

Suing for Repairs in Justice of the Peace Court

Information Sheet

The **Rules of Judicial Ethics prohibits this office from giving legal advice or hearing your case without the presence of the defendant or plaintiff.** If you need legal counseling, we highly recommend any licensed Texas attorney. Your first meeting with the attorney is usually (but not always) free because the lawyer is trying to determine if they can be of service to you. In a civil suit any **CORPORATION MUST BE REPRESENTED BY AN ATTORNEY.** REMEMBER, IT IS YOUR JOB TO PRESENT ANY EVIDENCE (RECEIPTS, JOURNALS, RECORDS, POLICE REPORTS, WITNESSES, ETC) TO PROVE YOUR CASE. IF YOU FAIL TO PROVE YOUR CASE IT CAN BE DISMISSED. If you have any **LEGAL QUESTIONS**, contact **LEGAL AID AT (915)-585-5100.**

If you have followed the proper procedure to seek repairs from your landlord, and your landlord has not made those necessary repairs, then you can sue to enforce your landlord's duty to make those repairs. If your damages are under \$10,000, you can sue in Justice of the Peace Court (J.P. Court), where you do not need an attorney and the process is relatively quick and easy. The following describes how to sue your landlord for repairs in J.P. Court.

FORM OF THE LAWSUIT

Obtain the Petition from the Justice of the Peace or you can also draft your own. Your lawsuit must have the following information:

- (1) the street address of the residential rental property;
- (2) a statement indicating whether the tenant received in writing the name and business street address of the landlord and landlord's management company;
- (3) to the extent known and applicable, the name, business street address, and telephone number of the landlord and the landlord's management company, on-premises manager, and rent collector serving the residential rental property;
- (4) for all notices the tenant gave to the landlord requesting that the condition be repaired or remedied:
 - (A) the date of the notice;
 - (B) the name of the person to whom the notice was given or the place where the notice was given;
 - (C) whether the tenant's lease is in writing and requires written notice;
 - (D) whether the notice was in writing or oral;
 - (E) whether any written notice was given by certified mail, return receipt requested, or by registered mail; and
 - (F) whether the rent was current or had been timely tendered at the time notice was given;
- (5) a description of the property condition materially affecting the physical health or safety of an ordinary tenant that the tenant seeks to have repaired or remedied;
- (6) a statement of the relief requested by the tenant, including an order to repair or remedy a condition, a reduction in rent, actual damages, civil penalties, attorney's fees, and court costs;
- (7) if the petition includes a request to reduce the rent:
 - (A) the amount of rent paid by the tenant, the amount of rent paid by the government, if known, the rental period, and when the rent is due; and
 - (B) the amount of the requested rent reduction and the date it should begin;
- (8) a statement that the total relief requested does not exceed \$10,000, excluding interest and court costs but including attorney's fees; and

You will be required to provide an original and one copy of the petition when you file you may also provide a third copy for your records. You will be required to pay the filing, service and copy fees to the court at the time you file your suit (you may obtain the current fees from the court clerk). If you cannot afford to pay the fees for your repair lawsuit, you may file it with an Affidavit of Inability to Pay, sometimes called a Pauper's Oath. You will need to complete the Affidavit of Inability to Pay with information about your income, your property, monthly expenses, dependents, and debts.

You should keep a copy of everything you file with the court. The clerk can provide you with copies once you have paid the fees for the copies. Once you file the lawsuit, a constable will deliver a copy of it and a notice, called a citation, to the landlord, commanding the landlord to appear at a trial before the J.P. Court at a time between six and ten days from when the landlord receives the notice.

TRIAL

At the trial, it is important to show up on time. You should arrive at least fifteen minutes early. Be sure to bring any evidence you have to support your side, such as your requests for repairs, pictures, video, and witnesses who can testify for you. Since you are the person who filed the lawsuit, you will speak first. You have to prove your case to the judge or you will lose. Explain your side of the dispute directly to the judge and be sure you present the judge with all the proof and witnesses that you have brought with you. After you finish, the landlord will have a chance to speak and present witnesses and papers. You can cross-examine the defendant and any of the witnesses.

If you do not appear at the trial, the judge may dismiss the lawsuit. If the landlord does not appear, the judge may hear your evidence, and if you show that you have the right to what you have requested, the judge can issue a judgment for that.

After hearing the evidence, the judge can order 1) your landlord to take reasonable action to repair or remedy the condition, 2) a reduction of your rent, from the date of the first repair notice, in proportion to the reduced rental value resulting from the condition until it is repaired, 3) a civil penalty of one month's rent plus \$500, 4) your actual damages, 5) and your court costs and attorneys fees (if you have an attorney). If the Justice of the Peace orders your landlord to make repairs and your landlord fails to comply, the judge can hold your landlord in contempt of court and punish your landlord with a fine and/or confinement in jail.

REQUESTING A NEW TRIAL OR APPELLING THE JUDGMENT

If you disagree with the decision of the Justice of the Peace, and you want the judge to reconsider, you can file with the Justice of the Peace, within ten days the judge signs the judgment, a request (or "motion") for a new trial (to rehear the case), a motion to amend the judgment (to change a part of the judgment), or a motion to set aside a dismissal (for your failure to appear). If the judge grants the motion, a new trial should be held within ten days of the signing of the order granting the motion. If the judge does not rule on the motion within fifteen days after the judgment is signed, it is considered denied.

You (or the landlord) can also appeal the decision of the Justice of the Peace within twenty one days of the date the judge signs the judgment. The filing of a notice of appeal with the Justice of the Peace is all that is required for either party to appeal, and you get an entirely new trial before the County Court. If your landlord files an appeal, that stops any enforcement of a J.P. judgment to repair or remedy a condition or reduce your rent as well as any other actions, and the County Court will consider the evidence all over again in a new trial (*trial de novo*).

Once you file your appeal, the County Court clerk will likely send you a letter by certified mail telling you when you have to pay a filing fee for the appeal. If you cannot afford to pay the filing fee, you can file an Affidavit of Inability to Pay, sometimes called a Pauper's Oath, with information about your income, your property, monthly expenses, dependents, and debts.

