

BASTROP COUNTY JUSTICE OF THE PEACE PRECINCT ONE

Physical Address: 803 PINE STREET, BASTROP, TEXAS, 78602 (3rd floor)

Mailing Address: PO BOX 336, BASTROP, TEXAS, 78602

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EVICTION CASE

Please make sure to read all the information provided. If you still have questions that are not procedural, then utilize legal resources (some enclosed) or a lawyer. The clerks are not allowed to give legal advice. This is for your protection as well as our own. The enclosed information does not replace consultation or assistance from an attorney and is not advice from our court/clerks.

At minimum, you must provide the following to the court with your completed paperwork to start the filing of your paperwork/case:

1. \$54.00 filing fee payable to JP #1. Our court only accepts Cashier Check, Money Order or Company Check IF the plaintiff is the company or a part of the suit.
2. \$100.00 citation fee payable to Bastrop County Constable. This fee is for EACH citation/defendant to be served listed on the petition.

If you are awarded judgment, and ***IF*** you need to file a Writ of Possession ***after the hearing*** has been heard (see more information within this packet), then at minimum, you must provide the following to the court with your formal request to start the filing of the Writ of Possession:

1. \$5.00 filing fee payable to JP #1. Our court only accepts Cashier Check, Money Order or Company check IF the plaintiff is the company or part of the suit.
2. \$250.00 writ fee payable to Bastrop County Constable.

Self-Help Legal Information Packet: *Filing an Eviction Case*



Self-Help Legal Information Packets are provided for the benefit of justice courts and individuals seeking access to justice through the court system. They do not constitute legal advice, and the court is not responsible for the accuracy of the information contained in the packet.

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- 3) The person was a **tenant at will** (meaning there was no set time when the lease would be over), **and** there was no rent due under the agreement, you gave a proper notice to vacate, and the person didn't leave; or
- 4) The person entered the property without permission by you or someone authorized to give permission like a tenant, or someone else in possession of the property, and refuses to leave immediately upon demand (**squatter**).

You do **not** need to file an eviction case if:

- 1) You are excluding someone from your property who was not renting the property or using it as their residence (such as an overnight visitor);
- 2) The person has already permanently vacated the property. If they have vacated but still owe you back rent, you can file a Small Claims Case to recover the back rent (see the information packet on *How to File a Small Claims Case* for details).

What Do I Do Before Filing an Eviction Case?

Step 1: Breach of Lease or Notice of Termination of Lease

If the defendant has a written lease agreement or pays you rent, you cannot just evict them from the property for no reason. If they have a lease with a set end date, they are entitled to stay in the property until that date, unless they don't pay their rent or violate some other term of the lease.

A **termination notice** is required if either:

- 1) The tenant has a written lease that they did not breach, and that lease does not have a set end date; or
- 2) They do not have a written lease, but there is an agreement that they pay you rent.

The termination notice is a written notice telling them the day that their lease now ends. This notice must be at least one rental payment period. Most agreements without set end dates are "month-to-month" agreements, so you would need to give at least one month's notice. For example, you could give a

- 2) Mailing it to the premises, addressed to the defendant,
- 3) Delivering to the inside of the premises, in a conspicuous (prominent or noticeable) place, or
- 4) If you and the tenant have agreed in writing, electronic communication, including email or other electronic means.

You **must** give a notice to vacate or pay, or a notice to vacate, even if you already gave a termination notice setting a lease end date. In the example above, you gave a termination notice on January 27th telling the tenant the lease will end on February 28th. If the tenant is still there on March 1st, you would be required now to give them notice to vacate and allow the period in that notice to run out before filing an eviction case.

If the person is a squatter, you can give them an oral notice to vacate the property immediately. If they fail to leave, you can file an eviction at that time. There may also be other options available to you.

Where Do I File an Eviction Case?

Eviction cases **must** be filed in the in the justice court in the precinct and county where the property is located. If you file the case in any other precinct, the court must dismiss your case, and you do not get a refund of the filing fees.

The court may be able to help you determine the proper precinct to file in. Other resources you may use include precinct maps or the elections office. It is ultimately **your responsibility** to file your case in the proper location!

How Do I File an Eviction Case?

The first step in filing a case is to file a **petition**, which is a form that says who you are suing, why you are suing them, how much you are suing them for, and provides contact information. An eviction petition must contain information about what the reason is for eviction (nonpayment of rent, they stayed past the

of Inability to Afford Payment of Court Costs form – the court **must** provide this form for you.

You must swear to the information that you provide on this form and can face legal consequences if you do not fill it out to the best of your ability. Fill out the form completely and truthfully!

Do I Need a Lawyer to File a Case?

While you are allowed to have a lawyer in an eviction case, the rules and procedures are designed to be simple and straightforward, allowing people to seek justice without needing to hire a lawyer.

If you do not have a lawyer, the judge may allow you to be assisted or represented in court by a family member or other person, such as a property manager.

The court is required to make the Rules of Civil Procedure available to you at no cost. Rule 510 contains the rules that apply to Eviction Cases.

The court is **not** allowed to give you advice on whether you should file a case, who you should file a case against, or what steps you should take to win your case or collect your judgment.

Questions the court **can** answer for you are questions like “What do I need to do to have a jury trial?” or “How many days do I have to file an appeal?”

Questions the court **cannot** answer for you are questions like “Is it a good idea to get a jury for this case?” or “Am I going to win?”

If, after reviewing these materials and the rules, you still are not sure what to do, you may talk to an attorney.

What Happens After I File an Eviction Case?

The court will generate the **citation**, which tells the defendant that they are being sued and what day the trial will be on, which has to be at least 10 and not more

To fight a motion for summary disposition, the defendant must file a response within 4 days after receiving notice of the motion setting out supporting facts and providing any applicable documents that the defendant is relying on.

What if We Reach an Agreement?

If the case goes to trial, usually there will be a “winner” and a “loser.” resulting in someone being happy and someone being unhappy. To reduce that risk, parties will often come to a **settlement**, or an agreement on how to resolve the case. Settlement agreements should be in writing. They should also be signed by both parties or their attorneys. If you reach a new agreement with the defendant allowing them to remain in the property, you will need to file a **nonsuit**, which is a request for your case to be dismissed. If the defendant then breaches that new agreement, you will have to start over from the beginning with a new notice to vacate and a new case.

Can I Have a Jury Trial?

Yes. Either side in an eviction case may request a jury trial. You must make a request in writing to the court at least 3 days before the date set for trial, or 3 days after the day the defendant is served, whichever is later, and pay a jury fee of \$22.

If no one requests a jury, the trial will be heard by only the judge, which is called a bench trial.

What if I Need More Time for Trial?

If you need more time for trial or have a conflict with the date that the trial is scheduled, you can file a motion (request) for **postponement**, also called a **continuance**. You should explain in writing why you need the postponement. In eviction cases, the case can't be postponed for more than 7 days unless both sides agree in writing.

information to the court about things such as how and when you delivered the notice to vacate before the court can award you a judgment.

To get a default judgment, you will also need to provide the last known address of the defendant to the court in writing, as well as an affidavit stating whether or not the defendant is on active duty in the U.S. military (or that you do not know if they are), and how you know that they are or not, or why you do not know if they are.

You can verify military service at <https://scra.dmdc.osd.mil/>.

What Happens if I Lose My Eviction Case?

If the judgment is in favor of the defendant, they will be able to remain in possession of the property. If you wish, you can file an **appeal**, which is a request for the county court to hear the eviction case over again. You can file an appeal within 5 days of the judgment. The 5 days include weekends and holidays. If the fifth day is a weekend, holiday, or day the court closes for all or part of the day, you have until the next business day to file your appeal.

To appeal, you will have to file either:

- 1) An **appeal bond** (a promise from you and another person, called a **surety**, to pay the bond amount to the defendant if you don't pursue the appeal) in an amount set by the court;
- 2) A cash deposit in an amount set by the court, which may be awarded to the defendant if you don't pursue the appeal; or
- 3) A Statement of Inability to Afford Payment of Court Costs if you cannot afford an appeal bond or cash deposit.

If you appeal with an appeal bond or a cash deposit, you must pay a filing fee of \$54. You must also send notice of the appeal to the defendant within five days of filing it with the court.

Once your appeal is filed with the county court, you will be required to pay a separate filing fee or file a Statement of Inability to Afford Payment of Court Costs

To check military status – <https://scra.dmdc.osd.mil/>

Texas Justice Court Training Center information for self-represented litigants – www.tjctc.org/SRL

Office of Court Administration Self-Represented Litigant Site - www.txcourts.gov/programs-services/self-help/self-represented-litigants/

State Bar of Texas Information, including Legal Information and Low or No-Cost Legal Assistance - www.texasbar.com, and then click on “For The Public.”

Forms and Information, including for other types of cases – www.texaslawhelp.org