

How to Sue Your Landlord in Texas

The two most common problems for Tenants in Texas is the failure of the Landlord to make repairs and the failure of the Landlord to return security deposits. I recently created some guidance in these two areas in a [Tenant's Rights Guide](#).

As I noted in the Tenant's Rights Guide, the Tenant must provide written notice (certified mail return receipt requested) to the Landlord and give the Landlord an opportunity to make the necessary repairs and an opportunity to return the security deposit.

After receiving notice, in the event your Landlord 1) fails to repair a condition which materially affects your physical health and safety or 2) fails to return your security deposit within 30 days from your departure of the property AND fails to give you an itemized accounting for deductions, then the next step is to file a lawsuit against your Landlord.

The steps to filing a lawsuit against your Landlord are as follows:

1. **What Court Do I File In?**

If your claim is for \$10,000 or less against your Landlord then you file your lawsuit in Justice Court in the county where you live in the rented property. If your claim is more than \$10,000 then you file in a County or District Court. It is advisable to call the County or District Clerk's office to best determine where you would file in this instance.

2. **What Do I File?**

You complete and file a Plaintiff's Original Petition. You are the Plaintiff and the Landlord is the Defendant. For your reference, a sample general petition is included at the end of this document; however, it's best to use the Original Petition provided by the Justice Court in your county.

It is very important that you file your lawsuit against the “actual owner” of the property and not the leasing agent or property manager. If you do not know the name of the owner of the property, please send a written request to the leasing agent or property manager. As the current Tenant, you are entitled to know the name and address of the owner of the property where you are renting. If the property is owned by a Corporation or Limited Liability Company, you can list the entity as the Defendant. In addition to listing the Corporation or Limited Liability Company as a Defendant, you should also list the top officer of the organization, such as the President. You can call the Texas Secretary of State to obtain names and addresses of such organization and its officers.

In your Petition, it is important to state the following language in the fact section:

- a. If Landlord Failed to Return Security Deposit: After written notification (certified mail return receipt requested), the Landlord has failed to return my security deposit within 30 days from my departure from the property and has failed to provide an itemized accounting of any deductions. As a result, the Landlord has acted in bad faith. Plaintiff seeks all legal and equitable relief available under the law. [add facts about your specific situation]
- b. If Landlord Failed to Make Repairs: After written notification (certified mail return receipt requested), the Landlord has failed to repair [insert condition such as leaky roof] and this condition materially affects my physical health and safety [and that of my family]. Plaintiff seeks all legal and equitable relief available under the law. [add facts about your specific situation]

3. What are the Court Costs and Filing Fees?

Each county may charge different court and filing fees. If you are unable to pay such fees, you are entitled to file an Affidavit of Inability to Pay (or Affidavit of Indigency). If your inability to pay is proven then you are not obligated to pay any court and filing fees, including service of process fees.

4. Service of Process

The Landlord needs to obtain notification of the lawsuit filed. This is

accomplished by a constable or sheriff's officer serving a citation and your Plaintiff's Original Petition on the Landlord. This is handled through the Justice Court. The Landlord must answer your lawsuit by 10:00 am on the Monday following 10 days from the date the Landlord obtains notification.

5. Default or Hearing

If the Landlord does not file an Answer to your lawsuit within the time period, then the Landlord is in default. You can then schedule a hearing with the Judge to obtain a Default Judgment order against the Landlord. Make sure you bring supporting evidence (including witnesses and photos) to prove you are entitled to all legal and equitable relief available under the law.

If you need help preparing for your hearing, we offer [affordable court coaching services](#) where we can help make sure you are fully prepared for the greatest chance of a successful outcome.

6. Contested Hearing

If the Landlord does file an Answer within the time period, then you can schedule a hearing with the Judge by calling the Justice Court. You will be required to present supporting evidence (including witnesses and photos) to prove you are entitled to all legal and equitable relief available under the law.

At [DiFilippo Holistic Law Center](#), we want to make landlord tenant legal matters as easy as possible to navigate, at rates affordable to you. We offer legal advice along with the documents you need for many common landlord tenant issues, with a goal to make landlord tenant law convenient for every Texan.

Take a look at our [Landlord Tenant](#) page to choose the service you need.

For help with other legal needs, please visit us at <http://difilippoholisticlaw.com>.

This Guide is for information only; it is not legal advice or a substitute for legal counsel. Downloading this material does not establish an attorney-client relationship.

NO. _____
(filled in by court)

_____,) IN THE JUSTICE COURT
PLAINTIFF (Your Name),)
vs.)
) PRECINCT ____, PLACE ____
)
_____,)
DEFENDANT (Landlord).) _____ COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiff files this original petition in the above-styled and numbered cause, and in support, shows the Court as follows:

I. DISCOVERY

1. Plaintiff intends to conduct discovery under Level 1.

II. PARTIES

2. _____, Plaintiff, is a resident of the county of this Court, within Texas.
3. _____, Defendant, may be served at the following address:

_____.

III. JURISDICTION AND VENUE

4. The amount in controversy is within the jurisdictional limits of this Court, and venue is proper as the cause of action arose in the county of this Court within Texas.

IV. FACTS AND CAUSES OF ACTION

5. Plaintiff is a tenant and leases premises from Defendant.
6. The following events occurred in violation of the law:

_____.

V. REQUEST FOR RELIEF

Plaintiff requests this Court grant the following relief:

- a. actual damages;
- b. civil penalties if available under law;
- c. court costs; and
- d. any other relief to which Plaintiff is entitled.

Respectfully submitted,

(Your Signature)

(Your Printed Name)

(Your Address)

(Your City, State, Zip)

(Your Phone Number)