Civil Eviction Suit Procedures



Judge Angela Williams
Justice Court, Precinct 2
Williamson County

350 Discovery Blvd., Suite 204
Cedar Park, TX 78613

Office: (512) 260-4210
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Filing Suit

When filing an eviction case, the responsibility for completing the Petition rests with the Plaintiff, the owner's attorney, or authorized agent. The Plaintiff should verify the precinct in which the property is located. The Court has jurisdiction only in cases where the property lies within the precinct lines of that particular Court. When the petition is filed with the Court, the plaintiff **must** provide the correct name(s) and address of the Tenant(s) (Defendant), along with any other identifiers, such as Date of Birth, Drivers License Number, etc. **When filing via US Mail, in person or by night drop plaintiff must also provide one copy of the defendant's notice to vacate and the complete lease agreement for the Court and an additional copy of both for each person being served, failure to provide copies could result in copy fees.** The filing fee is $54.00, plus a $80.00 service fee per defendant. The Trial date will be set upon the filing of the suit.

To Electronically file your suit please go to www.wilco.org/JP2 and under Information and Forms you can click to file an Eviction Suit online.

A citation with the trial date will be issued to the Constable's or Sheriff's office to be served to the defendant.

Notice to Vacate

The Landlord must give the tenant proper legal written notice to vacate, demanding that the tenant leave the property by a specified deadline.
The notice to vacate must be in writing and must state demand for the property.
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
- By affixing the notice to the inside of the main entry door; or
- By regular mail, registered mail, or certified mail, return receipt requested, to the premises in question.
- Or by other means listed in the Property Code
  See Section 24.005 of the Property Code

Time Requirements

Unless there is a written agreement between the parties regulating the notice requirements, the landlord must give the tenant **at least three days notice to vacate before filing the suit.** The notice period is calculated from the day on which the notice is being delivered.
To be eligible to recover attorney fees, the written lease should entitle the landlord to legal fees if the Court action is necessary or a landlord must have given 10-days written notice to vacate by registered or certified mail, and it should state attorney fees may be recovered.

Military Affidavit

In the event the Defendant fails to appear in Court, an Affidavit of Military Status of the Defendant(s) and the Service Members' Civil Relief Act Certificate are required before the Trial can proceed. Please bring a completed and notarized copy of the Military Affidavit to court, or the Court Clerk can notarize for you. To obtain certificates of service or non-service you may go to this website: *www.dmdc.osd.mil/scra*

The Trial

The Landlord or Landlord's agent is required to appear personally for the Trial. At the Court Trial, both parties will have the right to present their case, including witnesses, receipts, cancelled checks, photographs and any other evidence. The burden of proof lies with the Landlord. The Landlord must prove their case. If the tenant fails to appear and fails to answer and was properly served, a default judgment will be rendered.

Judgment

At the Trial, a judgment may be rendered for either the plaintiff or the defendant. A judgment for the plaintiff may be for all or part of the initial claim. The Court has a jurisdictional limit of $20,000.00, excluding the cost of Court. No damages can be awarded including, for example, late fees, bad check fees, reletting fees, or damages. A separate suit must be filed.

If the plaintiff is awarded a judgment for possession of the premises and/or back rent owed, there is a five-day appeal period in which either party may appeal the decision of the Court to the County Court. An appeal bond and filing fee of $54.00 must accompany the appeal, and legal counsel should be obtained. If the defendant has not appealed the case at the end of the appeal period, judgment becomes final. Upon final judgment, the Landlord may file for a Writ of Possession. Failure to pay rent during the appeal process may result in a Writ of Possession being issued.

Writ of Possession

A Writ of Possession may not be issued before the sixth day after the judgment for possession is rendered. This order directs the Constable or Sheriff to take physical possession of the property and turn it over to the Landlord. A Writ of Possession will cost an additional $205.00 at the time of filing. Any questions concerning the Writ should then be directed to the Constable's office.

For further information, consult Part V of the Texas Rules of Civil Procedure, which is available online at http://www.texasjusticecourts.com/Links.aspx and also at the court.

For additional information please visit: *www.wilco.org* under "Justice Courts"

THIS INFORMATION IS NOT INTENDED TO CONSTITUTE LEGAL ADVICE OR TAKE THE PLACE OF AN ATTORNEY. IF YOU HAVE ANY LEGAL QUESTIONS, PLEASE CONSULT AN ATTORNEY.

LEGAL AIDE: 512-374-2800

TENANTS COUNCIL (AUSTIN): 512-474-1961
WWW.HOUSING-RIGHTS.ORG