

## General Procedures for Filing an Eviction for Non-Payment of Rent

Justice of the Peace, Pct. 1

100 W Houston Ste 27, Sherman, Texas 75090

(903) 813-4346 main (903) 893-9264 fax

Hours of Operation: 8:00 A.M. – 4:30 P.M. Monday - Friday

1. The tenant must have already failed to pay the rent as agreed. The Landlord cannot refuse to accept rent and thereafter claim rent was not paid.
2. The landlord must deliver a written “**Notice to Vacate**” or “**Demand for Possession**” naming each occupant the landlord seeks to evict from the premises. The notice must give the reason for demanding possession. The written notice must give the tenant time to vacate voluntarily. The time to vacate in the notice must be at least (3) three days, unless the landlord and tenant have agreed to a greater or lesser than three day time period in a written lease or agreement.
3. Delivery of the notice must be accomplished by one of the following methods:
  - A. **Handed to a tenant in person.** (Or anyone living at the premise that is at least 16 years old.)
  - B. **Mailed to the tenant** (if mailed the landlord must wait an additional (2) two days to allow for delivery of mail before filing for eviction.)
  - C. **Attached to the inside of the main entry door.**
4. After the notice is delivered, wait until after the notice period expires, then go to the Justice of the Peace Court in the precinct where the property is located to file a written “**sworn complaint**” for eviction. The court will determine who has a greater right to possession of the property. Forms for filings are available online or at the Justice Court Office.

(Sample wording for the “Notice to Vacate for Non-Payment of Rent)

Dear \_\_\_\_\_, (Name all Tenants)

Today is the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

The rent has not been paid. I demand possession of my rental property. This is a notice that you vacate the premises by \_\_\_\_\_, 20\_\_ or I will file an eviction suit with a Justice of the Peace Court.

\_\_\_\_\_, (Landlord)

**The military SCRA form is REQUIRED WHEN FILING A CASE: There is NEVER a fee for using this website:**

Official Department of Defense Servicemembers Civil Relief Act (website):

<https://scra.dmdc.osd.mil>

Proper attire will be required for all hearings before the court.

Cost including service, one defendant: \$126.00. Cost for each additional defendant is \$80.00. Writ of Possession is \$155.00.

(Seal)

(Notary or Clerk of Court) \_\_\_\_\_

### JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/13)

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_

STYLED \_\_\_\_\_

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:	2. Names of parties in case:
<p>Name: _____ Telephone: _____</p> <p>Address: _____ Fax: _____</p> <p>City/State/Zip: _____ State Bar No: _____</p> <p>Email: _____</p> <p>Signature: _____</p>	<p>Plaintiff(s): _____</p> <p>Defendant(s): _____</p> <p>[Attach additional page as necessary to list all parties]</p>

**3. Indicate case type, or identify the most important issue in the case (select only 1):**

<input type="checkbox"/> <b>Debt Claim:</b> A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	<input type="checkbox"/> <b>Eviction:</b> An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.
<input type="checkbox"/> <b>Repair and Remedy:</b> A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	<input type="checkbox"/> <b>Small Claims:</b> A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.

\_\_\_\_\_  
*Plaintiff(s)/Landlord(s) (Actual Landlord)*  
\_\_\_\_\_  
v.  
\_\_\_\_\_  
*List all Defendant(s)/Tenant(s) for which eviction is sought*  
\_\_\_\_\_

§ **In the Justice Court**  
§  
§ **Precinct 1, Place 1**  
§  
§ **County of Grayson**  
§  
§ **State of Texas**

**COMPLAINT for EVICTION**

**Monthly rent amount is:** \_\_\_\_\_

*(For all addresses, you MUST include number, street, apartment number, city, state, & zip code.)*

Plaintiff, being duly sworn on oath, files this written complaint against the above named Defendant(s) to evict Defendant(s) from Plaintiff's premises, which is located in Justice of the Peace Precinct 1 of Grayson County and which is **described as:**

Plaintiff requests service of citation by personal service at the previously described premises or by alternate service, if necessary, under Rule 742 or 742a.

Any work or **other known addresses** for the Defendant(s) known to Plaintiff are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Plaintiff and Defendant(s) have established a **landlord tenant** relationship by: *(check one)*  a written lease or agreement,  an oral agreement,  occupancy after foreclosure sale,  occupancy after contract for deed default,  *(other)* \_\_\_\_\_

**Grounds for eviction are:** *(check)*  non-payment of rent,  holding over,  non-rent default by *(describe default)* \_\_\_\_\_

Written **notice to vacate** for the grounds stated above was delivered to Defendant(s) at the above described premises on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, *(check)*  in person to the tenant(s).  in person to an occupant at least sixteen years of age.  by mail.  by affixing to the **inside** of the main entry door.  *(other)* \_\_\_\_\_

Thereafter Defendant(s) failed to surrender possession of the above described premises by the date specified in the **notice to vacate** thereby committing a **forcible detainer**.

Plaintiff requests judgment for Plaintiff(s) against Defendant(s) for possession of the above described premises, for writ of possession, plus \$\_\_\_\_\_ rent due through today, plus accruing rent at the **daily rate** of \$\_\_\_\_\_ per day until the date of judgment, plus reasonable attorney fees in the amount of \$\_\_\_\_\_, plus all costs of court, plus post-judgment interest at the highest legal rate.

I give my consent for the answer and any other motions or pleadings to be sent to my email address which is: \_\_\_\_\_

**Defendant/Tenant Information:**

DL# \_\_\_\_\_  
D.O.B. \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
SEX \_\_\_\_\_  
RACE \_\_\_\_\_

**X** \_\_\_\_\_  
*Landlord, Landlord's authorized Agent, or Landlord's Attorney*  
*(if Attorney) Bar Card Number* \_\_\_\_\_  
Address \_\_\_\_\_  
Phone (\_\_\_\_) \_\_\_\_\_ FAX (\_\_\_\_) \_\_\_\_\_

**SWORN to and SUSCRIBED** before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*(Seal)*

*(Notary or Clerk of Court)* \_\_\_\_\_

AFFIDAVIT OF NON-MILITARY STATUS

DOCKET NO. \_\_\_\_\_

AFFIDAVIT  
50 USC Sec. 520

Plaintiff being duly sworn on oath deposes\* and says that defendant(s) is (are)

(CHECK ONE)

- not in the military
- not on active duty in the military and/or
- not in a foreign country on military service
- on active military duty and/or is subject to the Servicemembers Civil Relief Act of 2003
- has waived his/her rights under the Servicemembers Civil Act of 2003
- military status is unknown at this time

\_\_\_\_\_  
PLAINTIFF

(Select the applicable title under the signature for the jurat below)

Subscribed and sworn to before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY / CLERK / JUDGE

\_\_\_\_ Notary Public in and for the State of Texas

\_\_\_\_ Clerk of the Justice Court

\_\_\_\_ Judge of the Justice Court

\_\_\_\_\_  
SEAL

\*Penalty for making or using false affidavit – a person who makes or uses an affidavit knowing it to be false, shall be fined as provided in Title 18, United States Code, or imprisoned for not more than one year or both.

## EVICTION SUIT PROCEDURE

Limit of the Court is \$10,000.00

The Judge CANNOT discuss this case with you prior to the hearing. The Clerks CANNOT give you legal advice or advise you on any legal questions. If you have legal questions, you must consult an attorney or legal aid at 800-906-3045.

Website for legal help or to look for an attorney:

**Texasbar.com**

Under “helpful Resources” click on “free consumer legal information”

**PLEASE NOTE:** Plaintiff should verify they have filed in the correct precinct. Failure to properly file in the correct precinct will result in the case being dismissed without refund.

### **WRIT OF POSSESSION:**

This instrument directs the Constable or Sheriff to take possession of the property and turn it over to you. **Writ of Possession is \$150.00 service and \$5.00 filing fee for a total of \$155.00.** After fees are paid in full, the Writ will be turned over to the appropriate Constable or Sheriff for execution of service. You may contact the Constable by phone (903-813-4342) or email (cartert@co.grayson.tx.us) for any questions concerning the Writ after it has been posted.

**ANY PORTION OF THE HOUR BEYOND 2 HOURS : AN ADDITIONAL FEE OF \$35.00 PER HOUR OR PORTION IS DUE.**

**OFFICER DOES NOT PHYSICALLY REMOVE ANY PROPERTY FROM THE PREMISES. THE LANDLORD IS RESPONSIBLE FOR REMOVAL.**