

EVICTION ACTION INFORMATION AND INSTRUCTIONS TO PLAINTIFF

1. PRE-FILING REQUIREMENTS

Before filing an eviction action, notice must be given to the tenant. The type of notice and time the tenant has to fix the problem depends on the nature of the allegation. (These time standards are different for tenants renting a space in a mobile home park.)

Non-Payment of Rent

Before a lawsuit requesting that the tenant be evicted for non-payment of rent can be filed, the tenant must be given a five-day notice and an opportunity to pay the amount due in full. The eviction lawsuit can be filed on or after the sixth calendar day.

Material Non-Compliance

If the landlord alleges a material non-compliance with the lease, (e.g. violating the rules of the apartment complex, unauthorized pets) then the landlord must give the tenant a ten-day notice and an opportunity to come into compliance with the terms of the lease. The eviction lawsuit can be filed on or after the eleventh day.

Material Non-Compliance Affecting Health and Safety

If the landlord alleges a material non-compliance with the lease that affects health and safety, then the landlord must give the tenant a five-day notice and an opportunity to come into compliance with the terms of the lease. The eviction lawsuit can be filed on or after the sixth day.

Material and Irreparable Breach

If the landlord alleges that the tenant has committed a material and irreparable breach, then the landlord can deliver a notice of immediate termination of the rental agreement. The lawsuit requesting an eviction can be filed on the same day. Examples of a material and irreparable breach include but are not limited to gang activity, the discharge of a weapon on the premises or inflicting serious bodily harm on another.

If the notice was mailed by certified or registered mail, add an additional 5 days before filing the lawsuit. The notice time periods are mandatory and your case may be dismissed if you file too early.

All forms can be found on our website at www.jp.pima.gov/jcajo or at our customer service windows at 160 N. Stone Avenue, Tucson, AZ 85701

2. BEGINNING THE LAWSUIT

Complete the Eviction Action summons and complaint (form JP06). File the summons and complaint at the customer service window and pay the required filing fee. The clerk will create a case and provide a court date within 3 to 6 business days.

3. GIVING NOTICE TO THE TENANT

After the clerk has assigned a case number and court date and time, the tenant must be served. The summons and complaint and the residential eviction information sheet must be served by a constable or process server. You can contact the constable at 387-5403 or search for private process servers in the yellow pages. You will have to pay a fee for the service. After the tenant has been served, the process server must file proof of service with the court prior to your court date.

4. FILING DISMISSALS

If the tenant pays the rent due or tenders payment (including rent due, late fees and court associated costs), moves out, or has settled the dispute at least one day before the hearing date, you must file a dismissal with the court and give the tenant a copy. The hearing date will be vacated and the case will be closed.

5. APPEARING IN COURT

On the hearing date, you must appear and provide testimony. The Judge will listen to both you and the tenant(s) and will decide if judgment should be entered and whether or not the tenant(s) must move. Be prepared to provide documentation such as a contract, proof of past due rent or police report. If a judgment is entered, the Judge will also order a date when you may file a "Writ of Restitution" which is required to remove the tenant from the property.

6. THE EVICTION PROCESS

If the tenant has not moved out, you can file a Writ of Restitution on or after the date ordered by the Judge. The Writ of Restitution must be served by the Constable. The Constable will require a fee for servicing the Writ of Restitution; for more information you can call 387-5403. The Constable will then go to the property and serve the tenant. The tenant will be required to leave the property immediately.

7. THE COLLECTION OF A MONEY JUDGMENT

If you receive a money judgment, the court offers forms and instructions regarding collection options but does not assist in the collection process. You can try to collect by sending a demand letter to the tenant and if that is not successful, you can try additional collection remedies. Please see form COLLECTION OF A MONEY JUDGMENT in the Court Forms tab in our website or call Ajo Justice Court at (520) 387-7684.

8. NOTIFICATION OF SATISFACTION OF JUDGMENT

After you collect the judgment, you must file a Satisfaction of Judgment (JP18) with the Court.

PLAINTIFF INSTRUCTIONS

For a Residential Eviction Action filed in Ajo Justice Court

Filing the Summons and Complaint

- **One** copy of the summons and complaint for filing;
- **One** copy of the summons and complaint for each plaintiff;
- **Two** copies of the summons and complaint for each defendant;
- **One** copy of the summons and complaint for the process server.

Bring these documents to the Ajo Justice Court's address listed on the complaint along with a copy of the **Notice to Vacate** that was served on the tenant (RPEA Rule 5(b) (7), the **Residential Eviction Procedures Information Sheet** (RPEA Rule 5(a) (5), and the **appropriate filing fees**.

Note: Print copies of the judgment and writ for future use.
At the time of filing the court will set a hearing date and time.

Serve the Summons and Complaint

The summons and complaint must be served by a constable or a registered private process server. Service fees will apply.

Service of the summons and complaint must be completed at least two days before the date set for the initial appearance in court. See A.R.S. 12-1175©; and A.R.S. 33-1377(B).

Initial Appearance in Court

At the initial appearance (the date provided on the summons for you to appear in court) the court will call the case and identify the parties. The court will determine if the representatives are properly authorized to represent the parties to the action. RPEA Rule 11(a).

A judgment form is provided in your form set. Bring this form to court for the initial appearance.

If the complaint is contested, the court will order a trial on the merits. See RPEA 11(b)(1).