Eviction Defense

Inland Empire Legal Aid does not offer services for eviction defense. Please refer to subjects 8 and 9 for additional resources.

1. Tenant Rights
2. Illegal Lock Outs
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Tenants' rights: Living in foreclosed property

Author
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Last Review Date
May 3, 2025

If the place you are renting to live in has been foreclosed on, read this to learn your rights.

60 Day or 90 Day Notice to Vacate

If the home you rent was sold at a trustee's sale for foreclosure, certain tenants (called "bone fide tenants") have the right to 90 days' written notice to move under the federal Protecting Tenants at Foreclosure Act (PTFA) (https://nlihc.org/sites/default/files/2022-03/2022AG_6-06_Protecting-Tenants-Foreclosure.pdf).

A "bona fide tenant" is a renter who pays fair market rent and also cannot be in the immediate family (spouse, parent, child, sibling) of the person who was paying the mortgage on the property (the property owner facing foreclosure).

For all tenants, Washington State law, RCW 61.24.146(1) (https://app.leg.wa.gov/rcw/default.aspx?cite=61.24.146), also requires new owners who purchase foreclosed property to give any tenants in the

foreclosed property at least 60 days' written notice to vacate.

New owners are not required to extend your lease beyond this 60 or 90 day period, but may decide if they want to continue renting to you or not.

If you do not move out after the 60 days or 90 days expire, the new owner needs to get a court order (called a "writ of restitution") signed by a judge to evict you from the home.

Former homeowners (non renters) who lost their homes in a trustee's sale (foreclosure auction) do not have this protection. They only have 20 days from the date of the trustee's sale to move out.

Read more details about these 60 Day and 90 Day Notices to Vacate below.

The house I'm renting was sold at a foreclosure sale. Do I have to leave right away?

No. If you rent your home in Washington State, and the property was sold at a non-judicial foreclosure sale (called a "trustee's sale"), state law protects you from having to move immediately. You can read that law at RCW 61.24.146(1) (http://apps.leg.wa.gov/rcw/default.aspx?cite=61.24.146).

Before starting an eviction action against you, the new owner must choose one of these options:

- Give you 90 days' written notice to move (to vacate), if you are a "bona fide tenant" (see details below)

or

- Offer you a new rental agreement or give you 60 days' written notice to vacate, if you are **not** a bona fide tenant

or

- Let you stay in the home until the end of your lease term.

When do I get at least 90 days to vacate?

The federal Protecting Tenants at Foreclosure Act (PTFA) (https://nlihc.org/resource/congress-permanently-authorizes-protecting-tenants-foreclosure-act) gives most "bona fide" renters the right to at least 90 days' written notice before having to move after a foreclosure. To be considered a *bona fide* tenant, all of these must be true:

- You must not be the former owner's child, spouse, or parent.
- Your rental agreement must not have been a special deal between friends or family.
- The rental amount must be at fair market rent. If it is lower, it must be due to a government program that makes the rent affordable (that subsidizes the rent).

When do I only get 60 days' written notice to vacate?

If you don't meet the definition of bona fide tenant above, and the new owner doesn't want to offer you a new rental agreement, the new owner must give you written notice giving you at least **60 days** to move out.

I'm in the middle of a lease. Can I stay until my lease ends?

It depends. If you are a "bona fide tenant", and the new owner is **not** planning to move into the home, the new owner must let you stay until your

lease ends. This is true for both written and verbal leases.

If the new owner **is** planning to move into the home, you must get at least 90 days' notice before the new owner can evict you. You can read this in the law at 12 USC 5220. (https://uscode.house.gov/view.xhtml?req=(title:12%20section:5220%20edition:prelim))

> **Example**: You only have a month left on your lease. In this situation, you must get at least 90 days' notice. The 90 days do **not** start until after your lease term ends.

What if I am renting month-to-month?

The new owner must still give you at least 60 days' notice. If you are a *bona fide* tenant, the new owner must give you 90 days' notice before evicting you. The new owner must get a court order (called a "writ of restitution") signed by a judge to evict you.

What if I have a Section 8 voucher?

You have additional protection. You get to keep your Section 8 lease and the new owner must also honor the Housing Assistance Payments (HAP) contract that is part of your Section 8 tenancy.

The new owner cannot charge you additional rent or other payments. If the new owner plans to move in themselves, they can only use the foreclosure sale as the "other good cause" clause of your HAP contract to end your lease. In that case, you must get at least 90 days' written notice.

I'm renting a room from the homeowner who was foreclosed on. They say I must move out when they do. Is that true?

If you are unrelated to the owner and were renting at market rates for the room, you have the right to 90 days' notice. Otherwise, you have the right to 60 days' notice as a tenant.

Does this law also protect former homeowners?

No. These protections are only for tenants, and **not** the owner who lost the home in foreclosure or an occupant who is not a tenant. These protections do not apply even where the former owner remains on the property as a tenant, subtenant, or occupant. You can read the state law about this at RCW 61.24.146(3) (http://apps.leg.wa.gov/rcw/default.aspx?cite=61.24.146).

A former owner must move 20 days after the trustee's sale or face eviction. The former owner is not entitled to a 20-day notice to vacate before the new owner files an eviction court case.

What if the notice to vacate I got gives me only 20 days?

No matter what that notice says, you have an absolute right to 60 days' notice, or 90 days' notice if you are a bona fide tenant. If you want to stay in your home for the full 60 or 90 days, let the new owner know in writing that you have this right and that you plan to exercise it. And try to get legal help.

Can I make the new owner keep me as a tenant?

No. It is up to the new owner, not you. But you can always ask the new owner for a new rental agreement if it is in your best interest to do so.

What if I got a notice saying I need to send documents to a law firm to qualify for the federal PTFA protections?

If you are a bona fide tenant, you are entitled to 90 days' notice or to stay until your lease term ends (whichever time is longer), even if you do not send the requested documents to that law firm. You should notify the law firm that you are a "bona fide tenant" under the PTFA, so they know you have the right to extra time in the home.

What are my duties during the time I get to stay in the home?

You must pay rent and honor your other duties under the rental agreement you had before the foreclosure.

Neither federal nor state law says if I still owe rent money during a foreclosure. Do I have to keep paying rent after getting a 90-day notice?

Maybe. Federal law assumes that your obligation to pay rent continues during the 90 days. But the new owner may decide to never ask for or collect the rent.

The rent issue is complicated. If the new owner asks you for rent and you want to stay for the 90-day period, you should keep paying rent to avoid eviction. If the new owner seeks to evict you for non-payment of rent, they still must give you a 90-day notice.

Do I have to keep paying rent after getting a 60-day notice?

If you are not a *bona fide* tenant but still rent the place, and you get a 60-day notice to vacate, the new owner can only evict you if you commit waste or nuisance. You **cannot** be evicted for non-payment of rent. You can read this at RCW 61.24.146(1) (https://app.leg.wa.gov/rcw/default.aspx?cite=61.24.146).

If you get a notice to vacate and you choose not to pay rent during the notice period, but you do not move at the end of the 60 or 90 days, the new owner can start an eviction lawsuit against through the “unlawful detainer” process. If this is your situation, get try to get legal help right away.

What if I want to pay rent, but I don’t know who to pay it to?

Even if the new owner has not told you where to send the rent, they still have a right to collect it. If no one has given you payment information for the new owner, **save your rent money** until you do get that information. You may want to save your rent money separately from where you usually save your money.

Someone contacted me claiming to be the new owner. Is this the right person to pay rent to?

Be careful. Scammers review publicly available foreclosure information and may contact tenants living in foreclosed properties and demand rent.

Before you pay rent to this person, ask them for a copy of their Trustee’s Deed as proof of ownership. You can also ask the County Auditor for the name listed as the property’s legal owner to make sure the Trustee’s Deed is real. A local title insurance company may also be able to give you this information.

I gave my old landlord a deposit and/or last month’s rent. What happens to that money now?

If your old landlord did not refund your deposit or transfer it to the new owner after the trustee’s sale, you can sue the old landlord in small claims court to get your deposit back. Your old landlord is liable to you for up to twice

your deposit amount, plus attorneys' fees.

Even if your old landlord has wrongfully kept your deposit, you may still have to pay the new owner a new deposit **if** you enter into a written rental agreement with the new owner.

I paid rent to my old landlord through a property management company. If I keep paying them, will they send the new owner the rent?

No. The property management company had a contract with your old landlord. The foreclosure ended that contract.

It is possible that the new owner made a contract with your old property manager to continue managing your home. Verify this in writing before paying your old property manager the rent after foreclosure. Remember to get a receipt for any rent payment you make.

My home needs repairs, or my utilities were shut off because the old landlord did not pay the bill. Who do I contact?

After the trustee's sale, problems with maintenance, repair, or utility service (if the utilities were your landlord's responsibility) are the new owner's responsibility.

You may be able to keep your utilities on by contacting the utility company and putting the utilities in your name to avoid shut-off, even if the utilities are in your old landlord's name. They will likely require proof of your tenancy at the property. (For example, a rental agreement or rent receipts.) This rule generally applies to public utilities (https://wa.gov/health-safety/public-utilities). You can read about this at RCW 35.21.217(5)(a) (https://app.leg.wa.gov/RCW/default.aspx?cite=35.21.217).

Even if the utility company is not publicly owned, they may have their own procedures to avoid shutoff. Contact the company to see if you can talk to a supervisor to resolve the problem. Some private, investor-owned utilities are regulated by the Washington Utilities and Transportation Commission (https://www.utc.wa.gov/FileComplaint). If your utility service is in threat of disconnection, you may call the Consumer Protection Help Line directly at 1-888-333-WUTC (9882).

The new owner or the bank that foreclosed offered me a one-time cash payment to move out immediately. Should I take it?

It is your choice whether to accept a "cash for keys" deal from the new owner.

> **Example 1**: A new owner tells you that you can either take the cash and leave now **or** be evicted with less than 60 or 90 days notice. This is not true. You should get a 60 Day or 90 Day Notice to Vacate, even if you do not take the money that they offer you.
>
> **Example 2**: A new owner offers to pay you cash that will help you and your family relocate, but you must agree to move out in 2 weeks. This may be in your best interest. You can also try to bargain for more time and/or cash to move.

The new owner will probably not make this cash payment to you upfront, but will only give you the money after move out and following an inspection of the place.

You may want to consider the timing of the payment when deciding if you should accept a cash-for-keys offer. You may ask for some money upfront for

the costs of moving somewhere else and the rest when you move out.

What if the new owner changes my locks or gets rid of my belongings?

If the new owner wants to do these things, the new owner must first go through the eviction process and get a court order giving the new owner the right to force you out of the property. You can contact the sheriff for help if the new owner changes your locks or removes your things without a court order, or try to get legal help.

Can I get help moving?

Maybe. Some agencies in Washington may offer relocation assistance. Call 211 or go to wa211.org (http://win211.org/) to learn more.

Illegal lock outs and utility shut offs

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Last Review Date
May 1, 2025

Landlords must use a court eviction process and get a court order signed by a judge to evict a tenant. Landlords cannot legally lock you out or shut off the utilities to try to force you to leave. Learn what you can do if your landlord tries to evict you without a court order and when to get legal help.

1. Illegal self help evictions

Illegal lock out and utility shut offs are sometimes called “self help” evictions.

Landlords must use a specific court eviction process (called an Unlawful Detainer Action) and get an order signed by a judge to evict a tenant.

Under RCW 59.18.290 (https://app.leg.wa.gov/RCW/default.aspx?cite=59.18.290), landlords cannot legally change the locks or otherwise stop a tenant who is living in a rental unit from entering their place without a court order.

Under RCW 59.18.300 (https://app.leg.wa.gov/RCW/default.aspx?cite=59.18.300), landlords cannot intentionally shut off a utility (like water, electricity, or gas) to try to force a tenant to move.

If a landlord locks you out or shuts off your utilities to try force you to move, try to get legal help right away.

2. Illegal lock outs

Under state law at RCW 59.18.290(1) (https://app.leg.wa.gov/RCW/default.aspx?cite=59.18.290), it is unlawful for a landlord to lock out a tenant from their rental unit without a court order.

A landlord can legally change the locks on a rental unit if a sheriff has enforced an eviction order that a judge signed (called a Writ of Restitution).

If you have abandoned your rental unit or it looks like you moved out without telling the landlord and are behind in rent—the landlord may change the locks. For example, if you told your landlord you're moving out or you move most of your possessions from the rental unit, your landlord may claim that you abandoned your rental unit.

If you are going to be absent from your rental unit for a while and are behind in rent, you may want to write to your landlord that you plan to come back to your rental unit.

If you have not abandoned the place and a sheriff has not enforced a court eviction order, the landlord cannot change locks, add locks, or otherwise keep you from entering the place in any other way. It does not matter if you are behind in rent, utilities, or other fees. The landlord must use the court eviction process before stopping you from entering your rental unit.

How do I check to make sure that there is no court order to evict me?

You can call the clerk of your local Superior Court and ask if any lawsuit has been filed against you. In some rare situations, your landlord may have filed an eviction lawsuit against you without properly giving you notice.

If you find out that the landlord did file an eviction lawsuit against you, and you believe the landlord did not serve you with the lawsuit papers, try to get legal help right away.

The landlord did not file an eviction lawsuit against me but locked me out anyway. What can I do?

Try to get legal help right away. While you are waiting for legal help, you can send a letter to your landlord demanding that they allow you back into the rental unit. You can use our sample letter.

You may also call local law enforcement and ask them to make your landlord allow you back into your rental unit. You may ask them to allow you to go back into your rental unit for some of your important items, for example medication or important documents.

You can take the landlord to small claims court to get money damages from the landlord. If you lost property or had to spend money because of the loss of housing, your landlord could be ordered to pay you money to cover the loss of your property and any other damages. Keep any receipts or paper that show how much you lost or had to spend because of the lockout.

Form attached:
Letter to landlord - lock out (NJP Housing 606)

3. Illegal utility shut offs

Can my landlord shut off my utilities?

Under state law at RCW 59.18.300 (https://app.leg.wa.gov/RCW/default.aspx?cite=59.18.300), it is unlawful for a landlord to intentionally shut off utility service. This includes water, hot water, heat, electricity, or gas.

Your landlord cannot shut off utilities because you are behind in rent or to make you move.

However, landlords may shut off utilities temporarily if necessary to make repairs. For example, they may shut off the water temporarily to fix a leaky pipe or broken toilet.

If the utility account is in the landlord's name, it is illegal for your landlord to stop paying the bill so that the utility gets cut off to force you to move.

If the utility account is in your name, and they get shut off even though you have paid your bills, you will probably have to contact the utility company to find out why they shut off the utilities.

There are special protections against electricity and water shutoffs during extreme heat weather events. During a heat related weather alert, you may have to ask your landlord or utility company to turn the utilities back on, and they may have to turn them back on.

What can I do if the landlord shuts off my utilities?

If you can safely turn the utilities back on, such as by flipping a switch, you can try to do so.

If only your landlord has access to the utilities, try to get legal help right away.

While you are trying to get legal help, you may also write and give the landlord a letter about turning the utilities back on. You can use our sample letter.

It might also help to contact your local government agency that enforces building codes. Some local code enforcement officials might turn the utilities back on for you. However, if your local code enforcement agency finds that your unit is without electricity or water, they may condemn the property.

You can take the landlord to small claims court. The judge can award you up to $100 for each day the utilities were off. RCW 59.18.300 (https://app.leg.wa.gov/RCW/default.aspx?cite=59.18.300).

Form attached:
Letter to landlord - restore utilities (NJP Housing 605)

Date: _____

To:

_____
Landlord's Name

_____
Street address

_____

_____
City, state and zip

Re: Possession of residence

I am writing about the place I rent from you at (your rental address):

_____.

On (*date*) _____, you or your agents locked me out of my rental unit.

Washington's Residential Landlord-Tenant Act at **RCW 59.18.290** states it is unlawful for a landlord to remove or exclude from the premises a tenant except under a court order.

You have no court order permitting this lock-out. I have not abandoned the rental unit and have no intention of abandoning it.

I will consider you responsible for any loss or damage to my property that occurs before you allow me to return.

I demand you restore possession of the residence to me immediately. Please call me so we can work out how you will get the new key to me.

If you do not give me immediate access to the residence, I will seek assistance from the sheriff and/or the Superior Court to get back possession of the residence.

▶ _____ _____
Sign here *Print name*

_____
Street address

_____
City, state and zip

_____
Phone number / Email - optional

Date: _____

To:

_____
Landlord's Name

_____
Street address

_____

_____
City, state and zip

Re: Restoration of utilities

The rental unit at (*address*):

_____
which you manage and which I live in needs these utilities restored:

_____

_____

Washington's Residential Landlord-Tenant Act at **RCW 59.18.070** requires you to begin to restore the loss of hot or cold water, heat or electricity, or a condition imminently hazardous to life **within 24 hours.**

RCW 59.18.070 requires landlords to complete repair work promptly. If the repairs are not completed within the applicable period of time, I intend to use remedies provided in the Act.

If you have turned off these utilities purposely to force me to move, this is also unlawful under RCW **59.18.300** and I may sue for damages for each day that the utilities were off, including penalties of $100 for each day you intentionally keep my utilities off. Under **RCW 59.18.240**, It is unlawful to retaliate against me for asserting my rights.

Sincerely,

_____ _____
Sign here *Print name*

_____
Street address

_____
City, state and zip

_____
Phone number / Email - optional

When you have permission to live in a place but don't pay money for rent

Author
Northwest Justice Project

Last Review Date
March 13, 2025

Learn about Washington's laws affecting "tenants at will" who are people who don't pay rent money on a regular schedule but are given permission to stay or who get housing in exchange for doing work (and don't pay rent). Learn about your rights if you're asked to leave housing where you're a tenant at will.

Am I a tenant under Washington's laws?

It depends. If you have a rental agreement (written or verbal) with your landlord and regularly pay rent (money) for the housing, you're considered a tenant and you have certain rights and duties under Washington's Residential Landlord Tenant Act (RLTA). (https://app.leg.wa.gov/RCW/default.aspx?cite=59.18) You can read the state law at RCW 59.18 (https://apps.leg.wa.gov/rcw/default.aspx?cite=59.18).

What is a tenant at will?

If you're a **tenant at will**, you don't make regular rent (money) payments on a schedule (like every month). You're given permission to stay in a place without having to pay any rent (money) or you may be asked to do work in exchange to stay. You and the person who allows you to stay do not have a rental agreement.

For example, you're a tenant at will if you're allowed to stay in a friend's or relative's house **without paying rent and without a rental agreement.**

Here are some other common examples of tenants at will:

- You're a live-in caregiver for a relative. You don't pay rent.
- You're asked to fix up a house by the owner. You have permission to live there without making any regular rent (money) payments until the remodeling work is done.
- You live with a friend and help with housework, groceries, and other bills. You don't pay any money towards the housing on a regular schedule.
- You're invited to stay with a friend for a few weeks while you look for a place to stay long-term.

Am I a tenant under the RLTA if I get housing as part of my job?

Maybe not. Most people who are given housing as part of a job aren't considered tenants and don't have the same protections under the RLTA.

You might get to live in a rental unit without paying rent because you were hired to do a specific job on the property, like property manager, maintenance person, seasonal farmworker. This arrangement is specifically not covered under the RLTA. You can read this law at RCW 59.18.040(9)

(https://app.leg.wa.gov/RCW/default.aspx?cite=59.18.040).

Often, the conditions for living in the rental unit will be listed in an employment agreement or policy. Sometimes, the conditions are just verbal and told to you when you're hired.

You're likely considered a tenant at will. This means the person or business giving you housing isn't considered a landlord and doesn't have to use certain termination notices and the specific eviction court process (called Unlawful Detainer) if they want you to leave.

> In most cases they must only give you **reasonable notice and time** to pack up and leave. The notice may be written but a verbal notice may be enough.

However, there are some cases where someone who works in exchange for housing are covered by the RLTA. For example, you may be expected to work a certain number of hours every week at a certain rate that is considered "rent." Or you may have a certain amount of money withheld from each paycheck as rent. These situations may be enough to show you had a rental agreement. In these situations, you may be considered a tenant and have protections under the RLTA.

If you have questions about your employment and living situation and don't know if you're covered by the RLTA, try to get legal help.

How much notice is reasonable when a property owner asks a tenant at will to leave?

Courts will look at various factors to determine how much time is reasonable. These factors can include how long you've been living there, if and what kind of work you were doing, what kind of housing you're living in, and the reason you are asked to leave. A roommate briefly staying in a small apartment may get less notice than a person living on a large farm for years.

Example 1: You've been staying at your parents' house as a caregiver for one of your parents for several years. You also help take care of the house and large yard. After that parent dies, the other parent wants to sell the house and wants you to leave. Because you've been there for so long, reasonable notice may be a month or longer.

Example 2: You've been staying in your RV trailer in a friend's driveway for 2 weeks. Your friend asks you to leave. Reasonable notice may be a week or less.

Example 3: You've been staying at a friend's house for a year. Your friend asks you to leave because you recently brought another friend to the house who started doing illegal drugs in the house. Reasonable notice may be just 3 days since you allowed drug use in the house.

If I don't leave in the time I am asked to leave, can the person who gave me permission to stay just throw me out?

No. the person who gave permission to let a tenant at will stay cannot just force the tenant at will to leave and must sue to get a court order to make you

leave. This court process is called **ejectment.**

Ejectment actions often take a little longer and are more expensive than the Unlawful Detainer (eviction) court process that is used with tenants covered by the RLTA.

You should receive court papers called a Complaint and Summons with a deadline (usually within **20 days** from when you get the court papers) to respond in writing (or risk automatically losing).

If you are a tenant at will and get a Complaint and Summons for Unlawful Detainer (Eviction), it is likely not the proper type of lawsuit and you may be able to get it dismissed. You should try to get legal help immediately if you receive any court papers.

I'm not sure if I'm a tenant or tenant at will. My landlord asked me to leave. What should I do?

Try to get legal help. Sometimes it's hard to tell if a person is considered a tenant at will and which laws apply. Once you understand whether you are a tenant or a tenant at will, you may be able to negotiate with the owner so you can have more time to leave.

Vacate a default eviction judgment and stop a writ of restitution

Author
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Last Review Date
May 3, 2025

If you didn't go to court and a sheriff posted an eviction notice on your door, you can ask a judge to cancel the eviction if you have a defense. Includes forms and instructions for a Motion to Vacate Default and Stay Enforcement of Writ of Restitution.

1. Fast facts

What is a motion to vacate?

This written request asks a judge to withdraw or take back (to **vacate**) a previous order issued in your case, such as eviction orders (judgment for unlawful detainer and writ of restitution).

> We use the word "order" here to refer to an order or a judgment.

Generally, a judge will approve your Motion to Vacate if you can convince them that you didn't have a fair chance to present your case before the order was issued. If you did have that chance, **don't** file a Motion to Vacate. This is **not** an appeal. An appeal asks a higher court to change a lower court's decision. A Motion to Vacate asks the same court to take back its own decision.

Judges rarely approve a Motion to Vacate. Before filing this motion, make sure you have solid legal grounds for it. Otherwise, a judge could decide against you and order you to pay the other side's costs, including attorney's fees. Try to talk to a lawyer before you file.

What is a motion to stay?

This written request asks a judge to pause (to **stay**) a previous order temporarily while they consider another request, such as a motion to vacate or motion for reconsideration or revision.

Your motion to vacate a default eviction judgment can also include a request to **stay the writ of restitution** (pause the eviction order). If the judge approves it, a stay will temporarily stop the sheriff from evicting you while the judge decides whether to vacate the eviction judgment. **You must ask for an emergency hearing on this motion.**

Deadline!

You can file a motion to stay and vacate any time before the sheriff carries out (enforces) the writ and evicts you. **The sooner, the better.** It takes time to get the paperwork filed, reviewed by a judge, and sent to the sheriff.

You can still ask a judge to vacate a default after you've been removed from the property. But it's much harder to get back into a rental once you're out.

A lawyer can help you figure out if your motion is timely before you file.

()I just want more time to move. Can I file this motion to buy time?

No. Needing more time to move is **not** a solid legal ground to ask for a motion to vacate. Your motion would be considered "frivolous" or in bad faith. You could owe more money to the landlord for court costs and attorney's fees.

If you just want more time, try to make an agreement with the landlord or their attorney on a move out date instead. If you reach an agreement, one of you must put it in writing and everyone involved should sign and date it. Then you must deliver a copy of the signed agreement to the Sheriff to stop them from enforcing the eviction notice (Writ of Restitution). You can read about this law at RCW 59.18.390(1) (https://app.leg.wa.gov/rcw/default.aspx?cite=59.18.390).

2. Reasons to vacate

You must file your Motion to Vacate based on a reason listed in Superior Court Civil Rule 60 (https://www.courts.wa.gov/courtrules/superiorCourtCivilRules.cfm?Rule=Relief%20From%20J
. The most common reason is if you didn't get proper notice of the hearing or trial where the judge issued the order.

The judge can vacate an order if you prove any of these:

- **Mistake, inadvertence, surprise, excusable neglect or irregularity** in getting the order.
  Use this reason if you didn't get proper notice of the hearing or if you reasonably misunderstood the notice.
- **Unavoidable casualty or misfortune** preventing you from taking part in the case.
  Use this reason if something happened, outside of your control, that stopped you from responding on time or going to the hearing.
- **Clerical mistakes** in the order, or other parts of the court record.
  Use this reason if you just need to correct a typo or other mistake in the order.
- **Newly discovered evidence** which you couldn't have discovered by reasonable effort (due diligence) in time to move for a new trial under Civil Rule 59(b) (https://www.courts.wa.gov/courtrules/superiorCourtCivilRules.cfm?Rule=New%20Trial,%
  . Use this reason if you found out about important information that could affect the judge's decision **more than 10 days after** the order was issued. But **only** use this if you couldn't have found that same information earlier with reasonable efforts.

> If you find out important new information **within 10 days** of when the order is issued, you must file a Motion for Reconsideration instead of a vacate.

- **Fraud, misrepresentation or other misconduct** of the other party.
  Use this reason if you can prove that the other party lied, broke rules, or used fraud to get the order.
- **You were served by publication and it's been less than 1 year** since the judge issued the order.

These reasons are less common, but a judge also vacate an order if you prove one of these:

- One of the parties **died** before the order was issued.
- The judgment has been **satisfied**, released, or discharged, or a prior judgment upon which it's based has been reversed or otherwise vacated, or it's no longer fair (equitable) that the judgment should apply going forward.
- The judgment or order is **void**.
  Usually this means the judge didn't have authority to issue the order in the first place. This is a complicated legal question. Talk to a lawyer if you think this applies.
- The order relied on a poor decision by someone **under age 18** who's asking to vacate the order before they turn **19**.
- The order was issued against someone **under age 18 or** who didn't have the mental capacity to understand it (a person of **unsound mind**).
  Don't use this reason if the person had a Guardian ad Litem (GAL) in the case. This is only a reason to vacate if the court record shows the judge didn't know about the age or mental condition of the person when they issued the order.
- **Any other reason justifying relief.**
  Use this if you have other good reasons that don't fit any other category. It's rarely successful on its own. It's most useful when you have one of

the reasons listed above and you also want to explain how the order is deeply unfair or causes great hardship.

> Needing more time to move is **not** a solid legal ground to ask for a motion to vacate.

3. Improper notice

The most common reason a judge will vacate an order is for improper notice. You can file a Motion to Vacate if you didn't get advance notice that someone filed a court case against you or that a hearing was scheduled in the case. You have a right to be notified of court proceedings against you.

When someone sues you (starts a lawsuit against you in court), they must have someone else over age 18 deliver a copy of the court papers to you, usually in person (personally served on you). This gives you notice that the case is happening.

> **Alternative Service.** In eviction cases (unlawful detainer), the law allows the landlord to serve you another way if the process server isn't able to hand you the court papers in person. After trying to personally serve you at different times of day at least 3 times over at least 2 days, a process server is allowed to serve you by posting a copy of the papers on your door and sending you a second copy by regular mail, and a third copy by certified mail. You can read the

law about alternative service at RCW 59.18.055 (https://app.leg.wa.gov/rcw/default.aspx?cite=59.18.055).

If you were served and you responded, you should then get notice of everything that happens in the case. Those later notices could come by mail or hand delivery.

Sometimes the person who starts (who files) a court case against you doesn't serve you at all, or they fail to serve you with papers later in the case after you respond.

How can I find out if the landlord claimed to have served me?

Contact the Superior Court Clerk's office for the court that issued the Writ of Restitution you got from the Sheriff. The Writ should have the name of the court and the case number at the top. The court clerk can look up your case using this information.

If you didn't get any court papers before the Writ was served, ask the court clerk how to get copies of the **Summons** and **Complaint** that started the case. You want to see these papers to know what the landlord said about you.

Ask the court clerk's office if the landlord filed any **proof of service** with the court. This form should explain how and when they had you served.

There are several names for a Proof of Service form. It can also be called a Return, Certificate, Affidavit, or Declaration of Service. For

papers later in the case, it could be a Proof of Mailing or Hand Delivery.

If there is proof of service in your court file, see what it says. If it isn't accurate, think about how to prove it's wrong.

Example: The proof of service says you were handed papers at a time you were working. Ask your boss or coworker to write and sign a statement (declaration) under penalty of perjury to prove you were working and didn't get served.

If there's **no** form showing that the other party claimed to serve you, that's also helpful for your argument that you were never served.

You can lose your right to notice if you fail to respond by your deadline after being properly served (even if the case hasn't been filed yet). If you fail to respond, the other party can ask a judge to default you and sign orders without further notice to you. If that's your situation, you probably **can't** vacate the order based on improper notice. Consider if any other possible reasons to vacate are true for you. Try to talk to a lawyer.

4. Step-by-step

To file a Motion to Vacate Default and Stay Enforcement of Writ of Restitution, follow these steps:

1. **Fill out the forms** (except for the Proof of Personal Service).

2. **Call or visit the Superior Court Clerk's office.** Tell them you're filing a **Motion to Vacate Default and Stay a Writ of Restitution** in an unlawful detainer case. Ask the clerk when and how you can ask a judge to sign your proposed **Order to Show Cause and Stay Enforcement of Writ of Restitution**. This is called getting an "ex parte" order.

   Many courts have an "Ex Parte" department to hear this type of Motion in person the same day you file, or the next day if you file later in the day. If you need to appear remotely, call the clerk's office to ask the clerk if it's possible. If your move-out deadline is soon, you should go in person.

3. **Call, email, or fax the landlord (or their lawyer, if they have one).** You must try to give the landlord advance notice that you'll be asking a judge to sign an "ex parte" order to stay (pause) the eviction. You must also tell them when you're going to do this so the landlord can come argue against it if they want.

   You must tell your landlord your plan to go to court, even if the ex parte hearing will happen very soon. The judge can deny your motion if you haven't told your landlord you were coming to court.

You must describe your efforts to give the landlord notice in the **Motion** form (section 6). If possible, send the landlord a copy of your completed forms by email or fax.

> If the landlord has a lawyer, you must notify the lawyer, not the landlord. The lawyer's contact information should be on the court papers you received (usually on the bottom right). You can also look up a lawyer's contact info on the WSBA Legal Directory (https://www.mywsba.org/PersonifyEbusiness/Default.aspx?TabID=1536).

4. **Make copies.** You need your original plus **3 copies** of each completed form including proposed orders:
    - 1 for yourself
    - 1 for the landlord (or their lawyer, if they have one)
    - 1 for the judge as a working copy (if those are required in your county)

    Organize the copies in sets, so there's one set for each person who needs a copy. You don't have to give the landlord a copy of the Proof of Personal Service. Put each set of papers into an envelope addressed to each party, with your return address. You'll use these sets for service.

5. **Follow the clerk's instructions to file your Motion and have a judge sign your Order to Show Cause "ex parte."** Give your completed forms

to the judge.

Tell the judge how you notified the landlord (or their lawyer) you'd be asking for this ex parte order. The judge may not listen to you if you didn't try to give the landlord advance notice.

Tell the judge why there are good legal reasons your eviction judgment should be vacated (canceled). If you weren't notified about the eviction hearing, say so. If you did know about it, say why you couldn't be there. The judge may ask you to explain your situation a little more. Tell the judge how you'd be harmed if the judge allows the eviction to continue right now. Ask the judge to sign the **Order to Show Cause and Stay Enforcement of Writ of Restitution**.

If the judge signs your **Order to Show Cause**, they'll also put a date and time in the Order to schedule your next hearing. You'll have to come back to court for that hearing to explain why you have a defense against eviction, and why the judge should vacate the default judgment.

Before you leave ex parte:

- **Ask the judge's clerk how you can get a copy** of the signed Order to Show Cause. You'll need **4 copies**. They don't need to be "certified." You may need to pay for them (or get 1 copy now and make copies later).

> It's best to get at least 1 copy of the signed Order from the clerk if you can. You can also ask the clerk to help you "conform" your copies. Hand the clerk your extra copies of the

unsigned Order to Show Cause. Ask the clerk to stamp them with the date and judge's signature. You'll also need to copy over the hearing information onto each copy. There's no fee for conforming your copies.

If possible, take a clear picture of each page of the original Order on your cell phone after the judge signs it. Review your photo to make sure you can read the text. You can show this to the sheriff.

- **Ask if the clerk will file** your original Motion and the signed Order to Show Cause directly from the ex parte courtroom, or if you need to bring them back to the clerk's office for filing. (Different courts do this differently.) You may be given a slip with instructions to file the original documents with the clerk's office.

If you're told to file yourself, **you must do this before leaving the courthouse!** Your order won't be effective if it's not filed. Give the clerk the originals of all your forms and the signed order. Ask the clerk to stamp your copies to show the date you filed the originals. Take the stamped copies back from the clerk. The clerk keeps the originals.

- Ask the clerk if the judges require working copies before a hearing, and if they must be labeled in a certain way. (You may need to write the date and time of the hearing in the upper right corner.) If required, label and deliver working copies to the judge.

6. **Deliver a copy of the signed Order to Show Cause and Stay Enforcement of Writ of Restitution to the County Sheriff's office.** You must give them a copy so they know that your eviction has been paused for now. You can call them to ask if they'll accept it by fax or email, or if you must deliver it in person.

> Make sure the Sheriff gets the Order before the move-out deadline in your Writ of Restitution.

7. **Have someone else deliver copies of the court papers to the landlord (or to their lawyer, if they have one).** You must have the landlord personally served with copies of your Motion, the signed Order to Show Cause, and your proposed Order on Motion to Vacate. **Do this by the deadline listed in the Order to Show Cause (section 4).**

   The person who serves the landlord must be age 18 or older and not involved in the lawsuit. You can get a friend to do this, or you can pay a professional process server. Don't use anyone who lives at the rental with you or is named in the eviction case.

> You must serve the landlord by the deadline! If you don't, they can ask a judge to lift the stay and you could be evicted right away.

8. **Have the server fill out and sign the Proof of Personal Service form. Make 2 copies.** File the original with the Superior Court Clerk. Bring your copy to the hearing.

9. **Mark your calendar with your next hearing date and time.** The Order to Show Cause will say when you must come back for your next hearing.

10. **Confirm your hearing, if needed.** In some counties, you must contact the clerk's office to confirm that you want your hearing to happen on the day it is scheduled. If you don't confirm by the deadline, **your hearing will be canceled**. Ask the court clerk for instructions.

    > If your hearing is canceled, the stay will be lifted and you could be evicted right away.

11. **Review any response. Reply if needed and allowed in your county.** The other party must give you a copy of any response they file. You don't have to reply, but you may want to if they bring up new issues or say things that aren't true.

    Ask the court clerk if replies are allowed in your county and, if so, when they are due. If allowed, you can file a declaration from yourself or others replying to the other party's response. Limit your reply to addressing issues in the other party's response. Serve a copy of your reply on the other party by the deadline. Deliver working copies to the

judge if required in your county.

12. **Go to the Show Cause Hearing.** At this hearing, you must explain why you have a defense against eviction, and why the judge should vacate the default judgment. Bring any witnesses or documents that will help you prove your case.

    Read chapter 5 for how to get ready and what to expect at your hearing.

13. **If you disagree with the judge's decision, try to talk to a lawyer right away.**

    You might want to file a motion for revision or reconsideration. You must file those motions **within 10 days** of the order you want to change.

5. Hearing

Need an interpreter? You have the right to interpreter services in court at no cost to you. Each court should have a contact person for interpreter requests. As soon as you find out about a court date, contact the court to ask for an interpreter.

Need accommodations? Ask for accommodation for a disability that limits your ability to take part in a court hearing or trial. Each court should have a contact person for ADA requests. You can use

> the state's Request for Accommodation form (https://www.courts.wa.gov/forms/?fa=forms.contribute&formID=71) (https://www.courts.wa.gov/forms/?fa=forms.contribute&formID=71). As soon as you find out about a court date, contact the court to make this request.

At the show cause hearing, both you and the landlord will have a chance to explain why the eviction judgment and Writ of Restitution should (or should not) be undone.

Get ready for the hearing

Try to go to court before the day of your hearing or check the court clerk's website to see if you can watch a hearing online. Watch how the court generally does hearings. Try to make some notes to yourself about the main points to make at your hearing.

Organize your paperwork. Plan to bring your set of court papers and your copies of any papers the other parties gave you in response. Bring extra copies of any proposed orders you want the judge to sign.

Get to your hearing early. Try to figure out before the day of the hearing how you will get there and how long it will take. Give yourself time to get through security, and to the right courtroom. If you aren't there on time, the judge could cancel the hearing, or the other party may win.

Bring your paperwork, a pad of paper, and a dark pen to take notes. Dress neatly. Try not to bring your children if you can make other arrangements for

them. The judge usually won't let them sit in the courtroom.

When you get to the courtroom, tell the person in charge in the courtroom (the clerk or bailiff) your name and your case name and number. Take a seat. When the judge walks in the room, stand.

> If your hearing is online, follow these tips for phone and video hearings.

Your case will be one of several that are scheduled for the same time on the court calendar (called a docket). Listen to the judge and wait for them to call your name. When they call your name, tell the court you are present. Stay in court until they call your case for hearing.

When your case is called

In most cases, the judge will have read your papers before the hearing. The judge will make a decision based on the paperwork filed by both parties in advance.

You usually won't be able to testify, have witnesses testify, or otherwise give evidence at the hearing. You'll just get to tell the judge briefly what you want and why. This means you want to prepare beforehand by making notes about the main points you want to say to the judge.

> **If the other party gets a lawyer:** If another party's lawyer contacts you or shows up at a hearing, you may decide to get one

yourself. If so, tell the lawyer and the judge you need to postpone (continue) the hearing. The lawyer may ask you to sign some documents. **Don’t sign anything you don't understand.**

If the other party shows up at the hearing, each of you will get to tell your side of the case. Stand while speaking. Tell the judge briefly what you want and why. Try to keep your argument short. Only outline your main points. You may have as little as 5 minutes to speak. Don’t repeat everything in your papers. If you brought proposed orders, ask permission to hand them up to the judge.

If the judge asks you a question, try to answer it directly. **Don’t interrupt the judge.**

If the other party doesn’t show up, the judge may ask for your proof of service. Bring a copy of that to show the judge. Ask the judge to sign your proposed orders.

If you couldn’t serve the other party in time, or you don’t have proof of service, ask the judge to reschedule your hearing.

Hearing the judge's decision

After the judge has heard both sides, the judge decides on the requests. Listen carefully. Make notes. Usually, the judge gives their decision out loud, then it must be put in writing in a court order.

> It's best to bring **proposed orders** so the judge can sign them at your hearing. If no one brought proposed orders, the judge may tell you, the other party, or the other party's lawyer to write the orders and come back later for the judge to sign. The judge could schedule another hearing in a week or two just for signing orders.

If the other party prepared the orders, read them carefully. Make sure they say what the judge said. If you're not sure, **don't sign the orders**. Ask to go back before the judge to make sure the order says what the judge said.

If the other party didn't show up for the hearing, send them copies of the court orders. Follow the rules to serve papers *after* a case starts.

6. Forms

Form attached:
Notice of Appearance (general civil) (NJP General 005)

Form attached:
Motion to Vacate Default and Stay Enforcement of Writ of Restitution (NJP Housing 632)

Form attached:
Order to Show Cause and Stay Enforcement of Writ of Restitution (NJP Housing 633)

Form attached:

Order on Motion to Vacate Default and Writ of Restitution (NJP Housing 634)

Form attached:

Proof of Personal Service (general civil) (NJP General 001)

Follow the general rules to format and fill out court documents.

Tips for filling out the Notice of Appearance (NJP General 005)

Caption: Fill in the top area with the name of the court, the parties' names, and the case number if there is one on the papers you received.

Form section 1: You must put an address where you agree to accept legal papers for this case. If you're afraid to give your home address, use an address where you'll know immediately if papers arrive about your case. This could be a post office box or "in care of" a friend's address. If you agree to accept legal papers by email, put an email address you check often.

Form section 2: Put when and how you plan to serve the other party, or wait to fill this out until after you've served them.

Date and sign. Put the city and state where you signed

Tips for filling out the Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution (NJP Housing 632)

Fill out the **motion** form to explain what you want the judge to do and why they should do it.

Form section 3. Motion to Vacate

Fill in the date that the Order for Writ of Restitution was signed by the judge or commissioner. If you never received a copy of the order, you should call the Superior Court clerk to request a copy.

Form section 5. Declaration: Reasons to vacate the order

Explain your reasons for the motion. You must cite to solid legal grounds. First, state the reasons why you did not respond to the summons and complaint on time or appear at a show cause hearing. Some **examples** of good reasons:

- The landlord did not serve me with a summons and complaint.
- I responded to the summons and complaint in time. The court issued a writ anyway without a hearing.
- I could not answer the summons and complaint or appear at the show cause hearing because (give your reason).

Next, explain your defense to the eviction. **Examples**:

- I paid my rent.
- I paid what I owed on a deposit installment plan.
- I didn't pay my rent because my landlord didn't make needed repairs.
- My landlord is evicting me because of my race or disability or other illegal discrimination.

> **Warning!** A judge usually won't accept reasons such as "I need more time to move."

Put facts and details supporting the reasons for your motion. **Examples**: "I came back from the store and found the eviction summons and complaint inside my screen door. Nobody was home while I was at the store." "I paid my rent in cash. My landlord refused to give me a receipt."

If you have other evidence (proof) supporting your reasons, you should describe what it is, and attach it to your Motion, if possible. (**Examples:** Emails, texts, receipts.) You can also attach statements (declarations) from witnesses.

Make sure to attach your evidence (proof) to your motion.

Form section 6. Declaration: Notice to Plaintiff.

Briefly describe how you tried to notify the landlord (or their lawyer) that you are going to court.

Sign the declaration. Put the place and date you signed it.

Tips for filling out the Order to Show Cause and to Stay Enforcement of Writ of Restitution (NJP Housing 633)

Generally, an **Order to Show Cause** is an order that schedules a hearing to decide whether to grant (approve) or deny the motion when all parties can be present.

Use this form to ask the judge to order a hearing date to decide if there are solid legal grounds to approve your motion. This form also asks the court to pause (stay) the eviction order (writ of restitution). You may ask the court to sign this in **ex parte** court.

> **If you need an interpreter,** check the box for that in the top right part of this form and put your language. When you file, ask the court clerk if you need to do anything else to request an interpreter for your hearing.

Form section 2. The court orders... Leave this blank.The judge will fill out a hearing date if they sign the order.

Form section 3. Stay: Fill in the address for your rental property. This tells the Sheriff not to evict anyone from that specific address until the court gives a further order.

Form section 4. Service on Plaintiff: Leave the date blank. The judge will fill this in.

Form section 6. Other orders (if any): Leave this blank. The judge may put something here.

Presented by the Defendant. Sign and print your name.

Tips for filling out the Order on Motion to Vacate Default and Writ of Restitution (NJP Housing 634)

Fill out the **order** form the way you want the judge to sign it. This is a **proposed order** you'll ask the judge to sign at after the Show Cause Hearing

hearing. If you're not sure about something in the order, leave it blank for the judge to complete.

Tips for filling out the Proof of Personal Service (NJP General 001)

Have your server fill out this form after they've served the other party. Follow the rules for personal service.

Check to be sure your server filled out the date of service, who the papers were delivered to, and how they were delivered. Also be sure the form lists all documents that were served. If your server leaves out a form, you won't have proof it was served

Superior Court of Washington, County of _____

Petitioner / Plaintiff: _____	No. _____
And Respondent / Defendant: _____	Notice of Appearance (*No mandatory form*)

Notice of Appearance

To: Petitioner / Plaintiff or their Attorney (*name*): _____
And to the Superior Court Clerk

1. **Appearance.** My name is: _____. I am filing this notice to appear in this case. I must be notified of any court hearings and receive copies of any papers filed in this case.

   I agree to accept legal papers for this case at the following address/es:

   _____
   Street or mailing address *city* *state* *zip*

   ☐ Email (*optional*): _____

2. **Proof of service.** I declare: on *(date)*:_____, I served or will serve a copy of this Notice of Appearance to the Petitioner / Plaintiff or their Attorney named above by (*check all that apply*):

   ☐ **hand delivery** ☐ **first class mail** ☐ **certified mail** to (*address*):

   _____
   Street or mailing address *city* *state* *zip*

   ☐ **fax** to: _____ ☐ **email** to: _____
   (*only if allowed by agreement, order, or your county's Local Court Rule*)

I declare under penalty of perjury under the laws of the State of Washington that the facts I have provided on this form are true.

Signed at *(city and state):* _____ Date: _____

▶ _____ _____
Respondent / Defendant signs here *Print name*

Superior Court of Washington, County of _____

Plaintiff/s (*landlord*): _____ vs. Defendant/s (*tenant*): _____	No. _____ Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution (*No mandatory form*)

Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution

Use this form *if you missed an eviction hearing and the judge issued orders by default. Use this form together with the Order to Show Cause and Stay Enforcement of Writ of Restitution (NJP Housing 633) and Order on Motion to Vacate Default and Writ of Restitution (NJP Housing 634).*

To the person filing this motion:

To schedule a hearing on this motion, you must ask the court to sign the *Order to Show Cause and Stay Enforcement of Writ of Restitution* (NJP Housing 633). Contact the Superior Court Clerk's office for the procedure in your county. The *Order to Show Cause* may be signed "ex parte" (without the other party there). However, **you must notify the other party in advance** when you plan to ask the court to sign the *Order to Show Cause*.

After a judge signs the *Order to Show Cause*, you must have someone else **personally serve** a copy of this *Motion* and the *Order* on the other party.

To the person receiving this motion:

If you don't agree with the requests in this motion, file a statement explaining why the court should not approve those requests. You may file other written proof supporting your side.

To both parties:

If you want the court to consider your side, you **must**:

- File your original documents with the Superior Court Clerk; AND
- Give the Judge/Commissioner a copy of your papers (if required by Local Court Rules); AND
- Have a copy of your papers served on all other parties or their lawyers; AND
- Go to the hearing.

Bring proposed orders to the hearing. You can use the form *Order on Motion to Vacate Default and Writ of Restitution* (NJP Housing 634).

1. My name is _____. I am the defendant in this case.

2. Request for hearing (show cause) and stay

I ask the court to order the Plaintiff to go to court for a hearing and show why the court should not approve my motion to vacate a default judgment.

I also ask the court to stay enforcement of the judgment and writ of restitution until the court decides my motion to vacate.

3. Motion to Vacate

I ask the court to vacate the judgment, writ of restitution, and any other orders entered on *(date)* _____. These orders were entered by default.

4. Legal Authority

I make this motion according to CR 62 (stay of proceedings or enforcement), CR 60 (relief from judgment or order), CR 55 (default judgments), and *Randy Reynolds & Assocs. v. Harmon*, 193 Wn.2d 143, 437 P.3d 677 (2019) (holding the court has inherent equitable authority and discretion to stay a writ of restitution without bond for a defaulted party).

5. Declaration: Reasons to vacate the order

I declare:

The court should vacate these orders because (*explain*):

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

6. Declaration: Notice to Plaintiff

I declare:

I notified the Plaintiff (or their attorney, if they have one) that I would be filing this motion and requesting a stay in the following way: (*describe any calls, emails, texts, or other ways you gave notice*):

_____

_____

_____

_____

_____

_____

Person making this motion fills out below:

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form are true.

Signed at *(city and state):* _____ Date: _____

▶ _____ _____

Person making this motion signs here *Print name here*

I agree to accept legal papers for this case at (*check all that apply*):

☐ the following address (*this does **not** have to be your home address*):

_____

Street or mailing address *city* *state* *zip*

☐ Email: _____

Superior Court of Washington, County of _____

Plaintiff/s (*landlord*): _____ vs. Defendant/s (*tenant*): _____	No. _____ Order to Show Cause and Stay Enforcement of Writ of Restitution (*No mandatory form*) Clerk's action required: 2 ☐ Need interpreter (*language*) _____

Order to Show Cause and Stay Enforcement of Writ of Restitution

***Use this form** with the Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution (NJP Housing 632) and Order on Motion to Vacate Default and Writ of Restitution (NJP Housing 634).*

1. Findings

The court has reviewed the **Motion to and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution** filed by the Defendant.

The court finds there is reason to approve this order pursuant to CR 55, 60, and 62.

2. The court orders the Plaintiff/s and Defendant/s in this action to:

Go to court on: _____ at: _____ ☐ a.m. ☐ p.m.
date *time*

at: _____ in _____
court's address *room or department*

_____
docket / calendar or judge / commissioner's name

☐ Online or phone: _____

At the hearing, you must show why the court should **not** approve the requests made by the defendant.

3. Stay

Enforcement of the Writ of Restitution issued in this action for property located at (*address*) _____ is stayed until further order of the court.

4. Service on Plaintiff

Defendant must have a copy of this Order and the Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution served on Plaintiff (or their attorney, if Plaintiff is represented by an attorney in this case).

Service must be done by (*date*) _____. If necessary, the time for notice of hearing on this motion is shortened accordingly.

5. Service on Sheriff

Defendant is authorized to serve a non-certified photocopy of this Order to the county sheriff's office. The Sheriff shall accept a non-certified copy of this order provided by the Defendant or the court clerk.

6. No bond required

Defendant is not required to post bond to stay the Writ of Restitution pending a motion to vacate a default. *Randy Reynolds & Assocs. v. Harmon*, 193 Wn.2d 143, 437 P.3d 677 (2019).

7. Other orders (if any)

_____

_____

Ordered.

_____ ▸ _____

Date *Judge or Commissioner*

Presented by the Defendant

▸ _____ _____

Sign here *Print name*

Superior Court of Washington, County of _____

Plaintiff/s (*landlord*): _____ vs. Defendant/s (*tenant)*: _____	No. _____ Order on Motion to Vacate Default and Writ of Restitution (*No mandatory form*)

Order on Motion to Vacate Default and Writ of Restitution

Use this form *with the Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution (NJP Housing 632) and Order to Show Cause and Stay Enforcement of Writ of Restitution (NJP Housing 633).*

1. Basis

The court has considered the **Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution** and supporting documents filed by the Defendant, any response from the Plaintiff, other documents from the court record identified by the court, if any, and any testimony or argument.

A show cause hearing was held on *(date)* _____.

2. Findings

The court finds good cause to approve this order.

Other findings (if any): _____

_____

_____

_____

_____

_____

3. Order

☐ The motion to vacate is denied.

☐ The motion to vacate is granted.

The order/s or parts of order/s entered for this case on *(date)* _____ shall be vacated as follows:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Ordered.

_____ ▶ _____

Date *Judge or Commissioner*

Parties or their lawyers fill out below.

This order *(check any that apply)*:
☐ is an agreement of the parties
☐ is presented by me
☐ may be signed by the court without notice to me

▶ _____

*Plaintiff signs here **or** lawyer + WSBA #*

_____

Print Name *Date*

This order *(check any that apply)*:
☐ is an agreement of the parties
☐ is presented by me
☐ may be signed by the court without notice to me

▶ _____

*Defendant signs here **or** lawyer + WSBA #*

_____

Print Name *Date*

_____ Court of Washington, County of _____

In re: Petitioner/s or Plaintiff/s: _____ And Respondent/s or Defendant/s: _____	No. _____ Proof of Personal Service (No mandatory form)

Proof of Personal Service

Server declares:

1. **My name is:** _____. I am **not** a party to this case. I am 18 or older.

2. **Personal Service.** I served court documents for this case to (*name of person served*): _____ by (*check one*):

☐ Giving the documents directly to the person being served.

☐ Giving the documents to (*name*): _____, a person of suitable age and discretion who lives at the same address as the person being served.

3. **Date, time, and place of service**

Date: _____ Time: _____ (*check one*) ☐ a.m. ☐ p.m.

Place:

_____

Street address *city* *state* *zip*

4. List all documents you served (*check all that apply*)

(The most common documents are listed below. Check only those documents that were served. Use the "Other" box to write in the title of each document you served that is not already listed.)

☐ Petition to/for _____

☐ Summons (*attach a copy*)

☐ Notice of Hearing (*for date*) _____

☐ Motion for _____

☐ Declaration of _____

☐ Subpoena ☐ Duces Tecum

☐ Order on/for: _____

☐ Other:

_____

_____

_____

_____

_____

5. Fees charged for service

☐ None

☐ Fees: $ _____ + Mileage $ _____ = Total: $ _____

6. Other information (if any)

_____

_____

I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at *(city and state):* _____ Date: _____

_____ _____

Server signs here *Print name*

I received a writ of restitution

Author
Northwest Justice Project

Last Review Date
May 3, 2025

Learn what happens after you receive a writ of restitution (sheriff's eviction notice) and about options for storing your stuff.

What is a writ of restitution?

A **writ of restitution** is what the judge signs to order an eviction. The sheriff can deliver a writ of restitution to you personally or post it on your door. It will say the date and time by which you must move out.

If you don't move out on your own before the date and time on the writ of restitution, the sheriff may come back and:

- Order you off the property
- Physically remove you and your things from the property
- Change the locks on the home

Call your local sheriff's office if you have questions about their right to force you to leave the property. The number is usually listed on the writ of restitution.

I received a writ of restitution. What if I can't move my belongings myself?

If you can, you should move your things out of the unit before the sheriff returns.

Your landlord must store your belongings only if **you give the landlord a written request for storage of your things within 3 days after getting the writ of restitution**. The writ should come with a "Request for Storage of Personal Property" form you can fill out and give the landlord. The landlord may also have to store your things if they know you have a disability that interferes with your ability to ask for storage.

> You will probably have to pay your landlord storage costs to get your property back.

If the landlord doesn't store your things, they will usually put the property on the sidewalk or parking strip. If your property isn't stored, your landlord and the sheriff don't have to protect your property from theft, weather, or other damage.

If you need more time to move because of a disability, you can request a **reasonable accommodation**. You must write to your landlord and tell them that you need more time and how much more time because of a disability.

I didn't move out by the deadline in the writ of restitution. I asked the landlord to store my things. Now what?

The landlord must store the property until they sell it or dispose of it after appropriate notice to you of the proposed sale. You can read the state law about this at RCW 59.18.312

(http://apps.leg.wa.gov/rcw/default.aspx?cite=59.18.312).

If your belongings are worth more than $250: The landlord may sell the property after giving you 30 days' notice of the sale. The landlord may sell all your things, including personal papers and family keepsakes. The landlord may dispose of any items that didn't sell.

If your belongings are worth $250 or less: The landlord must give you only 7 days' notice before selling **or** disposing of all your things.

The landlord may keep some of the sale proceeds to pay the actual or reasonable costs of storage of your things. The landlord must give you the rest.

Can I still stop my eviction after getting a writ of restitution?

Maybe. You might be able to stop an eviction after the sheriff drops off the writ of restitution, or eviction order, but it can be hard. You may be able to stop it if the landlord did something wrong in the eviction process. Try to get legal help **as soon as you can.**

In some cases, like if you weren't served properly and so didn't attend the eviction hearing, you may be able to file a Motion to Vacate the Judgment and stop the enforcement of the writ of restitution.

If you were evicted because you owed rent, you may also be able to restore (to reinstate) your lease if you can pay everything you owe (back rent, court costs and attorneys' fees) within **5 days** of the court entering the judgment against you. To do this, you must file a court document called a Motion to Reinstate Tenancy about this before the sheriff comes to make you leave the rental unit. You may also be able to file a motion asking for a payment plan.

These motions are complicated. Find legal help as soon as you can.

Respond to an eviction lawsuit

Author
Northwest Justice Project

Last Review Date
May 3, 2025

If you get served with a **Summons and Complaint for Unlawful Detainer**, your landlord has started an eviction lawsuit against you. If you don't respond in writing by the deadline in the Summons, you could lose automatically. This guide will help you respond quickly with a **Notice of Appearance**.

Form attached:
Notice of Appearance (general civil) (NJP General 005)

> Renters with low incomes may be appointed a free lawyer before a court may proceed with an eviction. If you receive a Summons and Complaint, call our **Eviction Defense Screening line** at **1-855-657-8387** or apply online (https://nwjustice.org/apply-online) to find out if you qualify.

What is a Notice of Appearance (NOA)?

The Notice of Appearance simply tells the landlord and the court you want to defend yourself in the case and you want to get notice if anything else

happens in the case. You can use the blank NOA form above or fill it out online.

You must submit your NOA on time even if you don't have legal help.

What is my deadline for responding?

The Summons will state your deadline. Your landlord should serve the papers on you at least **7 days** before the deadline to submit your Notice of Appearance. Even if the landlord didn't give you at least 7 days, you should still respond, if possible, by the date on the Summons.

What happens if I miss the deadline for submitting a Notice of Appearance?

If you miss the deadline to respond, your landlord may try to get an court order to evict you, even without a hearing.

If you miss the deadline, your landlord may win the eviction court case automatically and the judge may order you to pay money to the landlord.

Even if you miss the deadline, you should still serve your landlord or landlord's lawyer and submit a Notice of Appearance to the court. If the judge has not yet entered a default against you, this might stop your landlord from winning automatically.

If you miss this deadline, try to get legal help right away.

The Summons says I must go to a hearing to give my Answer. What does that mean?

An “Answer” is another way of responding to an Eviction Summons and Complaint in writing.

You can, but don't have to, submit a written Answer where you respond specifically with your defenses to what your landlord claims you did anytime up to the hearing date.

If you think you want to give a written Answer, you must file it with the court and deliver a copy to the landlord or their lawyer.

If you're appointed a lawyer, it's best to have the lawyer prepare the Answer for you.

A written Answer is optional, **especially if you are filing a NOA anyway**. You can still defend yourself verbally at the court hearing even if you don't file a written Answer before the hearing.

What is an Order to Show Cause?

It's a notice from the judge that a court hearing has been scheduled in your case. The first hearing in an eviction lawsuit is called a “Show Cause Hearing” and is where you can defend yourself and give good reasons (“show a cause”) why you shouldn't be evicted.

If you get an Order to Show Cause, you should go to the hearing. If you don't go, the judge may order you to pay the landlord money.

Even if you've moved out, if you don't show up at the hearing you may lose automatically and the judge may order you to pay all the money that your landlord asked for.

Step-by-step

1. **Check your deadline!** It should be on the Summons you received.

   You must file and serve a Notice of Appearance or some kind of written response by the deadline to avoid being defaulted.

2. **Fill out the NOA form online or print it to fill out by hand.**

   Caption: Fill in the top area with the name of the court, the parties' names, and the case number if there is one on the papers you received. See an example.

   Form section 1: You must put an address where you agree to accept legal papers for this case. If you're afraid to give your mailing address, use an address where you'll know immediately if papers arrive about your case. This could be a post office box or "in care of" a friend's address.

   If you agree to accept legal papers by email, put an email address you check often.

   Form section 2: Put when and how you plan to serve the other party, or wait to fill this out until after you've served them.

   Date and sign. Put the city and state where you signed.

3. **Make at least 3 copies.**

- One for the person or company that sued you (or their lawyer)
- One for the court
- One for yourself

4. You can serve by **hand delivery** or **first class mail**. Sometimes you can serve by **email** or **fax**, but only if the other party has put in writing that they agree to accept legal papers for this case in that way.

   For hand delivery, the other party (or lawyer) must receive their copy by the deadline. Ask them or their office staff to date-stamp your copy. Hand delivery means one of these:

   - Handing it to the other party (or their lawyer)
   - Leaving it at their office with their clerk or other person in charge of the office
   - If no one is in charge, leaving it in a place in the office where someone can easily find it (example: on top of the front desk)
   - If the office is closed or the person has no office, leaving it at their home with an adult who lives there

   If you mail, you must mail your papers **more than 3 days before** your deadline.

   - When counting, don't count the day of mailing, weekends, or court holidays (example: if you mail something on a Monday, it counts as served on Thursday)
   - If the third day is on a weekend or holiday, it isn't “served” until the next court day

If you send your papers by regular first-class mail, you can have an extra copy sent by certified mail, return receipt requested, for extra proof of mailing. Attach a copy of the tracking information or signed return receipt card to your proof of service.

If you email, keep a copy of the email you sent and any reply from the other party that shows they received it.

If you fax, keep the transmission confirmation page that shows it was delivered.

5. **File your NOA with the court clerk. (**If the case hasn't yet been filed, skip this step.)

> You can be served with a lawsuit before the case is filed in court. Look for a case number on the papers you received. It should be on the top right of the first page. **If there's a case number, the case has been filed.** If you **don't** see a case number, it may not be filed yet. You can call the court clerk to check.

To file in person: Take your completed papers to the court clerk and file the originals. Have your copies date-stamped to prove when they were filed. Keep your copies.

To file by mail: mail the court clerk 2 copies with a postage-paid return envelope addressed to you. Mail early so the court receives it by the

deadline!

Some courts let you file papers online (e-file). Check your court clerk's website for instructions.

6. **Try to talk to lawyer**.

   After you file your NOA, you still must answer (respond) to the specific claims in the landlord's Petition for Unlawful Detainer. A lawyer can help you do this.

7. **Go to the Show Cause Hearing**. Bring your original NOA with you to the hearing.

   Your court hearing may be by phone or online. The court papers should list the location or call-in information. Call the court if you're unsure.

   > If your hearing is online, follow these tips for phone and video hearings.

Superior Court of Washington, County of _____

Petitioner / Plaintiff: _____	No. _____
And Respondent / Defendant: _____	Notice of Appearance (*No mandatory form*)

Notice of Appearance

To: Petitioner / Plaintiff or their Attorney (*name*): _____
And to the Superior Court Clerk

1. **Appearance.** My name is: _____. I am filing this notice to appear in this case. I must be notified of any court hearings and receive copies of any papers filed in this case.

   I agree to accept legal papers for this case at the following address/es:

   _____
   Street or mailing address *city* *state* *zip*

   ☐ Email (*optional*): _____

2. **Proof of service.** I declare: on *(date)*:_____, I served or will serve a copy of this Notice of Appearance to the Petitioner / Plaintiff or their Attorney named above by (*check all that apply*):

   ☐ **hand delivery** ☐ **first class mail** ☐ **certified mail** to (*address*):

   _____
   Street or mailing address *city* *state* *zip*

   ☐ **fax** to: _____ ☐ **email** to: _____
   (*only if allowed by agreement, order, or your county's Local Court Rule*)

I declare under penalty of perjury under the laws of the State of Washington that the facts I have provided on this form are true.

Signed at *(city and state):* _____ Date: _____

▶ _____ _____
Respondent / Defendant signs here *Print name*

Respond to an ejectment lawsuit

Author
Northwest Justice Project

Last Review Date
September 16, 2025

If you get served with a **Summons and Complaint for Ejectment,** your landlord or property owner has started a lawsuit to remove (eject) you from the property. If you don't respond in writing by the deadline in the Summons, you could lose automatically. Read this for help responding quickly in two types of situations: (1) you're a tenant who pays rent to live at the property, or (2) you have permission to live there and you don't pay rent money.

1. Fast facts

In Washington state, there are 2 different procedures for removing a tenant from a landlord's property. One is an **eviction** (**unlawful detainer action**), and the other is an **ejectment**. The type of procedure the landlord or property owner should use depends on your relationship to them.

- An **eviction** is a special type of court case designed to move quickly to decide limited questions: who has the right to control or possess the rental property and if the tenant owes any rent or other money. The

eviction court judge can only review certain types of tenancies: residential (https://app.leg.wa.gov/rcw/default.aspx?cite=59.18), mobile home park (https://app.leg.wa.gov/rcw/default.aspx?cite=59.20), and other ongoing tenancy (https://app.leg.wa.gov/RCW/default.aspx?cite=59.12.030). The eviction process is generally much faster than other types of court cases.

- A judge in an **ejectment** case can make more decisions (https://app.leg.wa.gov/RCW/default.aspx?cite=7.28) about getting back real property (land or buildings). The judge can decide who has the legal right to possession or ownership and more, including counterclaims and damages. The process is generally slower than an eviction lawsuit.

If you've received a **Summons and Complaint for Ejectment**, your landlord or property owner has started an ejectment lawsuit to get court permission to remove (**eject**) you. You must respond in writing right away, even if the court papers don't have a case number. If you don't, you could lose automatically. This guide will help you respond quickly.

> An ejectment lawsuit can also be called a **Quiet Title Action.** Look at the relief requested towards the end of the Complaint to see what the landlord or property owner is asking the court to do. If you see the words **writ of ejectment** or **writ of restitution**, they're asking permission to remove you from the property.

2. If you pay rent

If you pay rent money to your landlord, your landlord must provide a good (legal) reason to end your tenancy. The same is true for a mobile park owner where you pay money to rent lot space (land). If the landlord doesn't follow the law, such as providing the required written notice, this is a good (legal) reason to ask the court to end or cancel (to dismiss) the lawsuit.

Low-income tenants served with eviction lawsuits may qualify for a free lawyer to represent them in court. But some landlords choose to file an ejectment lawsuit, where there's no right to counsel for tenants. If you can't afford to pay for a lawyer, you must represent yourself in an ejectment lawsuit.

> You might not qualify for a free lawyer but still qualify for free legal advice.

If you've received a **Summons for Ejectment**, you must respond to the lawsuit in writing. Anything you want the judge to consider must be submitted (filed) with the court clerk in writing and served on the landlord or their lawyer. If you don't respond, you could lose automatically (by default). The court won't accept the reason that you didn't know how to respond as a defense to default.

3. If you don't pay rent

If you have permission to live in a place but **don't** pay money for rent, you may be a **tenant at will**. ()The property owner or landlord can end your

tenancy at any time if they give you **reasonable notice** to move out. A Washington appellate court decided this in *Najewitz v. City of Seattle, 21 Wn.2d 656, 152 P.2d 722 (1944)*.

The law doesn't say what's considered a "reasonable" amount of time. You may try to ask for more time (an extension) based on hardship or disabilities, but the property owner doesn't have to give you more time.

If you don't move out by the time you were told to leave, the property owner can only remove you with a signed court order called a **writ of ejectment**. It's illegal for property owners to lock you out or shut off your utilities without a court order. A Washington appellate court decided this in *Gray v. Pierce Cnty. Hous. Auth., 123 Wn. App, 744, 97 P.3d 26 (2004)*.

> If you've received reasonable notice, you should move out immediately to avoid more financial responsibility. Property owners may ask the court to award them court costs, attorneys' fees, and sometimes back rent from when you lived in the property without paying money for rent.

If you've received a Summons for Ejectment, you must respond to the lawsuit in writing, even if there's **no case number**. If you don't, the **property owner wins by default.** You won't get notice of a default judgment against you if you haven't at least filed a Notice of Appearance.

Once the owner gets a judgment against you, the owner may be able to take money from your bank account or paycheck, or take some of your property to pay the judgment.

Moving won't stop the ejectment lawsuit. You must notify the person who filed the lawsuit (the Plaintiff) in writing that you've moved. Keep proof that you gave them this notice.

The Plaintiff may have asked the court to award them money (damages) in addition to ordering you to leave. The Plaintiff can still go ahead with the lawsuit even though you've already moved out. You can try to talk to the Plaintiff or their lawyer to see if they'll agree to dismiss the lawsuit. If they won't, you must file a motion asking that the lawsuit be dismissed.

4. Legal defenses

You can bring up good (legal) reasons in your written response (called an **Answer**) to ask the court to dismiss the lawsuit. These are called **defenses.**

If you don't have any defenses, you'll lose the lawsuit. You may try to resolve (settle) the lawsuit with the property owner or their lawyer by moving out as soon as possible.

Here are some common possible defenses for tenants at will:

- **No notice:** The property owner never gave you any notice verbally or in writing to leave.
- **The ejectment lawsuit wasn't properly started:** The Plaintiff made mistakes in the steps taken to start the lawsuit. These are called

procedural errors.

- **The owner starts the lawsuit before the notice period expires.** You have proof that you were given a later date to move out.

> **Example:** The owner told you to move out by June 30. You're working to move out. But the owner filed the lawsuit on June 15, before your deadline to vacate.

- **You weren't properly served.** To start a lawsuit, an adult age 18 or older who isn't the Plaintiff must hand the court papers to you or someone of suitable age living with you. If you're not home, the Plaintiff must follow legal rules to serve you differently.

> **Example 1**: A process server handed the Summons and Complaint to a friend visiting your home. Your friend doesn't live with you.
>
> **Example 2:** A process server handed the court papers to your 10-year-old child. A 10-year-old isn't a person of suitable age.
>
> **Example 3**: The property owner handed you the court papers. The property owner is the Plaintiff and isn't allowed to personally serve you to start the case.

- **You weren't given enough time to respond to the lawsuit under Washington's Civil Rules.** Generally, you have **20 days** to respond after being served with the Summons and Complaint (https://www.courts.wa.gov/court_rules/pdf/CR/SUP_CR_04_00_00.pdf).

You have **60 days** to respond (https://www.courts.wa.gov/court_rules/pdf/CR/SUP_CR_12_00_00.pdf) if you were served by publication, out of state, or while you're in a jail, detention, or prison facility. It's a defense if you were properly served but not given enough time to respond. But the landlord or owner may be able to fix the mistake and restart or continue the lawsuit.

> **Example**: You were handed the Summons and Complaint in Washington state by a process server. The Summons tells you to respond by a certain date, which is only 7 days after service.

- **Lack of standing:** To sue someone in court, you must have **standing**, which means the law gives you the right to sue. You might have the defense that the Plaintiff doesn't have standing to remove you from the property. Here are some common examples of lack of standing:

> **Example 1:** You're a live-in caregiver for a relative. You aren't required to pay rent. Your relative just passed away, and their children are suing to eject (remove) you from the home. There was no will, and no one's been appointed by the court to represent your relative's estate yet. None of the children have title to the home. The children lack standing to eject you because they don't own the home and no one's legally appointed to manage the estate's affairs.
>
> **Example 2**: You and the Plaintiff are married and bought the property together during your marriage. Your spouse had better

credit, so the mortgage is in their name. You've separated and are working on a divorce, but haven't gotten any court decisions yet. Since the home is community property you got during your marriage, you have an ownership interest in it even if your name's not on the title. The Plaintiff can't ask the court to eject you.

Example 3: You and the Plaintiff were in a long-term relationship for 20 years but never married. Everyone treats you like a married couple. Early in your relationship, Plaintiff bought a house. You're not on the title, but you made mortgage payments during your relationship. You've recently split up, and Plaintiff has asked you to leave. It may be a defense to ejectment that you have an ownership interest in the property because you were in a "marriage-like" relationship. You may need to file a separate lawsuit to claim your right to a fair share of the value of your contributions to the home. This process is complicated. Try to talk to a lawyer.

- **Not given a reasonable amount of time to vacate**: You may not agree with how much time the property owner gave you to move out. The judge may decide how much time is reasonable on a case-by-case basis. A judge may consider factors such as how long you've lived in the home, health issues, disabilities, and so on. Generally, this is a weaker defense.

5. Respond

If you've been served a Summons and Complaint to an ejectment lawsuit, **you must respond in writing**. If you don't respond by the deadline, the court will give the other party everything they've asked for in their court papers with no input from you (called a default judgment). It's very hard to undo a default.

Follow these steps:

1. **Check your deadline!** It's usually **20 days** from the date a server hands the papers to you or someone in your home. Read the Summons carefully for the deadline.

2. **Fill out the forms in the last chapter of this guide:**
    - Notice of Appearance
    - Answer and Affirmative Defenses to Ejectment.

3. **Make copies.** You need your original plus **3 copies** of each completed form including proposed orders:
    - 1 for yourself
    - 1 for the other party or their lawyer, if they have one)
    - 1 for the judge as a working copy (if those are required in your county)

    Organize the copies in sets, so there's one set for each person who needs a copy. Put each set of papers into an envelope addressed to each party, with your return address. You'll use these sets for service.

4. **Serve a copy** on the other party. If the other party has a lawyer, serve the lawyer.

   You can serve by **hand delivery** or **first class mail**. Sometimes you can serve by **email** or **fax**, but only if the other party has put in writing that they agree to accept legal papers for this case in that way.

   For hand delivery, the other party (or lawyer) must receive their copy by the deadline. Ask them or their office staff to date-stamp your copy. Hand delivery means one of these:

   - Handing it to the other party (or their lawyer)
   - Leaving it at their office with their clerk or other person in charge of the office
   - If no one is in charge, leaving it in a place in the office where someone can easily find it (example: on top of the front desk)
   - If the office is closed or the person has no office, leaving it at their home with an adult who lives there

   If you mail, you must mail your papers **more than 3 days before** your deadline.

   - When counting, don't count the day of mailing, weekends, or court holidays (example: if you mail something on a Monday, it counts as served on Thursday)
   - If the third day is on a weekend or holiday, it isn't “served” until the next court day

If you send your papers by regular first-class mail, you can have an extra copy sent by certified mail, return receipt requested, for extra proof of mailing. Attach a copy of the tracking information or signed return receipt card to your proof of service.

If you email, keep a copy of the email you sent and any reply from the other party that shows they received it.

If you fax, keep the transmission confirmation page that shows it was delivered.

5. **File the originals with the Superior Court Clerk.** (If the case hasn't yet been filed, skip this step.)

> You can be served with a lawsuit before the case is filed in court. Look for a case number on the papers you received. It should be on the top right of the first page. **If there's a case number, the case has been filed.** If you **don't** see a case number, it may not be filed yet. You can call the court clerk to check.

To file in person: Take your completed papers to the court clerk and file the originals. Have your copies date-stamped to prove when they were filed. Keep your copies.

To file by mail: mail the court clerk 2 copies with a postage-paid return envelope addressed to you. Mail early so the court receives it by the

deadline!

Some courts let you file papers online (e-file). Check your court clerk's website for instructions.

6. **Try to talk to a lawyer.**

7. **Go to any scheduled hearing or trial.** After you file your Notice of Appearance and Answer, the Plaintiff should schedule another hearing to ask the court to decide the case. If there are no disagreements about why the Plaintiff has the legal right to get back control of their property (possession), the Plaintiff may schedule a **Summary Judgment hearing**.

   If there are disagreements (issues of material fact), the Plaintiff should schedule the case for a **trial.**

   Bring your documents with you to any hearings. Your court hearing may be by phone or online. The court papers should list the location or call-in information. Call the court if you're unsure.

   > If your hearing is online, follow these tips for phone and video hearings.

   > **Need an interpreter?** You have the right to interpreter services in court at no cost to you. Each court should have a contact person for interpreter requests. As soon as you find

out about a court date, contact the court to ask for an interpreter.

6. Strike Show Cause hearing

Some landlords or their attorneys may schedule a **"Show Cause Hearing"** (https://app.leg.wa.gov/rcw/default.aspx?cite=59.18.370) in the lawsuit to ask the court to quickly decide if the landlord can remove (eject) you. **This is a legal error and you can object to it!** Show Cause Hearings are only available in eviction lawsuits (unlawful detainer actions), **not** ejectment lawsuits.

If you got notice about a "Show Cause Hearing," with or without an Order to Show Cause, you can file a **Motion to Strike** asking that the Show Cause Hearing be canceled because the court has no authority to hold this type of hearing in ejectments.

If the judge agrees to strike the hearing, you may have more time to try to work out a solution with the Plaintiff (agreed settlement) and/or move out before the correct type of hearing is scheduled.

The process can be complicated. Try to talk to a lawyer.

If you decide to file a **Motion to Strike** on your own, follow these steps:

1. **Contact the Superior Court Clerk's office.** Ask if they have special (local) forms you must use to schedule a hearing. If so, use those forms instead of ours.

   Tell them you're going to file a **Motion to Strike a Show Cause Hearing**. Ask when you can schedule a hearing on your motion **before** the Show Cause Hearing, and for help with other details on the Notice of Hearing form. You can also wait to fill this part out until you go to court to file your papers.

   > If you can't schedule it before the Show Cause, schedule it to be heard at the **same day and time** as the Show Cause. At the Show Cause Hearing, ask the judge to consider your Motion to Stike first.

2. **Fill out these forms:**

   - Motion to Strike Show Cause Hearing (NJP Housing 668)
   - Order on Motion to Strike Show Cause Hearing (NJP Housing 669)
   - Notice of Hearing (NJP General 008) (or use a local form for this)

3. **Make copies.** You need your original plus **3 copies** of each completed form including proposed orders:

   - 1 for yourself
   - 1 for the other party or their lawyer, if they have one)

- 1 for the judge as a working copy (if those are required in your county)

Organize the copies in sets, so there's one set for each person who needs a copy. Put each set of papers into an envelope addressed to each party, with your return address. You'll use these sets for service.

4. **File the originals** with the Superior Court Clerk. Give the clerk the originals of all your forms for filing **except** you should ask the clerk what to do with the originals of any proposed orders. Follow the clerk's instructions.

   Ask the clerk to stamp your copies to show the date you filed the originals. Take the stamped copies back from the clerk. The clerk keeps the original.

   Deliver working copies to the judge, if required in your county.

5. **Serve the other party** with copies of everything you filed, and any proposed orders.

   You can do this yourself or have someone else do it for you. You can always serve by hand delivery or mail. You can serve by email or fax only if the other party (or their lawyer) says they accept service that way in their papers, or if your court's local rules allow it.

   For hand delivery, the other party (or lawyer) must receive their copy by the deadline. Ask them or their office staff to date-stamp your copy.

For mailing, you must put the copies in the mail at least **3 days before** the deadline. Ask the Post Office for tracking or delivery confirmation.

You (or your server) must fill out and sign the Proof of Mailing or Hand Delivery. Make 1 copy.

File the original Proof of Mailing or Hand Delivery with the Superior Court Clerk. Bring your copy to the hearing.

6. **Confirm your hearing, if needed.** In some counties, you must contact the clerk's office to confirm that you want your hearing to happen on the day it is scheduled. If you don't confirm by the deadline, **your hearing will be canceled**. Ask the court clerk for instructions.

7. **Go to your hearing.** Ask the judge to sign your proposed order striking the show cause hearing.

7. Dismiss

If the Plaintiff didn't follow the law or the required steps to start the lawsuit, or you've identified a good (legal) defense to dismiss the lawsuit, you can file a motion asking the court to dismiss the lawsuit without prejudice. This process can be complicated. Try to talk to a lawyer.

> "Without prejudice" means the Plaintiff can start the lawsuit again in court if the mistakes are corrected.

If the court approves your motion to dismiss the ejectment lawsuit, you may also ask the court to sign an Order to Limit Dissemination. Ejectment lawsuits may have a negative effect on your tenant screening reports. Read more about how to stop an eviction or ejectment from showing up on tenant screening reports.

If you decide to file a **Motion to Dismiss** on your own, follow these steps:

1. **Contact the Superior Court Clerk's office.** Ask if they have special (local) forms you must use to schedule a hearing. If so, use those forms instead of ours.

   Tell them you're going to file a **Motion to Dismiss**. Ask when you can schedule a hearing on your motion and for help with other details on the Notice of Hearing form. You can also wait to fill this part out until you go to court to file your papers.

2. **Fill out these forms:**

   - Motion to Dismiss Ejectment (NJP Housing 666)
   - Order on Motion to Dismiss Ejectment (NJP Housing 667)
   - Notice of Hearing (NJP General 008) (or use a local form for this)

3. **Make copies.** You need your original plus **3 copies** of each completed form including proposed orders:

    - 1 for yourself
    - 1 for the other party or their lawyer, if they have one)
    - 1 for the judge as a working copy (if those are required in your county)

    Organize the copies in sets, so there's one set for each person who needs a copy. Put each set of papers into an envelope addressed to each party, with your return address. You'll use these sets for service.

4. **File the originals** with the Superior Court Clerk. Give the clerk the originals of all your forms for filing **except** you should ask the clerk what to do with the originals of any proposed orders. Follow the clerk's instructions.

    Ask the clerk to stamp your copies to show the date you filed the originals. Take the stamped copies back from the clerk. The clerk keeps the original.

    Deliver working copies to the judge, if required in your county.

5. **Serve the other party** with copies of everything you filed, and any proposed orders.

    You can do this yourself or have someone else do it for you. You can always serve by hand delivery or mail. You can serve by email or fax only

if the other party (or their lawyer) says they accept service that way in their papers, or if your court's local rules allow it.

For hand delivery, the other party (or lawyer) must receive their copy by the deadline. Ask them or their office staff to date-stamp your copy.

For mailing, you must put the copies in the mail at least **3 days before** the deadline. Ask the Post Office for tracking or delivery confirmation.

You (or your server) must fill out and sign the Proof of Mailing or Hand Delivery. Make 1 copy.

File the original Proof of Mailing or Hand Delivery with the Superior Court Clerk. Bring your copy to the hearing.

6. **Confirm your hearing, if needed.** In some counties, you must contact the clerk's office to confirm that you want your hearing to happen on the day it is scheduled. If you don't confirm by the deadline, **your hearing will be canceled**. Ask the court clerk for instructions.

7. **Go to your hearing.** Ask the judge to sign your proposed order dismissing the ejectment case.

   If the court approves your motion to dismiss the ejectment lawsuit, you may also ask the court to sign an Order to Limit Dissemination. This order stops tenant screening companies from showing an ejectment record when you apply for housing.

8. Forms

Use these forms to respond to an ejectment lawsuit. You may need other forms to strike a show cause hearing or ask the court to dismiss the case.

Form attached:
Notice of Appearance (general civil) (NJP General 005)

Form attached:
Answer and Affirmative Defenses to Ejectment (NJP Housing 665)

Form attached:
Declaration of (name): _____ (general civil) (NJP General 010)

Follow the general rules to format and fill out court documents.

Tips for filling out Notice of Appearance (NJP General 005)

The Notice of Appearance simply tells the Plaintiff (person starting the lawsuit) and the court you want to defend yourself in the case and you want to get notice if anything else happens in the case.

You must file and serve your NOA on time even if you don't have legal help.

Tips for filling out Answer (NJP Housing 665)

In the Complaint, the landlord or property owner makes statements about you and claims good (legal) reasons to end your tenancy. **The landlord or owner saying things about you in the complaint doesn't make them true.**

Your Answer is your chance to tell the court which of the landlord or owner's statements are true (should be **admitted**); which aren't true (should be **denied**); and which statements you don't know or understand, or can't remember if it's true (should be **denied for lack of knowledge or information**).

You can attach any proof (evidence) you have that will help convince the judge that your statements are true or more believable (credible). You may attach a statement signed under penalty of perjury by yourself and/or other witnesses, called a **Declaration**. You may have photos, screenshots, emails, texts that prove why the statements in the Complaint aren't true.

Superior Court of Washington, County of _____

Petitioner / Plaintiff: _____	No. _____
And Respondent / Defendant: _____	Notice of Appearance (*No mandatory form*)

Notice of Appearance

To: Petitioner / Plaintiff or their Attorney (*name*): _____
And to the Superior Court Clerk

1. **Appearance.** My name is: _____. I am filing this notice to appear in this case. I must be notified of any court hearings and receive copies of any papers filed in this case.

   I agree to accept legal papers for this case at the following address/es:

   _____
   Street or mailing address *city* *state* *zip*

   ☐ Email (*optional*): _____

2. **Proof of service.** I declare: on *(date)*:_____, I served or will serve a copy of this Notice of Appearance to the Petitioner / Plaintiff or their Attorney named above by (*check all that apply*):

   ☐ **hand delivery** ☐ **first class mail** ☐ **certified mail** to (*address*):

   _____
   Street or mailing address *city* *state* *zip*

   ☐ **fax** to: _____ ☐ **email** to: _____
   (*only if allowed by agreement, order, or your county's Local Court Rule*)

I declare under penalty of perjury under the laws of the State of Washington that the facts I have provided on this form are true.

Signed at *(city and state):* _____ Date: _____

▶ _____ _____
Respondent / Defendant signs here *Print name*

Superior Court of Washington, County of _____

Plaintiff/s (*landlord or owner*): _____ vs. Defendant/s (*tenant*): _____	No. _____ Answer and Affirmative Defenses to Ejectment (*No mandatory form*)

Answer and Affirmative Defenses to Ejectment

Use this form *to respond to the Complaint in an ejectment or quiet title action. Use this form together with a Notice of Appearance.*

To the person filing the Answer:

If you want the court to consider your side, you **must**:

- Have a copy of your papers served on all other parties or their lawyers AND
- File your original documents with the Superior Court Clerk (if the case has been filed).

1. Answer

Defendant answers the complaint as follows (*read each numbered paragraph of the complaint and say below if you admit, deny, or don't know for each one*):

☐ **I admit** the statements in paragraph numbers: _____ except for the following statements:

_____

_____

_____

_____

_____

_____

☐ **I deny** the statements in paragraph numbers: _____ except for the following statements:

☐ **I don't know** about the truth and so deny the statements in paragraph numbers: _____.

2. Affirmative Defenses

Defendant/s other defenses are (*check all that apply, if any*):

a. No reasonable notice

☐ I never received a termination or vacate notice telling me to leave (demanding possession). *Najewitz v. City of Seattle,* 21 Wn.2d 656, 659, 152 P.2d 722, 723 (1944).

☐ I received a demand for possession (notice to terminate or vacate) but was not given a reasonable time to vacate. *Najewitz v. City of Seattle,* 21 Wn.2d 656, 659, 152 P.2d 722, 723 (1944).

Explain (*give details for any defenses checked in a.*):

_____

_____

_____

_____

b. Ejectment lawsuit was not started properly

☐ Plaintiff started this case before the termination or vacate notice expired. *FPA Crescent Assoc. v. Jamie's LLC*, 190 Wn.App. 666, 678, 360 P.3d 934 (2015).

☐ The Summons and Complaint were not served properly (*check all that apply*):

☐ I was never served the papers.

☐ The papers were handed to someone who does not live with me.

☐ The papers were handed to someone who was too young or didn't understand (someone who was not of suitable age and discretion).

☐ The papers were posted on my door or mailed to me, but the Plaintiff did not try to have someone else hand them to me personally.

☐ Plaintiff personally handed me the papers – they didn't have someone else do it.

☐ Other problem with service (*specify*): _____

_____

☐ The Summons was defective because it did not give me enough time to respond. Washington Civil Rule 4(a)(2) and 12(a). (CR 12(a)(1) says I get 20 days to respond if I was personally served. CR 12(a)(2)-(3) says I get 60 days to respond if I was served by publication, out of state, or in a jail, detention, or prison facility.)

Explain (*give details for any defenses checked in b.*):

_____

_____

_____

_____

c. Plaintiff lacks standing to file the lawsuit

☐ Plaintiff does not own the property or have the authority or agency to eject me.

☐ I have an ownership interest in the property.

☐ Other: _____

Explain (*give details for any defenses checked in c.*):

_____

_____

_____

_____

d. This is a landlord-tenant situation. Ejectment is improper.

☐ **Residential.** Plaintiff and I have a landlord-tenant relationship for the rental of a residential dwelling unit controlled by the **Residential Landlord Tenant Act (RLTA),** RCW 59.18. Plaintiff (landlord) has not complied with the provisions of the RLTA before starting this lawsuit. RCW 59.18.650, RCW 59.12.040.

☐ **Mobile home.** Plaintiff and I have a landlord-tenant relationship for the rental of a mobile home lot/land controlled by the **Manufactured/Mobile Home Landlord Tenant Act (MHLTA),** RCW 59.29. Plaintiff (landlord or mobile home park) has not complied with the provisions of the MHLTA before starting this lawsuit. RCW 59.20.080; RCW 59.12.040.

☐ **Other tenancies.** Plaintiff and I have a landlord-tenant relationship for the rental of real property (building or land) for a term less than life controlled by **RCW 59.12, and** (*check all that apply*):

- ☐ I had a rental agreement. We agreed my tenancy would end on (*date*): _____. My tenancy has not expired. RCW 59.12.030(1).
- ☐ I had a month-to-month tenancy for an indefinite period. I never received a termination notice to end my tenancy. RCW 59.12.030(2).
- ☐ I was not properly served a termination notice. RCW 59.12.030(2); RCW 59.12.040.
- ☐ I received less than 20 days' notice to terminate my tenancy. RCW 59.12.030(2).

☐ Plaintiff claims I owe rent. I never received a 14-day pay or vacate notice. RCW 59.12.030(3).

☐ Plaintiff claims that I've failed to perform under the terms of our agreement. I never received a 10-day notice to perform or vacate. RCW 59.12.030(4).

☐ Plaintiff claims that I committed or permitted waste or nuisance. I never received a 3-day notice to quit. RCW 59.12.030(5).

Explain (*give details for any defenses checked in d.*):

_____

_____

_____

_____

e. Other

☐ Other reasons I should not be ejected: _____

_____

_____

_____

_____

3. Attachments

☐ None.

☐ In support of my statements, I am attaching the following evidence to this Answer (*list any documents, declarations, photos, correspondence, etc.*):

_____

_____

_____

_____

4. Counterclaims

☐ **Reserved.** I may have counterclaims to bring against the Plaintiff in the future. I reserve my right to raise counterclaims later.

☐ **Counterclaims.** Plaintiff owes me $_____ because (*explain*):

_____

_____

_____

Important! If you want the court to consider your counter claim for damages against Plaintiff in this same lawsuit, you **must** pay the filing fee with the Superior Court Clerk **or** file a motion to ask a judge to waive the filing fee.

5. Request

I ask the court to (*check all that apply*):

☐ **Dismiss** this lawsuit and enter a judgment against Plaintiff for any counterclaim, set-off, costs or attorney fees.

☐ **Continue (delay) this case and appoint counsel** as Defendant is a low-income tenant under RCW 59.18, RCW 59.20, or RCW 59.12. Plaintiff filed this ejectment trying to avoid the right to counsel, which is against public policy.

☐ **Give me a reasonable time to vacate**, allowing Defendant/s until (*date and time*): _____ to move out from the premises. Defendant/s ask the court to dismiss the lawsuit upon proof of Defendant/s vacating the premises.

☐ **Order Limited Dissemination** based on the prejudicial value of an ejectment filing in tenant screening reports. *See Seattle's Union Gospel Mission v. Bauer*, 22 Wn. App. 2d 934, 514 P.3d 710 (2022).

☐ **Other relief** (*specify*): _____

_____

Defendant asks the court to grant any other and further relief that this court deems just and equitable.

6. Proof of Service

I declare: on *(date)*:_____, I served or will serve a copy of this Answer and Affirmative Defenses to Ejectment (including any attachments) to the Plaintiff or their attorney by (*check all that apply*):

☐ **hand delivery** ☐ **first class mail** ☐ **certified mail** to (*address*):

_____

Street or mailing address *city* *state* *zip*

☐ **fax** to: _____ ☐ **email** to: _____

(*fax or email only if allowed by agreement, order, or your county's Local Court Rule*)

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form are true.

Signed at *(city and state):* _____ Date: _____

▶ _____ _____

Defendant signs here *Print name*

I agree to accept legal papers for this case at (*check all that apply*):

☐ the following address (*this does **not** have to be your home address*):

_____

Street or mailing address *city* *state* *zip*

☐ Email: _____

_____ Court of Washington, County of _____

Petitioner / Plaintiff: _____ And Respondent / Defendant: _____	No. _____ Declaration of (*name*): _____ (DCLR) (*No mandatory form*)

Declaration of (*name*): _____

1. **I am** (*check one*): ☐ the Petitioner / Plaintiff ☐ the Respondent / Defendant

   ☐ Other (*relationship to people in this case*): _____, age ___.

2. **I declare:**

(Number any pages you attach to this Declaration. Page limits may apply.)

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form (and any attachments) are true.

☐ I have attached *(number):* _____ pages.

Signed at *(city and state):* _____ Date: _____

▶ _____ _____

Sign here *Print name*

Free lawyers for renters in Washington State

Author
Northwest Justice Project

Last Review Date
May 3, 2025

Renters who have a low income in Washington State may be appointed a free lawyer before a court can proceed with an eviction lawsuit. Read this to find out who is eligible, and how to find a free lawyer.

Do all tenants get a free lawyer to help in an eviction case?

Under Washington State law at RCW 59.18.640 (https://app.leg.wa.gov/RCW/default.aspx?cite=59.18.640), tenants who have a low income may be appointed a free lawyer before a court evicts you.

The law says that "indigent" tenants must be given a free lawyer in an eviction court case. "Indigent" means either:

- the tenant earns less than 200% of the Federal poverty level

or

- the tenant receives public assistance, for example:
  - Temporary Assistance for Needy Families (TANF)
  - Aged, Blind, or Disabled assistance benefits (ABD)

- Food stamps (for example, an EBT card)
- Supplemental Security Income (SSI)
- Poverty-related Veterans' benefits
- Refugee Resettlement benefits
- Medicaid (Apple Health)
- Pregnant individual assistance benefits

When can a lawyer be appointed for a tenant in an eviction?

Courts will only appoint a lawyer after the tenant receives court documents starting an eviction lawsuit, called a "Summons" and a "Complaint."

The Complaint and Summons may have already been filed with the court (and have a case number), or they may have been given to the tenant without being filed. Either way, the court must appoint a free lawyer for tenants who are "indigent."

Will the court call the tenant to offer them a lawyer?

No. Renters who receive an Eviction Summons and Complaint should **call our Eviction Defense Screening line at 1-855-657-8387 or apply online** (https://nwjustice.org/apply-online) to find out if they qualify for a free lawyer in an eviction case.

What if I don't have a lawyer at my first eviction hearing?

If your eviction hearing date and time arrive and you have not yet been given a free lawyer, you should go to the hearing and ask the judge for more time to get a free lawyer. The judge may then postpone the hearing to give you time to **call our Eviction Defense Screening line at 1-855-657-8387 or apply online** (https://nwjustice.org/apply-online)**.**

I received an eviction notice but haven't yet received a Summons and Complaint. Are free lawyers available to help me?

Maybe! Before you receive an Eviction Complaint and Summons, your landlord should have given you an eviction notice. For example, you may receive a "14 Day Notice to Pay or Vacate**,"** a "10 Day Notice to Comply or Vacate." Because you haven't yet received an Eviction Summons and Complaint, the court will not appoint a free lawyer yet.

But you can still try to get free legal help in responding to the termination notice.

Housing Resources

KCBA Housing Clinic	Tenants Union of WA	Spokane Housing Authority	Eviction Defense Screening Line	Washington Law Help
206.267.1250 spotenantsupport@kcba.org Hosted every 1st and 3rd Friday of the month	206.319.009	509.328.2953	855.657.8387	Washingtonlawhelp.org

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