



KATHERINE K. HANNA
JUSTICE OF THE PEACE, PCT. #3
BASTROP COUNTY, TEXAS

THESE INSTRUCTIONS ARE A BROAD INTERPRETATION OF THE LAWS THAT APPLY TO EVICCTIONS IN THE JUSTICE COURT, TEXAS RULES OF CIVIL PROCEDURE 510.1 – 510.13. ANY LEGAL QUESTIONS OR LEGAL INTERPRETATIONS SHOULD BE BASED UPON YOUR OWN RESEARCH OF THE MATTER OR THE ADVICE OF YOUR ATTORNEY.

EVICTION SUIT INFORMATION

NOTICE TO VACATE: You must first give the tenants a **WRITTEN NOTICE TO VACATE**, demanding that the tenants leave the property by a specified deadline.

The notice to vacate must be in writing and must state an unconditional demand for the property. A pay rent or quit premises notice is **not** a valid notice to vacate.

The notice to vacate *shall* be given in person or by mail at the premises in question. Notice in person may be by personal delivery: a) to the tenant or any person residing at the premises who is 16 years of age or older or b) by affixing the notice to the main entry door. c) Notice by mail may be by regular mail or by registered or certified mail, return receipt requested, to the premises in question.

TIME REQUIREMENTS: Unless there is a written agreement between the parties regulating the notice requirements, the landlord must give the tenant at least 3 days notice to vacate before filing suit.

A notice to vacate sent by registered or certified mail, return receipt requested, must give the tenant at least 10 days to vacate before filing suit. This notice period is calculated from the day on which the notice is delivered.

ATTORNEY'S FEES: To be eligible to recover attorney's fees you must give the tenant a demand that states if the tenant doesn't vacate the premises before the 11th day after the date of receipt of the notice and if the landlord files suit, the landlord may recover attorney's fees.

The demand must be sent by registered or certified mail, return receipt requested, at least 10 days before the date the suit is filed.

WHERE TO FILE: An Eviction Suit must be filed in the county and the precinct where the property is located.

WHO MAY FILE: The owner or owner's agent may file any type of eviction suit, and he may represent the owner in any default hearing.

JOINING A SUIT FOR RENT: A suit for rent may be joined with the eviction suit if the amount due is within the jurisdiction of this court (\$20,000.00). Any damages, late charges, or other charges may not be included in this action; HOWEVER, the owner or owner's agent may file suit for these amounts in a separate action filed in either Justice Civil or Small Claims Court.

FILING SUIT: The responsibility for filling out your petition rests with you, the plaintiff. A Civil Case Information Sheet must accompany the filing of a petition and must be signed by the plaintiff or the plaintiff's attorney. If the eviction is based on a written residential lease, **THE PLAINTIFF MUST NAME AS DEFENDANTS ALL TENANTS OBLIGATED UNDER THE LEASE RESIDING AT THE PREMISES WHOM PLAINTIFF SEEKS TO EVICT AND A SEPARATE CITATION AND SERVICE FEE WILL APPLY FOR EACH NAMED DEFENDANT.** The Court Clerk will assist you if you have PROCEDURAL questions **only**.

No judgment or Writ of Possession may be issued or be executed against a tenant obligated under a lease and residing at the premises who is not named in the petition and served with a citation. **The cost for filing an Eviction Suit is \$51.00 (money order, cashier's check or credit card w/ convenience fee added).**

CITATION: The citation is given to the Constable for service. **The cost for serving an Eviction Suit citation is \$75.00 (money order, cashier's check or credit card w/ convenience fee added).**

PROCEDURES AFTER FILING: At the time the suit is filed, a hearing date will be set within 10 to 21 days, from the date the defendant was served with the citation. The citation will be given to the Constable to be served on the tenant giving them the date and time of the hearing.

THE HEARING: You are required to appear personally for the hearing. Proper representation is essential.

At the Court hearing, both sides will have the right to present their sides of the case, including witnesses, receipts, canceled checks, photographs and all other evidence.

You will need to bring with you all evidence pertaining to the case. **THE BURDEN OF PROOF LIES WITH YOU AS THE PLAINTIFF.** You must show the Court good sufficient evidence proving your right to regain possession of the property. **YOU MUST STILL PROVE YOUR CASE, EVEN IF THE DEFENDANT FAILS TO APPEAR.**

JUDGMENT: At the hearing, a judgment will be rendered for either the plaintiff or the defendant. A judgment for the plaintiff may be for all or part of the initial claim. If you are awarded judgment for possession and/or any back rent owed, there is a 5-day appeal period in which the defendant may appeal the decision of the Court. If the defendant has not appealed the case at the end of the appeal period, Judgment becomes final. Upon final Judgment you may then file for a Writ of Possession. If a Default Judgment is rendered (Defendant does not show for court) then you **shall** file a Non-Military Affidavit before the Judgment can be rendered in your favor (Plaintiff). **THE COURT DOES NOT COLLECT THE JUDGMENT FOR YOU, NOR CAN WE FORCE THE DEFENDANT TO PAY THE JUDGMENT.** Remedies to collect your money (rent) are as follows:

ABSTRACT OF JUDGMENT: You may obtain an Abstract of Judgment on the 11th day after judgment. You should take the Abstract to the County Clerk's office in the County where the defendant lives or has real property. The purpose of filing an Abstract is to put a lien against REAL PROPERTY in the defendant's name. If the defendant sells any real property within 10 years from the date of judgment, the amount of judgment must be paid with interest. **The fee for obtaining an Abstract of Judgment is \$5.00 (money order, cashier's check or credit card w/ convenience fee added).**

WRIT OF EXECUTION: If you are granted a judgment against the defendant and if the defendant does not appeal, you may file for and obtain a Writ of Execution any time after the 30th day from the date of judgment. A

Writ of Execution allows a Sheriff or Constable in the State of Texas to try and seize certain non-exempt property from the defendant. If property is seized, an auction is held and the proceeds from the sale satisfy the judgment. **The cost for filing for a Writ of Execution is \$5.00 (money order, cashier's check or credit card w/ convenience fee added). The cost for serving a Writ of Execution is \$250.00 (money order, cashier's check or credit card w/ convenience fee added).**

WRIT OF POSSESSION: The Writ of Possession directs the Constable to take possession of the property and turn it over to you. A Writ of Possession may not be issued before the 6th day after the date a judgment for possession is signed or the day following the deadline for the defendant to appeal the judgment, whichever is later.

A Writ of Possession may not be issued more than 60 days after a judgment for possession is signed.

A Writ of Possession will cost an additional filing fee of \$5.00 (money order, cashier's check or credit card w/ convenience fee added) along with an additional service fee of \$250.00 (money order, cashier's check or credit card w/ convenience fee added) which shall be paid before the Constable will execute the Writ of Possession.

Your telephone number and address will be given to Constable Sparkman and you will be contacted. Any questions concerning the Writ of Possession should be directed to Constable Sparkman. Constable Sparkman phone number is **512-332-7243**, leave a voice mail message and Constable Sparkman will call you back.

If you have **PROCEDURAL** questions only, you may contact the Court and we will try to answer them.

NOTE: DO NOT ASK TO SPEAK TO THE JUDGE, THE JUDGE CANNOT LISTEN TO ANY PORTION OF YOUR CASE AND THEN ACTUALLY HEAR THE CASE AT YOUR HEARING.

**LEGAL QUESTIONS WILL NOT BE
ANSWERED BY THE COURT.
CONSULT WITH AN ATTORNEY.**

The form for a *Statement of Inability to Afford the Payment of Court Costs or an Appeal Bond* is available upon request.

ALL CORRESPONDENCE SHOULD BE ADDRESSED TO:

**JUDGE KATHERINE K. HANNA
JUSTICE OF THE PEACE, PCT. #3
5785 FM 535
CEDAR CREEK, TEXAS 78612
512-332-7288**

Amended on September 1, 2020