

REPRESENTING YOURSELF IN YOUR EVICTION CASE

This handbook has been prepared by

RHODE ISLAND LEGAL SERVICES, INC.

For more information, please call the office nearest you or visit our websites.

PROVIDENCE:

56 Pine Street, Suite 400
Providence, RI 02903
(800) 662-5034
(401) 274-2652
Fax: (401) 453-0310
TDD: (401) 272-5335

NEWPORT

50 Washington Square
Newport, RI 02840
(800) 637-4529
(401) 846-2264
Fax (401) 848-0383

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Eviction cases are heard in the District Court. The summons you received tells you which courthouse you must go to and what courtroom to be in. If you do not know what courtroom to be in ask at the civil clerk's desk. Court starts at 9:00 am. You must be in the courtroom by 9:00. If you are not in the courtroom when the judge calls your case the judge may enter a judgment for eviction against you.

After your case has been called by the judge, you can go out to the hallway and try to settle your case with your landlord or his/her attorney. If you do not wish to settle the case or you and your landlord cannot agree on a settlement, you can wait in courtroom to be called again by the judge for your hearing. If you are not in the courtroom when you are called for your hearing the judge may enter a judgment for eviction against you.

Settling Your Case

Often the best way to deal with an eviction is to make an agreement with your landlord to settle the eviction. The best way to settle the case is try to work out a written agreement with your landlord and have it signed by the judge. Sometimes the court will have mediators to help you negotiate. If you and your landlord want to settle the case but can't agree you can seek the assistance of the mediator if one is available. If you can agree to a settlement it must be put in writing and signed by you, your landlord (or landlord's attorney) and the judge. If you think you settled the case **DO NOT LEAVE THE COURTHOUSE** unless you have a copy of a signed settlement agreement, also called a **stipulation**. Do not be pressured into making an agreement that you do not like or cannot keep. If you cannot agree on a settlement you can have the case heard by the judge. The judge will not work out the terms of a settlement but will only decide if you should be evicted.

A stipulation is useful if you want to make an agreement to pay the rent you owe and stay in your apartment (Payment Stipulation) or if you just need some additional time to move out. (Move-out Stipulation). Sample stipulations you can use in court are attached to this brochure.

- **Payment Stipulation:**

With a payment stipulation, your landlord agrees to postpone the eviction so long as you make payments according to detailed payment plan. You should sign a Payment stipulation **only** if you know you can follow the payment plan. If you miss even one payment your landlord can return to court quickly and have you evicted in a week's time, with no right of appeal or any further delay. If you miss a payment the landlord can ask the Court to evict you by filing a motion for issuance of execution. An execution essentially means the eviction. The court must hold a hearing on the landlord's motion, but the Court will only want to know whether you made the payments required by the agreement you made. When the Court issues an execution, you are evicted and you can be moved out almost immediately. You should not sign a stipulation that requires you to give up your right to a hearing if you miss a payment.

- Move-out stipulation:

With a move-out stipulation you agree to move out of the apartment by a certain date. Once you agree to move, the date is set in stone and can be changed only if the landlord agrees to change it. If you do not move out by the agreed-upon move out date, the landlord can get an execution and move you out without having to go back to court. There are many reasons your landlord might agree to a move out stipulation. Sometimes the landlord will give you time to move out in exchange for your promise to move and not appeal the case. In exchange for your agreement to move, your landlord might also agree to forgive some or all of the rent you might owe and/or allow you to stay rent-free (called “use and occupancy payments”) until the move-out date. This gives you time to save up money for your next place.

Do not hesitate to actively negotiate with your landlord or his/her lawyer. Try to reach a compromise. Do not agree to a move out date that you cannot comply with. If you cannot reach an agreement you can go in front of the judge for a hearing. The judge will not decide how much time you have to move but will decide if you should be evicted.

Letting the Judge Decide

The hearing is for you and your landlord to each tell your side to the judge so the judge can decide if you should be evicted. Your landlord will get to talk first and tell the judge why he/she thinks you should be evicted. You will get a chance to question (cross examine) your landlord about what he/she told the judge, then you will get a chance to explain to the judge why you feel you should not be evicted. Your landlord will then get to ask you questions about what you told the judge. The judge may interrupt and ask questions at any time throughout the hearing. You should answer the judge’s questions. It is a good idea to sit in the courtroom and watch other hearings to learn what to do (and what not to do).

If the judge decides in your landlord’s favor, you will have 5 days to move out of your apartment on your own. After the 5 days your landlord can have you and all of your things moved out by a sheriff or constable. You should listen carefully to the judge’s decision. Usually, the judge will write the decision in the court file on the *facesheet*. You should ask for a copy of the facesheet.

If you are not happy with the judge’s decision in your case you may appeal your case to the Superior Court. If you plan to appeal, you must file it within 5 days (includes weekends) of the judge’s decision. It cost approximately \$165 to file an appeal. You may ask the court to waive that fee if you cannot afford to pay it. Please see our pamphlet ***Appealing Your Case to the Superior Court***.

