

Protecting Yourself in an Eviction

If you are facing eviction, use this information to take action and protect your housing

In Massachusetts, you do not have the right to a lawyer if you are facing eviction. Many people have to represent themselves.

This is the first of 15 booklets to help you represent yourself if you are facing eviction in Massachusetts. These booklets have practical information about steps you need to take to protect your rights, including things you have to do before going to court. These booklets do not take the place of a lawyer.

Try to get legal help

Try to get a lawyer as soon as you can. Use the Massachusetts Legal Resource Finder: [MassLRF.org](https://www.masslegalhelp.org)

You may be able to get free legal help from your local legal aid program. If you cannot get a lawyer from your local legal aid program, call your local bar association and ask for their lawyer referral program. Find your local bar association online. If you don't have a computer, go to your local library to access to a computer.

A lawyer can:

- a. Give you advice that fits your situation.
- b. Fill out and file court papers for you.
- c. Represent you and go to court with you.
- d. Speak with the judge and your landlord or your landlord's lawyer.

Some Housing Courts have Lawyer for the Day Programs. The Lawyer for the Day can give you some advice and brief help. If you are already in court, ask the court staff or the judge how to find the Lawyer for the Day in their court.

15 booklets to help you represent yourself

Booklet 1: Protect Yourself in an Eviction

What steps to take before going to court and what to bring to court

Booklet 2: Housing Code Checklist

What conditions violate the State Sanitary Code

Booklet 3: The Answer

How to defend yourself and explain to the court why you should not be evicted

Booklet 3A: Late Answer & Discovery

How to ask the court to accept your Answer and Discovery forms late

Booklet 4: Discovery

How to get information to prepare for your trial

Booklet 4A: Discovery for tenants in foreclosed properties

How to get information to prepare your case

Booklet 5: Transfer

How to transfer a case to Housing Court

Booklet 6: Removing a Default

How to get a new court date if you missed your court date

Booklet 7: Appeals

Where to file an appeal if you lost your case

Booklet 7A: Appeals

How to file an appeal from a case in Housing Court

Booklet 7B: Appeals

How to file an appeal from a case in District Court

Booklet 8: Stay

How to get time to stay in your home if you lost your case

Booklet 9: Affidavit of Indigency

How to ask the court to pay for court costs

Booklet 10: Negotiating a Settlement of Your Case

How to think through the terms you want in an agreement

Booklet 11: Error Correction Form

How to correct errors on your online court records.

For updates of these booklets, check MassLegalHelp.org

What do I need to know about representing myself?

You do not have to move until a judge tells you to

You do not have to move out just because your landlord told you to move out, sent you a notice to quit, or sent you a Summary Process Summons and Complaint.

You **only** have to move out **if the court orders you** to move out.

If your landlord wants you to move out, they **must**:

1. Send you a letter called a Notice to Quit telling you they want you to leave
2. Go to court,
3. Win the eviction case, and
4. Get a court order from the judge.

Read all the papers you get from the court

If a sheriff or constable serves you with court papers called the **Summons and Complaint** read the papers carefully.

Your landlord can **only** have the sheriff or constable serve you with a **Summons and Complaint** if:

- The time on the **Notice to Quit** has run out, or
- Your lease has expired.

The Summons and Complaint tells you:

- The name and address of the court that is hearing your case.
- You must file an Answer 3 business days before your "first court event."

You should get a notice in the mail from the court about 1 week after you get the Summons and Complaint. The notice should tell you the date and time of your first court hearing. It will also tell you whether the court hearing is in-person or over Zoom.

Go to court, or else you will automatically lose your case!

Do you have bad conditions?

If you have bad conditions in your home, like mice, no heat, or leaks, it is important to document them. If the landlord knows about these conditions, you may be able to prevent your eviction if you are facing a non-payment or no-fault eviction. A no-fault eviction is when the landlord does not state a reason for the eviction or states a reason that is not your fault. For example, the landlord may be evicting you because they want to sell the property.

Use **Booklet 2: Housing Code Checklist** to help you figure out whether there are problems that your landlord needs to fix. As soon as possible, tell the landlord about these

problems in writing through a letter, text, or email – even if you already told your landlord. You can also call your town’s housing inspector right away and ask for a housing code inspection.

Complete your court forms

Complete your Answer. Use the Answer form in **Booklet 3: Answer** or the Massachusetts Defense for Eviction (**MADE**) free online Answer tool: GBLS.org/MADE

Complete your Discovery. The Discovery form lets you ask for information and documents **from your landlord** to help you win your case. Use the form in **Booklet 4: Discovery** or use **MADE** to help you complete a Discovery form: GBLS.org/MADE

Prepare for your court date

Before you go to your first court date:

- Use the **What to Bring to Court Checklist** in this booklet to help you organize what you need to bring. Having the items on this checklist with you could be one of the most important things you do.
- **Think about the things that are most important to you.** You and your landlord may go to mediation to try to settle your case. Use **Booklet 10: Negotiating a Settlement of Your Case** to help you think through the terms you want in an agreement. Then you will be ready to tell the mediator about the things you need. For example, you might agree to pay part of the rent you owe if your landlord makes repairs, and you can stay in your home.

Go to court

If you do not attend your court hearing, you will lose your case. The judge may order you to move out quickly. You may have to move within 2 weeks of the court date.

If you make an agreement with your landlord before your first court date, you must still go to court. You have to make sure the agreement is "accepted by the court."

When you go to court it can feel scary to speak up for yourself. But the more prepared you are the better you will be able to tell the mediator or the judge what you need.

Even if the mediator or the landlord has an idea about how to resolve your case, you do not have to agree. You can still talk to a judge.

- Do not agree to move out if you do not have another place to live.
- Do not agree to pay an amount of money that you cannot afford.

If you do make an agreement with your landlord, be sure to get a copy that is signed by both parties. Keep the agreement in a safe place.

If you do not come to an agreement with the landlord, you can talk to a judge. You may convince the judge to let you **stay in your home**. The judge can also order your landlord to:

- Make repairs.
- Lower the rent you did not pay because of the bad conditions in your apartment.
- Let you stay in your home longer, while you apply for rental assistance.
- Let you stay in your home longer, while you find a new place to live.
- Pay you money, if you prove your landlord broke certain laws.

When it is your turn to speak to the judge, keep it simple and brief.

- Stick to the information you put in your Answer.
- Show the judge the documents you brought.
- Introduce witnesses who can testify about events or conversations that are important to your case.
- Be clear about the things you are asking the judge to order.

Did you miss your hearing?

If you missed your eviction hearing, file the forms in **Booklet 6: Removing a Default**. File the forms right away. You may still have a chance to tell the judge why they should not evict you.

Do not give up even if you lose your case

- **Appeal**
If you think the judge or jury decided wrong at trial, you may *appeal* your case. See **Booklets 7, 7A, and 7B: Appeals**.
- **Stay**
If you lost at trial but you need more time to move, you can ask the court to delay or “stay” the eviction. See **Booklet 8: Stay**.

GOOD LUCK!

Checklist: What to bring to court

- **All papers about the eviction case.**
Court papers, eviction notice (*notice to quit*), notices from the court.
- **Copies of inspection reports or citations from the Board of Health or housing authority.**
Ask the Board of Health or Inspectional Services Department to **certify** a copy of the inspection report about your apartment. This means that the person who inspected your place certifies “under the penalties of perjury” that the report is true. It also means that a court can treat the report as evidence. You do not need to bring an inspector to testify about the conditions.
- **Pictures of the conditions or problems in your apartment.**
Print pictures of the bad conditions, if your hearing will be in court. **Just having the picture on your phone is not enough.** Write on the back of each picture in pen the date you took the picture. If your hearing is on Zoom, call the clerk’s office to find out how to send pictures electronically. You can also use [MADE: Up To Code](#) to document your bad conditions with your phone at [MADEUpToCode.org](#)
- **Your lease or other written tenancy agreement, if you have one.**
- **Information about your rent.**
 - Receipts or canceled rent checks.
 - Papers from the Department of Transitional Assistance showing any payments they made.
 - Rent determination or recertification papers from the housing authority or landlord.
 - Proof that you are applying for rental assistance.
 - Security deposit and last month’s rent receipts or statements.
- **Letters you sent to the landlord.** If you sent emails or texts, print them out if your hearing is in-person.
- **Notices or letters from the landlord.**
- **Papers from a housing agency about your tenancy.**
- **Gas and utility bills or notices, if there is a utility issue in your case.**
- **Any other documents or papers you think have something to do with your case** and that you would like to show the mediator or the judge.
- If you have a disability that is important to your case, bring **a doctor’s letter that explains your disability.**
- **Witnesses who can testify about events or conversations they saw or heard.**