

Important Information About Your Eviction Case

Notice. ~~Before a landlord can file an eviction case with the court,~~ The landlord must provide a tenant with a written notice that states the reasons why the landlord will file the case before the lawsuit is filed or with the summons. In certain cases, if the landlord claims a tenant has broken the terms of the lease with criminal or dangerous acts that the tenant cannot correct, then the landlord can provide the tenant with a written notice at the same time the landlord provides the tenant with the eviction papers.

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Rent Cases. If the eviction case has been filed only because the landlord claims that the tenant has not paid rent, the tenant can stop the case from going forward and continue living in their home if the tenant pays all rent now due, late fees, attorney's fees and court costs any time before the court grants a judgment. After a judgment has been granted, a tenant may only stay in their home, if the landlord agrees to reinstate the tenant's lease. Inability to pay rent is not a legal defense and the judge cannot give more time to pay, even if the tenant is having financial problems.

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Before Court. Eviction cases happen very quickly. ~~After a landlord files an eviction case with the court, the court can set a first hearing date within three (3) to six (6) days.~~ Before the court date, the landlord must serve the tenant with a Summons and Complaint. The tenant will then have an opportunity to file an Answer.

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• ~~The Summons:~~ The Summons is a document that tells the tenant the date, time, and location of the eviction hearing. The Summons must be served with the Complaint.

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• ~~The Complaint:~~ The Complaint is a document that lists the address of the property at issue, the tenants who live in the property, whether the property is part of a subsidized program, the landlord's claims about how the tenant breached the lease agreement, and how much the tenant allegedly owes the landlord. The Complaint must be served with the Summons.

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• ~~The Answer:~~ The tenant can file a written Answer to the Complaint. There is no fee to file an Answer. An Answer form is available from the justice court and allows the tenant to admit or deny the claims stated in the Complaint and explain their position. A tenant may also answer orally when they show up for their hearing. The tenant may file a counterclaim if the tenant believes the landlord violated the lease agreement or a federal or state law in some way.

The parties may also enter into a "stipulation" or "stipulated judgment." A stipulation is similar to a settlement under which the parties resolve the court case by agreeing to a set of terms. A stipulation is a contract. If you are offered a stipulation, make sure you understand what it requires you to do. Stipulations should be clear and understandable by both the parties. Most stipulations include judgments, for which the tenant will owe money and may need to move from the property. A landlord, tenant, attorney, or witness may participate at the initial court hearing by telephone or video conference and should contact the court one (1) business day before the hearing or at least two (2) hours before the hearing to obtain information about how to connect to the hearing. If the tenant or landlord does not attend court, and the other party is present, a judgment may be entered against the missing party.

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Legal Representation. The court will not provide an attorney. ~~Parties~~Tenants can represent themselves or hire their own attorney to represent them. Some legal services are available for free to those who qualify, through:

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• ~~DNA People's Legal Services~~

○ ~~Serving Coconino County~~

○ ~~Phone: 1-833-362-1102~~

○ ~~Website: <https://dnalegalservices.org/>~~

• ~~Community Legal Services~~

○ ~~Serving Maricopa, Mohave, Yavapai, La Paz, and Yuma Counties~~

○ ~~Phone: 855-339-6581~~

○ ~~Website: <https://clsaz.org/>~~

• ~~Southern Arizona Legal Aid~~

○ ~~Serving Pima, Santa Cruz, Pinal, Navajo, Apache, Gila, Cochise, Graham, and Greenlee Counties~~

○ ~~Phone: 1-800-248-6789~~

○ ~~Website: <https://www.sazlegalaid.org/>~~

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Parties can also contact the Arizona State Bar Attorney Referrals to speak to an attorney. Visit <https://www.azbar.org/for-the-public/public-service-center/> for more information.

Initial Hearing in Court. At the time and date listed on the summons, the judge will start calling cases. ~~A landlord, tenant, attorney, or witness may participate at the initial court hearing by telephone or video conference and should contact the court one (1) business day before the hearing to obtain information about how to connect to the hearing. Unless previously dismissed by the landlord, if a party does not attend court, and the other party is present, a judgment may be entered against the missing party. A landlord, tenant, attorney, or witness may participate at the initial court hearing by telephone or video conference and should contact the court at least two (2) hours before the hearing to obtain information about how to connect to the hearing. If the tenant or landlord fails to appear, and the other party is present, a judgment may be entered against the missing party. All judgments go on a tenant's credit report and may result in collection and enforcement actions, such as wages being garnished.~~

~~Before a court hearing takes place, the landlord or the landlord's attorney may offer a tenant a "stipulation" or "stipulated judgment." A stipulation is similar to a settlement under which the parties resolve the court case by agreeing to a set of terms. A stipulation is a contract. If you are offered a stipulation, make sure you understand what it requires you to do. Stipulations should be clear and understandable by both the landlord and the tenant. Most stipulations include judgments, for which the tenant will owe money and may need to move from the property. If there is no agreement for the parties to sign a stipulation, the judge will hear the case. If both parties are present, the judge will ask the tenant whether the claims in the complaint are true. If the tenant says "no," he or she will need to briefly tell the judge why. The judge will hear testimony from the parties both the landlord and tenant and make a decision after a trial.~~

Delay of Hearing. Either party may ask that the court date be delayed, also called a continuance. The court will agree only if there is a very good reason. If your case is in Justice Court, a delay will be no more than three (3) business days. If your case is in Superior Court, a delay will be no more than ten (10) business days. There is no guarantee the judge will grant a delay and parties should come to court prepared for trial and bring necessary witnesses and documents.

After a Judgment. In most cases, after a judgment is signed, a tenant will have five (5) days to move out of the rental home. If the court determines that a tenant has committed a material and irreparable breach of the lease, the tenant has only twelve (12) to twenty-four (24) hours to move out. A judgment will probably appear on a tenant's credit report for several years. A judgment ends a lease agreement, so if a tenant wants to stay in the rental home, the tenant must enter into a new lease agreement with the landlord. If a landlord receives a judgment, the landlord may apply for a "Writ of Restitution," ~~which allows the landlord to remove the tenant(s) and everyone living in the rental home.~~ Writs of Restitution are served by constables, who will direct the residents and everyone living in the rental home to leave. A tenant may avoid the experience of having a Writ of Restitution served on them by vacating the property voluntarily and returning the keys to the landlord. This ends the tenants' possession of the residence.

Appealing a Judgment. Parties wishing to appeal from a judgment have five (5) days to do so after the judgment is entered and can obtain forms and information from the court filing counter. If a tenant wants to remain in the rental home during the appeal, the tenant must also pay an appropriate bond and continue to pay rent to the court as it becomes due. ~~If the tenant wins, the court will dismiss the case.~~

Additional Information. The Arizona Residential Landlord Tenant Act, the Arizona Mobile Home Parks Residential Landlord and Tenant Act and the Long Term Recreational Vehicle Rental Space Act are available at a library or on the Arizona Judicial Branch Eviction Actions web page, <https://www.azcourts.gov/eviction>. For information on the Residential Eviction Action process, please visit: <https://www.azcourthelp.org>.

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