



Filing an Eviction

- ❖ An eviction **MUST** be filed in the Justice precinct where the rental property is located.
- ❖ Texas Property Code, Sec. 24.005 sets out the notice requirements for eviction suits. (Unless the notice requirements are stated in the signed lease.)
- ❖ The notice to vacate must be in writing and should be unconditional, i.e., it should tell the tenant to vacate by a specific date in no uncertain terms.
- ❖ The landlord must give a tenant who defaults or holds over beyond the end of the rental term or renewal period at least three (3) days written notice to vacate the premises before the landlord files an eviction, unless the parties have contracted for a shorter or longer notice period in a written lease or agreement.
- ❖ The notice to vacate shall be given in person or by mail at the premises in question. Notice in person may be by personal delivery to the tenant or any person residing at the premises who is 16 years of age or older or personal delivery to the premises and affixing the notice to the inside of the main entry door. Notice by mail may be by regular mail, by registered mail, or by certified mail, return receipt requested, to the premises in question. If the dwelling has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises to leave the notice to vacate on the inside of the main entry door, the landlord may securely affix the notice on the outside of the main entry door.
- ❖ To begin an eviction proceeding, the landlord must file a written and sworn Petition for Eviction. The complaint must describe the premises of which the landlord is claiming possession with sufficient certainty to identify the premises, and state the facts which entitle the landlord to possession.
- ❖ When filing, the landlord should bring the following:
 - A copy of the lease
 - A copy of the notice to vacate
 - \$116.00 for filing and service on one person (additional service is \$65.00 per person)
 - All work and residence addresses and telephone numbers of the tenant(s) known by the landlord
- ❖ Generally, all parties named in the lease should be sued and served with a citation in the eviction proceeding. Any judgment granted will run only against those who are specifically named and served.
- ❖ The owner's agent may file any type of eviction suit and may represent the owner at any default judgment hearing. If the case is contested an agent may represent either party if the case involves non-payment of rent. The parties or their attorneys must try all other types of evictions if the case is contested.
- ❖ A suit for rent may be filed with the eviction suit if the amount due is within the jurisdiction of the justice court (<\$10,000). Charges for items other than rent cannot be joined with suit for eviction.
- ❖ A court date will be set after the citation has been served and both parties will be notified and are expected to appear at that date/time. Any continuance request must be in writing, timely and agreed to by all parties.
- ❖ Under the Texas Rules of Civil Procedure, either party to the lawsuit has five days to appeal the court's decision. The filing of an appeal bond or paupers oath by that time completes the appeal. A properly filed appeal stops all further justice court proceedings until there is a resolution by the county court-at-law.
- ❖ If neither party appeals, the landlord may obtain a Writ of Possession from the court after the five (5) day period for appeal has passed. The writ fee of \$150.00 is payable to JP court to cause the tenant to vacate the premises. Questions involving the execution of the writ should be directed to the appropriate constable's office.