

KNOW YOUR RIGHTS

WHAT TENANTS NEED TO KNOW ABOUT BEING EVICTED

1. What is a notice of eviction?

A “notice of eviction” is a written notice from a City Marshal that warns you that you and your family can be evicted within the next few days. The notice of eviction is the last court paper that needs to be served on you before you are evicted.

An eviction means that the Marshal can come to your apartment, remove you and your family and your belongings from the apartment, and change the door locks.

If you have received a Notice of Eviction, the most important thing to do now is to stop your eviction.

2. How to Stop an Eviction

The first thing to do is to go immediately to the Landlord-Tenant Clerk’s Office and ask for an order to show cause

An order to show cause is an order signed by a judge that tells the marshal and landlord not to evict you until the judge has had the chance to hear your case. The Clerk’s office in the following locations will help you with your Order to Show Cause:

Landlord-Tenant Clerk’s Office Locations:

• Manhattan

111 Centre Street, Room 225
New York, NY 10013
Line 3 (212-374-8411)

• Bronx

1118 Grand Concourse
Bronx, NY 10456
(718-466-3025).

• Harlem Justice Center

170 East 121st Street
New York, NY 10035
(212-962-4795)

3. What is a nonpayment case?

A non-payment case is brought by a landlord to collect unpaid rent. A tenant may be evicted for non-payment of rent.

4. What is a “demand for rent”?

Before you can be sued, the landlord or someone working for the landlord must demand the overdue rent from you and warn you that, if you do not pay, you can be evicted. If your lease requires that this kind of demand be given in writing, then it must be in writing. If it is in writing, this demand must be served the same way as the Notice of Petition also called a dispossess and petition.

5. What will happen if I can’t pay rent after the demand for rent is made?

If you do not pay the rent after the demand for rent is made, the landlord can file a nonpayment petition against you in Housing Court.

The Court Clerk will mail you a post card when the landlord’s petition is filed telling you to promptly come to court.

The notice of petition and petition (usually the front and back of the same page) must also be served on you.

6. Should I go Housing Court?

When you receive the nonpayment petition, go right away to the Landlord-Tenant Clerk’s Office in the Housing Court. The address of the Court will be indicated on the notice of petition (or

dispossess). You need to go to Housing Court to file an answer to your petition, or to file an Order to Show Cause, if you have received a notice of eviction.

7. Is there day care at Housing Court?

If you have young children, you should check to see whether the Housing Court in your borough has day care because it varies from court to court. If it does, you should get to court before your scheduled time so you have time to leave your children at day care. Day care is free of charge.

8. How should I answer the nonpayment petition?

The easiest way to answer is to go to the Landlord-Tenant Clerk and have them put in an answer for you. It is possible to put in your own answer in writing, but it is far more complicated and requires much more work. If you need help in answering the petition, there are posters on the wall in every Landlord-Tenant Clerk’s Office which will give you information on how to answer a non-payment petition.

When you get to Landlord-Tenant Clerk’s Office, you should stand on the line for filing an answer. When you get to the Clerk’s window, tell the Clerk what your answer is. The Clerk will help you. If one of the reasons you didn’t pay the rent is because your apartment needs repairs, be sure to ask the Clerk for a housing inspection.

9. What should I say in my answer?

You can defend yourself against an eviction by showing any of the following (NOTE: that this is not a complete list of all possible defenses):

• Improper Service:

- You did not receive any copies of the court papers.

- The court papers were not delivered to you properly.
- **Improper Parties:**
 - You are listed by the wrong name on the court papers.
 - The person suing you in this case is not your landlord.
- **Rent Issues:**
 - You were never asked for the rent.
 - You have already paid all or part of the rent.
 - The landlord is suing for the wrong amount of rent.
 - The landlord owes you money because of a rent overcharge.
 - You tried to pay the rent, but your landlord refused to accept it.
- **Apartment Issues:**
 - Your apartment or building needs repairs for conditions (be sure to indicate all repairs and services that are not being provided).
 - You receive Public Assistance and there are Housing Code violations in your apartment or building.
 - Your apartment is an illegal apartment.
 - The landlord waited too long to sue you for nonpayment of rent. If you think the landlord has waited too long to sue you (generally, longer than 3 months) so that the amount you owe would be so great that you would not have enough money to pay, you may have a defense called “stale rent.” This defense can limit the amount of unpaid rent that you must pay in order to avoid being evicted, but it is usually very hard to prove.

10. What happens if I do answer the petition or do not show up to court?

If you do not answer the petition or do not go to court on your court date, you can be evicted. If you do not answer the petition on time, whether or not you received it, or you do not go to court on your court date, the landlord can get a final judgment and then have a City Marshal serve you with a “notice of eviction.”

If you receive a “notice of eviction,” go right away to the Landlord-Tenant Clerk’s office and ask for an “Order to Show Cause.”

11. What is an order to Show Cause?

If signed by a judge, an Order to Show Cause will stop your eviction.

To get an Order to Show Cause, go to the Housing Court Clerk’s Office and ask for an Order to Show Cause. If signed by the judge, the Order will prevent your eviction until you can be heard in court. Ask the Clerk if you should wait or return early the next day. If you believe your eviction is scheduled for today, be sure to tell the Clerk that you cannot wait until the next day to get the Order to Show Cause.

In most cases, you must show two things in the Order to Show Cause:

- A good excuse for not going to court when you were supposed to, such as “I never received the court papers” or “I was sick,” and
- A reason your landlord shouldn’t win the case, such as “I paid some or all of my rent” or “I need repairs.”



MAKING THE CASE FOR HUMANITY

The Legal Aid Society
 199 Water Street
 New York, NY 10038
 Phone: 212-577-3300
 Fax: 212-509-8432
www.legal-aid.org

Printed by The Legal Aid Society

KNOW YOUR RIGHTS

WHAT TENANTS NEED TO KNOW ABOUT BEING EVICTED



MAKING THE CASE FOR HUMANITY