

INSTRUCTIONS FOR TENANTS SUING LANDLORDS FOR REPAIRS, RETURN OF SECURITY DEPOSITS, OR POSSESSION

These cases may be filed in General Sessions Court (the usual choice because most claims are small) or Circuit or Chancery Courts. Here is what each of these courts can do:

	Sessions	Circuit	Chancery
Order repairs to be made by the landlord	No	Yes	Yes
Order reimbursement for repairs made by you	Yes, up to \$25,000	Yes, in any amount	Yes, in any amount
Order return of your security deposit	Yes, up to \$25,000	Yes, in any amount	Yes, in any amount
Order payment of damages to you	Yes, up to \$25,000	Yes, in any amount	Yes, in any amount
Return possession of the premises to you	Yes	Yes	Yes

Talk to an attorney, if possible. These instructions are not a substitute for legal advice. Even if you do not hire a lawyer to appear in your case, a lawyer can give you more information about how to represent yourself in court.

How to complete the filing:

- Follow the instructions in the form itself for filling in the heading and your allegations and signature.
- Prepare the Summons (a separate document). A separate Summons is seldom used in General Sessions Court because most of that Court's forms combine both a complaint and a summons. However, these forms separate the two. If you file in General Sessions Court and no Summons is available, you can use the Summons from Circuit and Chancery Courts.
- Copies. **Make at least three copies of each document. You will need one for the court, one for each Defendant, and one for yourself.**
- Filing. Take the originals of the Summons and Complaint to the court clerk's office for filing. You can also take one copy which the Clerk will stamp and return to you showing the date and time you filed with the Court. The Court will keep the original and one copy for each Defendant.
- Costs. Contact the clerk's office first to see how much money you need to bring with you. The clerk's office requires cash or a money order. If you cannot afford to pay the filing fee, contact the clerk and ask to file an Affidavit of Indigency (a separate document). Be prepared to pay the filing fee if your request is denied.

Service of Summons and Complaint on the Defendant. Service must be done in one of the ways permitted by Tennessee law. (See the separate booklet on this subject.) Service in person is the most common way. **Service in person cannot be made by you. The Summons and Complaint must be delivered by a person over 18 years of age who is not a party to the action and who then signs an Affidavit of Service (a separate document) before a Notary Public after service has been completed.** This document is then filed with the Court to prove that the Defendant has been served. (The Sheriff can also serve process and will complete and file the Affidavit of Service.) Keep a copy of the Affidavit of Service if the Sheriff does not serve process.

Court Date. If you have asked the Sheriff to serve the Summons, check with the clerk about when service by the Sheriff occurred. Ask when the case is scheduled to be heard, regardless of who served the process.

Attend the trial at the time scheduled. Make sure you notify the clerk if the problem is resolved before the court date.

Trial. At the trial, you must present testimony under oath and provide exhibits establishing a right to a judgment. You may be entitled to the kind of relief which you have requested in the Complaint. In addition, the judge can award you the amount of money it cost you to file the case in court, along with other miscellaneous costs. The judge may also award you attorney fees if you are represented by an attorney and the lease or a law permits it. The testimony presented in court and the exhibits offered must establish:

- a. The Defendant is the owner or manager of the property described in the Complaint.
- b. The Defendant entered into an oral or written agreement with you for the rental of the property. (If the agreement was in writing, provide a copy of the lease to the court and ask the judge to mark the rental agreement as an exhibit and admit the agreement into evidence.)
- c. The Defendant failed to make repairs or return the security deposit, or the Defendant wrongfully evicted you.

If you have copies of written requests to the Defendant for specific repairs or a return of your security deposit, they may be introduced into evidence as exhibits. So may your cancelled checks or other proof of payment of rent if the landlord claims you are delinquent and should have been evicted.

Judgment. The Defendant will be ordered to make repairs, to return the amount of your deposit, or to return possession to you if the judge rules in your favor. However, if the court rules against you, you may be ordered to pay any court costs you have not paid already.

Appeal. The losing party has the right to appeal but must file both an appeal and a bond. See the separate forms used for appeals.

Adapted from documents available through the Self-Help Center of the Idaho Supreme Court.