers the subsidy.
- Check the box if there are more than two landlords or two tenants. Be sure to fill out the *Additional Litigants Form* (HOU125) with their information.

Rental Agreement

1. Rental Agreement (Lease)

Landlord leased or rented the property located at:

Address: _____

Apartment # _____

City, State, Zip: _____

County: _____

Includes a garage Does not include a garage

The agreement for the property, beginning from _____ (date), and ending _____ (date), is an ORAL or WRITTEN agreement and is for: (check all that apply)

Payment of Rent. The current due and payable under this agreement each month is \$ _____ due on the _____ day of the month.

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

➔ **IMPORTANT!** If there is a **written agreement (lease)**, you must include the written lease, or most recent written lease in existence, and any relevant lease addenda, with this *Complaint*. If alleging non-payment of rent, you must attach a detailed, itemized accounting, or statement listing the amounts due.

1. Fill in all the details of the leased or rented property along with the details of the agreement. Be as specific as possible.
 - Include the beginning and end date of the agreement and check whether this agreement is Oral or Written. **Note:** A copy of the written lease, along with any additions or extensions, must be included with this *Complaint* when filing with the court.
 - Give details of the terms of the agreement whether it was for payment of rent or 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 a lawyer for advice on what steps you may take to evict someone.

Notice of Right of Possession by Landlord for Residential Leases

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, before the beginning of the tenancy, the name and address of:

- The person authorized to manage the property; **AND**
- 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:

2. This section only applies to residential property (not commercial leases) where there is an agreement to pay rent. 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 2 a and b to see if both are true for your situation. If **both** are true, check both boxes and explain where the information is posted.

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.

⚠ You cannot file an eviction unless both a **and** b are true **OR** c is true. 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 before filing.

Grounds for Eviction

Question #3 is about the grounds (reasons) for eviction. You have 6 options for #3 (“a” through “f”) for reasons why you are filing. Check all that apply.

| |
|---|
| <p>3. Grounds for Eviction</p> <p>Landlord seeks to have the Tenant evicted for the following reasons: (check all that apply)</p> <p><input type="checkbox"/> a. The Tenant is still in possession of the premises and has failed to pay rent for the month(s) of _____ in the amount of \$ _____ per month, payable on the _____ day of each month, for a total due of \$ _____.</p> <p>For Residential Leases Only: A written notice pursuant to Minn. Stat. § 504B.321 subd. 1a was served on Tenant _____ (date), which was at least 14 days before filing this eviction complaint. The written notice is attached.</p> |
|---|

3a. Check box a if the reason for the eviction is that the tenant did not pay the rent.

- State which months are unpaid (for example, January, February, 2023).
- State the amount of rent that is unpaid per month (such as \$500 for January and \$900 for February).
- 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.
- If the tenant is a residential tenant, write the date that you served the *Written Notice of Possible Eviction Action* on the tenants from Step 1.

Note: The 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 judicial officer 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 judicial officer will decide if these amounts must be paid by the tenant to “pay and stay.”

| |
|---|
| <p><input type="checkbox"/> b. The Tenant failed to vacate the property after written notice was given: (check all that apply)</p> <p><input type="checkbox"/> Landlord gave written notice to Tenant on _____ (date) to vacate the property by _____ (date). Tenant has failed to vacate the property. Attach copy of written notice to vacate.</p> <p><input type="checkbox"/> Tenant gave written notice to Landlord on _____ (date) that they would vacate the property by _____ (date). Tenant has failed to vacate the property. Attach copy of written notice to vacate.</p> |
|---|

3b. 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 fill in the date you gave the notice to the tenant and then fill in the date they were supposed 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 fill in the date notice was given and then fill in the date they were supposed to move out of the property.

Note: If landlord asked tenant to move, a copy of the letter or notice (sometimes called a "notice to vacate") telling tenant to move out must be attached to the *Complaint* when filing.

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 1st 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 give proper notice as described in Step 1, above, and then 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.

c. The Tenant has broken the terms of the rental agreement by the following:
(Explain, in detail)

- The specific clause of the agreement that was violated;
- The dates and description of what happened that violated the agreement; and
- Which section of the agreement gives the landlord the right to evict tenant for breaking the terms of the rental agreement.

3c. 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 rental agreement, including which specific clauses were violated. The breach of lease should be material, meaning something that is significant.
- If the agreement was for an exchange of services and the tenant did not perform these services, 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.

d. The Tenant has breached the covenants as stated in Minn. Stat. § 504B.171 by:
(Explain, in detail, what happened including dates.) _____

3d. 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 reports, if any, to the *Complaint*.

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.

f. The Tenant defaulted on a Contract for Deed and is holding over after proper cancellation of the contract.

3e. 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 (Landlord) has the right to possession. Read Minn. Stat. § 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.

3f. Check Box f if a 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.

4. The Landlord seeks judgment against above Tenants for restitution of said premises plus costs and disbursements.

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 #1 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.

5. Date of Birth:

Fill in the tenant's birthdate, if known. If unknown, check "unknown." If the tenant is a business, you can leave this question blank.

6. Military Status:

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 3
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 email address. An email address is 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 and Ramsey County Housing Court. You can read the [Housing Court Rules](https://mncourts.gov/mncourtsgov/media/Appellate/Supreme%20Court/Court%20Rules/GRP-Tit-VII.pdf) online (<https://mncourts.gov/mncourtsgov/media/Appellate/Supreme%20Court/Court%20Rules/GRP-Tit-VII.pdf>). See Step 6 for more information on attorneys representing businesses in court.

Step 4

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 5

File with the Court

File the following documents with court administration:

- *Eviction Action Complaint* (HOU102); AND
- Any attachments necessary for your situation, such as a copy of the written lease; AND
- A copy of the notice to vacate or *Written Notice of Possible Eviction Action* (HOU121), if necessary for your situation; AND
- *Power of Authority* (HOU103) (used only in Hennepin County or Ramsey County), if necessary for your situation; AND
- *Additional Litigants Form* (HOU125), if necessary for your situation.

Fee

There will be a fee due when you file your paperwork. Visit www.mncourts.gov/fees to find the fees online. Click on District Court Fees, then choose your county in the drop-down menu. The Fee Category will be “Housing.”

If you cannot afford to pay the fee, you can ask for a fee waiver by filing Fee Waiver forms along with your *Eviction Complaint*. Fee Waiver forms are available online at www.mncourts.gov/forms under the “Fee

Waiver” category. If a judicial officer does not grant your fee waiver, you will need to pay the fee to move forward.

How to File

- **At the Courthouse**

This can be done either in person at the courthouse or by mail. Addresses for courthouses are online at <https://mncourts.gov/Find-Courts.aspx>. Use the drop-down menu or map to find your county.

- **Electronic Filing through the eFS System**

The eFS System allows you to eFile your completed forms. Information on eFiling is on the MN Judicial Branch website at <https://www.mncourts.gov/eFile>.

Once you choose to eFile, you must eFile for the rest of the case. See [Minn. Gen. R. Prac. 14.01\(b\)\(5\)\(i\)](#) (revisor.mn.gov/court_rules/gp/id/14/).

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.

Step 6

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

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. You will need to have each tenant served. You need to have the person who serves attempt personal service before any other method of service.

- 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.



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 already 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.

Instructions for Service by Mail and Post (HOU107) is available with the “Housing /Landlord-Tenant” forms for help with this process.

Step 7

Affidavits of Personal Service (HOU106)

The person who served the tenants (server) must fill out one *Affidavit of Personal Service (HOU106)* 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).

Step 8

Go to the Hearing

The plaintiff, the plaintiff's attorney, or the plaintiff's agent with power of authority (in Hennepin and Ramsey Counties only), must attend the hearing.

If the plaintiff is a business, the plaintiff must have a lawyer in court. The exceptions to this rule apply only in Hennepin County and Ramsey County.

In Ramsey County Housing Court, a non-lawyer agent may appear on behalf of:

- an individual,
- a sole proprietorship, or
- an association.

In Hennepin County Housing Court, a non-lawyer agent may appear on behalf of:

- an individual,
- a sole proprietorship,
- an association,
- a corporation,
- a limited liability company, or
- a partnership.

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 and then pick your district/county.

Other Information

Requesting an Interpreter

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.

Expedited Hearing

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 Minn. Stat. § 504B.321, subd. 2.

Collecting the Rent

An eviction action decides if the tenant must move. It does not include a judgment for rent or other money owed.

Claims for rent and other money issues cannot be brought in housing court with the *Eviction Action 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. Claims over \$15,000 must be filed in District Court.

Eviction Notice (Writ of Recovery of Premises and Order to Vacate)

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 [fee](#).

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.

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.

For more information, read Minn. Stat. § 504B.365. Unlawful exclusion or removal; action for recovery of possession.

Tenant's Personal Property

Minn. Stat. § 504B.271 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 under the "Tools & Resources" tab on the Landlord Help Topic at www.mncourts.gov/help-topics.aspx.