



NEW YORK CITY TENANTS

**QUESTIONS & ANSWERS
ABOUT
HOUSING COURT**

BRONX | BROOKLYN | MANHATTAN | QUEENS | STATEN ISLAND

October 2011

Table of Contents

What is Housing Court?	1
What if the landlord/owner is suing me for not paying my rent? <i>(nonpayment)</i>	3
What if the landlord/owner is suing to evict me? <i>(holdover)</i>	8
What if the landlord/owner evicted me without a court order? <i>(illegal lock-out)</i>	11
What should I do if I need housing repairs?	12
What do I do if the landlord/owner is harassing me?	14
How are legal papers delivered? <i>(service)</i>	15
How do I get ready for court?	17
What do I do when I go to court?	17
Can the landlord/owner and I agree to settle the case?	19
What happens at a trial?	21
How do I appeal if I lose the case?	22
What is an eviction?	23
What do I do if I need to go back to court to ask the Judge to do something on the case? <i>(order to show cause)</i>	24
Where can I get help?	26

What is Housing Court?

The New York City Housing Court is a Part of the Civil Court where landlords/owners and tenants go to solve their housing problems.

Landlords/owners start cases in Housing Court to:

- collect rent, and to
- evict tenants.

Tenants start cases in Housing Court to:

- get repairs,
- move back in after an eviction,
- stop the landlord/owner from harassment, or
- take control of the building to get repairs.

A Housing Court Judge can order:

- repairs,
- a tenant out of an apartment
- a tenant back in the apartment,
- rent to be paid.

Is there a way to solve my problem *without* going to court?

Yes. You do not have to go to court for all your housing problems. Many problems are solved by talking to your landlord/owner or super. You can go to a local community mediation center for help with the problems or to help you talk to your landlord/owner or super. You can find the location of a community dispute resolution center near you in the phonebook or at: <http://www.nycourts.gov/ip/adr/ProgramList.shtml>.

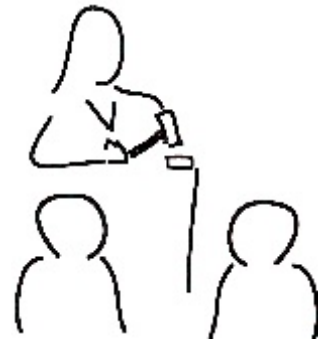
Does Housing Court charge any court fees?

You don't have to pay a fee if the landlord/owner starts the case. Possible fees:

- It costs \$45.00 to start a case against the landlord/owner.
- It costs \$70.00 if you ask for a jury trial.

Fees must be paid by cash, or certified check, money order or bank check made out to the "The Clerk of the Court." Personal checks are not accepted.

If you can't afford to pay court fees ask the Court Clerk for papers to fill out so you do not have to pay. This is called a fee waiver or *poor person's relief*. After filling out these papers, a Judge will decide whether you can begin your case without paying the fee.



People who don't have a lawyer are called "*Pro Se*" or "Self-Represented" or "Unrepresented" litigants.

What if I don't speak English well?

Tell the Clerk when you go to court that you need an interpreter. The Clerk will assign an "official" interpreter for free.

Is the court going to give me a lawyer?

No. There is no right to a lawyer in a Housing Court case.

What if I can't come to court on the date I was given?

You can't call the court to get a new date no matter what the reason. You can ask the landlord/owner to agree to a new date. If the landlord/owner agrees, get this in writing and bring it to the Court Clerk before your original court date.

If the landlord/owner won't agree to a new court date, or if you can't come to court because you are homebound, in the military, incarcerated or hospitalized:

- write a letter to the Judge or get an *affidavit of unavailability* from the Clerk to explain why you can't be there and bring it to the court Clerk before the court date, or
- send someone to court on your court date to tell the Judge why you can't be there

Warning! If you send someone to court, or write a letter, the Judge may not agree to give you a new date and you may lose the case.

Who decides cases in Housing Court?

Cases are usually decided by Housing Court Judges without a jury. You or the landlord/owner can ask for a jury trial if your lease allows it or you have no lease. You must file a *jury demand* and pay the jury fee when you answer.

You can ask the Judge to file a late jury demand, but the Judge may say no.

**Where do I find more information about Housing Court?**

All of the information in this guide is also on the Housing Court's website. On the website there are free court forms, helpful how-to videos and more detailed information to help you represent yourself in court. If you have the internet, visit the website at:

www.nycourts.gov/nychousing.

- If you start a case in Housing Court you are the *petitioner*.
- If a case is started against you in Housing Court you are the *respondent*.

What if the landlord/owner is suing me for not paying my rent?

The landlord/owner starts a *nonpayment* case to sue you for rent. The landlord/owner is asking the court to evict you if you don't pay.

Does the landlord/owner have to ask me for the rent before starting a case?

Yes. The landlord/owner, or someone who works for him or her, must ask you for the rent first. This is called a *rent demand*. It warns you that the landlord/owner wants the rent, and that if you don't pay, you can be evicted. The rent demand can be:

- said to you (oral demand), or
- written to you (written demand).*

A written rent demand must be sent to you at least three days before the case can be started. The rent demand must list the months and amounts of rent the landlord/owner says you owe.

Warning! If you don't pay the rent demanded by the deadline in the rent demand, the landlord/owner can start a nonpayment case against you in Housing Court.

**Check your lease. The landlord/owner may have to give you a written rent demand, and may have to give you more than three days' notice.*

What do I do if I get a Notice of Petition and Petition?

The papers say that you have to go to Housing Court right away to answer the petition. The Court Clerk also sends you a postcard telling you to come to court right away. If you get either a postcard or a Petition, go to the Landlord-Tenant Clerk's Office to answer the Petition. You must answer the Petition within five days of the time that you receive the court papers otherwise you may be evicted. Even if more than five days have passed, go to the Landlord-Tenant Clerk's Office right away.

What happens if I do not answer the Petition?

If you don't answer the Notice of Petition before the deadline, the landlord/owner can ask the court for a *judgment on default* against you. If the landlord/owner gets a judgment against you:

- you can be evicted, and
- the landlord/owner can take your salary, money or property.

See page 24 on going back to court to ask the Judge to do something on your case.

How do I answer?

There are two ways to answer the Petition in Housing Court:

- go to court and tell the Landlord-Tenant Clerk your Answer (oral Answer), or
- give the Landlord-Tenant Clerk a written Answer.

What do I say in the Answer?

An Answer lets you tell the court your side of the story. Your Answer says the legal reasons that you don't owe all or part of the rent. The legal reasons are called *defenses*. You will have to prove your defenses in court. Tenants have different defenses depending on the facts of each case.

You may have a defense about the way the landlord/owner gave you the papers. For example:

- You didn't receive a copy of the Notice of Petition and Petition,
- You didn't receive the court papers correctly as required by law.

You may have a defense about the way the parties are listed on the Petition. For example:

- Your name is not correct or is missing from the court papers,
- The Petitioner is not the landlord or owner of the building.

You may have a defense about the rent. For example:

- You were not asked, either orally or in writing, to pay the rent before the landlord/owner started this case,
- You tried to pay the rent, but the landlord/owner refused to take it,
- The monthly rent listed in the Petition is not the legal rent or the amount on the current lease,
- The landlord/owner owes you money because of a rent overcharge,
- You paid all or some of the rent to the landlord/owner.

You may have a defense about the apartment. For example:

- You have conditions in the apartment/building which need to be repaired and/or services which the landlord/owner has not provided,
- You receive Public Assistance and there are Housing Code violations,
- The apartment is an illegal apartment.

Some other examples of defenses are:

- The Petition comes as a surprise. The landlord/owner knew for a long time that you owed the rent and waited too long to bring you to court and the delay has caused you harm. This is called *laches*.
- You are not sure that the Petition is correct. This is called a *general denial*.
- The landlord/owner is trying to get you to leave by harassing you,
- You are in the military or dependant on someone in the military.

Important! If you do not tell the Clerk about a defense in your Answer you might not be able to talk about it later in your case.

If you tell the Clerk your Answer the Clerk will fill out a form and give you a copy. Check to see that the Clerk wrote down everything you said.

The form filled out by the Clerk when you tell the Clerk your Answer looks like this:

CIVIL COURT OF THE CITY OF NEW YORK

County of _____
Housing Part

Index No.: _____

**LANDLORD/TENANT
ANSWER IN PERSON**

Petitioner(s),
-against-

Name: _____

Respondent(s)

Address: _____

_____ Apt. _____

☐ Respondent/☐ Person claiming possession has appeared and has orally answered the Petition as follows:

Answer

SERVICE

1. _____ The Respondent did not receive a copy of the Notice of Petition and Petition.
2. _____ The Respondent received the Notice of Petition and Petition, but service was not correct as required by law.

PARTIES

3. _____ The Respondent is indicated improperly, by the wrong name, or is not indicated on the Notice of Petition and Petition.
4. _____ The Petitioner is not the Landlord or Owner of the building, or a proper party.

RENT

5. _____ No rent demand or proper rent demand, either oral or written, was made before this proceeding.
6. _____ The Respondent tried to pay the rent, but the Petitioner refused to accept it.
7. _____ The monthly rent being requested is not the legal rent or the amount on the current lease.
8. _____ The Petitioner owes money to the Respondent because of a rent overcharge.
9. _____ The rent, or a portion of the rent, has already been paid to the Petitioner.

APARTMENT

10. _____ There are conditions in the apartment which need to be repaired and/or services which the Petitioner has not provided.
11. _____ Public Assistance shelter allowance has stopped because of housing code violations in the apartment or the building.
12. _____ The apartment is an illegal apartment.

OTHER

13. _____ Laches.
14. _____ General Denial.
15. _____ Harassment
16. _____ Respondent/Person claiming possession is in the military service or is a dependent of someone in the military service.
17. _____ Other Answer _____

Dated

Clerk's Initials

NOTICE OF SCHEDULED APPEARANCE

This case is scheduled to appear on the calendar as follows:

DATE: _____ TIME: _____ PART: _____ ROOM: _____

YOU SHOULD ARRIVE AT THE COURTHOUSE AT LEAST ONE HALF HOUR BEFORE THE ABOVE SCHEDULED TIME, TO ALLOW TIME TO BE PROCESSED THROUGH THE METAL DETECTORS. IF A SETTLEMENT IS NOT REACHED ON THE ABOVE SCHEDULED DATE THE CASE MAY BE SENT TO A TRIAL-READY PART FOR A TRIAL. IF YOU WILL NOT BE READY FOR TRIAL ON THE ABOVE SCHEDULED DATE, YOU MUST ASK THE COURT FOR ANOTHER TRIAL DATE. IF THE COURT DOES NOT ACCEPT YOUR REASON FOR NOT BEING READY FOR TRIAL, AND YOUR REQUEST FOR ANOTHER TRIAL DATE IS DENIED, YOU MAY BE REQUIRED TO PROCEED TO TRIAL IMMEDIATELY.

THE CLERK CANNOT CHANGE THE SCHEDULED DATE OR TIME.

YOU MUST APPEAR AND BRING THIS FORM WITH YOU.

For assistance visit a Help Center in the courthouse or the court's website: NYCourts.Gov/NYCHousing.

Where can I learn more about my defenses?

- The Housing Court website has fact sheets about the defenses:
<http://nycourts.gov/courts/nyc/housing/factsheets.shtml>,
- You can learn more in the Housing Court Help Center,
- If you live in rent stabilized or NYCHA housing, you can use the court's free DIY (Do-It-Yourself) Form program to learn what defenses and counterclaims to tell the Court Clerk. The DIY program can be used in the courthouse or on the internet:
http://www.nycourts.gov/courts/nyc/housing/int_nonpayment.shtml.

What if I can't come to court to Answer because you are homebound, in the military, incarcerated or hospitalized?

Write a letter to the court, or send someone to Answer for you and get an *affidavit of unavailability* from the Clerk, to explain why you can't come to court.

What if I need repairs in my building or apartment?

If you need repairs, this is a defense to your nonpayment of rent that you should tell the Clerk when you Answer. The landlord/owner owes you a duty called the *warranty of habitability* to keep your home and building in liveable condition. Ask for an *inspection*. See page 11 to learn more about getting housing repairs.

Can I make a claim against the landlord/owner?

Yes! You may add "*counterclaims*," to your Answer. A counterclaim is a claim that you may have against the landlord/owner. In a counterclaim you are asking the landlord/owner to pay you money.

Who tells the landlord/owner about my Answer?

The court will send a copy of the oral Answer form that the Clerk filled out to the landlord/owner or the landlord/owner's lawyer, and the original will be kept in the court file for your case.

If you file a written Answer, you must deliver a copy to the landlord/owner by giving it or mailing it to the landlord/owner's lawyer. This is called *service*. Serve the landlord/owner only if there is no lawyer's name on the court papers. After you serve the Answer, bring a copy with an *Affidavit* swearing how you served the landlord/owner to the Landlord-Tenant Clerk's Office. You can get these free court forms from the Help Center in Housing Court or on the Housing Court website.

What happens after I file the Answer?

When you answer, the Clerk writes the court date, time and place (courtroom or *Part*) on your copy of the Answer. The court date is usually a week later.* You must be in court on your court date and be on time.

**If the court date is not good, tell the Clerk. He or she may be able to change it.*

Can the landlord/owner and I settle the case?

Yes. Most nonpayment cases never go to trial and are settled by a *Stipulation of Settlement*, often called a Stip. See page 17 to learn more about settling a case.

What do I need to bring to court?

Bring all rent receipts and proof of payment. Bring proof of any repairs that you made. Bring photographs of any conditions that you want to tell the Judge about. If an inspection was done, you can ask to see the results in the court file.

If the landlord/owner didn't make repairs or give me services, will the Judge lower the amount of money I owe?

Maybe. If the Judge finds at the trial that the repairs were very serious, and that living without them hurt you, the Judge may lower the amount you owe. This is called a *rent abatement*. The Judge can also order the landlord/owner to make repairs.

What happens if the landlord/owner doesn't make repairs that the landlord/owner agreed to make, or was ordered to make?

If the landlord/owner doesn't make repairs or give you services by the date the Judge ordered or the landlord/owner agreed to, you can go back to court to. This is called an *Order to Show Cause*. See page 24 on going back to court to ask the Judge to do something on your case.

Important! Unless the Judge or the Stipulation says something different, you still have to pay any rent you agreed to pay or were ordered to pay even if the landlord/owner didn't do what he or she was supposed to do.

What happens if the Judge holds a trial and decides that I owe the landlord/owner rent?

The Judge will decide the amount you owe and that amount will be put in a judgment. You will have only five days to pay that amount. If you pay within that time, the case is over and you will not be evicted.

What happens if I don't pay the amount owed in the judgment?

The owner can use the judgment to evict you. If you can't pay the amount owed in the judgment see page 24 on going back to court to ask the Judge to do something on your case.

If I pay the landlord/owner all the money after I get a Notice of Eviction can I stay?

After you get a Notice of Eviction, you can still be evicted even if you pay all the money. You will not be evicted if the landlord/owner tells the court to vacate the judgment against you because you paid. Get this in writing from the landlord/owner and file it with the court.

What if the landlord/owner is suing to evict me?

The landlord/owner starts a *holdover* case to evict a tenant or the another person (also called an *occupant*) in your home. A holdover case is started for a different reason than nonpayment of rent.

When can the landlord/owner start a holdover case?

Your right to stay in the home must end. This happens either:

- at the end of your lease, or
- after the landlord/owner gives (*serves*) you a written notice.*

**The landlord/owner may give you a written notice called a Notice to Cure, a Notice to Quit, and/or a Notice of Termination.*

What is a “Notice to Cure?”

The landlord/owner gives you a Notice to Cure when the landlord/owner thinks you are not following the lease. The Notice to Cure gives you time to fix the problem. For example, the notice may tell you to remove an illegal washing machine, or give up your pet, or stop making noise.

Important! If you don’t correct the problem by the deadline in the notice, the landlord/owner must give you a *Notice of Termination* ending your lease before he or she can start a case against you.

What is a Notice of Termination?

The landlord/owner gives you a Notice of Termination to end your tenancy. The notice:

- tells you the reason, and
- tells you the date that you must move, and
- tells you the landlord/owner will start a case if you don’t move by the deadline.

Can the landlord/owner start a case to evict me even if I didn’t do anything wrong?

Maybe. If you do not have a written lease, or your apartment is not rent regulated and your lease expired, the landlord/owner may be able to go to court to evict you even if you did not do anything wrong.

Can the landlord/owner start a case to evict me if I don’t have a lease and I’ve lived in my home for a long time and I don’t owe any rent?

Yes, unless you are a rent controlled tenant.

What is a Notice to Quit?

The landlord/owner gives you a ten-day Notice to Quit when the landlord/owner thinks you do not have any right to stay in the apartment. You get this notice if you started living in the apartment without the landlord/owner’s permission.

If you don't move out by the deadline in the notice, the landlord/owner can start a case against you.

What happens if the landlord/owner starts a case against me?

To start a holdover case, the landlord/owner must give you court papers called a *Notice of Petition and Petition*. The papers tell you the date, time and place (courtroom or *Part*) when you have to come to court. The Court Clerk will also mail you a postcard.

If you get a Petition or a postcard, you must come to court on the court date.

Should I pay the rent?

If you try to pay, the landlord/owner may not accept the money. But, if the landlord/owner takes your money after the deadline in the Notice of Termination or a Notice to Quit, this can be a defense. Tell the court. The landlord/owner may have to start all over again.

Once the case has started, the landlord/owner can take your money. This is called *use and occupation* instead of rent. A Judge can order you to pay use and occupation while the case is going on. The use and occupancy can be more than the rent you pay.

What should I say on the court date?

When you go to court you must tell* the court attorney and the Judge your answer to what the landlord/owner said in the Petition. An Answer lets you tell the court your side of the story. Your Answer is the legal reasons that you should not have to move. The legal reasons are called *defenses*.

Your defenses depend on the facts of your case. Here are some examples:

- You didn't do what the landlord/owner said you did, or it is not as bad as the landlord/owner said, or you fixed the problem.
- The Notice to Cure or the Notice of Termination do not contain enough details for you to understand what the landlord/owner is claiming.
- The Notice of Termination was not signed by the landlord/owner or someone allowed to sign for the landlord/owner.

Important! If you do not tell the Court Attorney or Judge about a defense when you go to court you might not be able to talk about it later in your case.

*You can also answer the Petition in writing instead of saying your answer on the court date. Visit the Help Center or see: <http://www.nycourts.gov/courts/nyc/housing/answering.shtml>.

Does the landlord/owner have to give me court papers in a special way?

Yes. The written notices and the Notice of Petition and Petition must be given to you the right way. This is called *service* of papers. If the landlord/owner does not serve you

the right way this is a defense. Tell the court. The Judge may make the landlord/owner start all over again. See page 13 to learn how legal papers are delivered.

Can the landlord/owner bring me to court for complaining?

Not legally. If the landlord/owner is suing to "get even" because you complained to a government agency about your housing conditions or joined a tenants' association, this is a defense. Tell the court. This is called a *retaliatory eviction*.

What if I am not on the lease, but I've lived in my home with my family for years?

You *may* have a right to a lease in your name if:

- you live in a rent controlled, rent stabilized or Mitchell-Lama apartment, and
- you are a family member, or
- you had a close family-like relationship with the tenant, and
- you lived with that tenant before he or she left the apartment.

This is a defense called *succession rights*. Tell the court.

Do I have to go to court?

Yes! If you don't go to the court hearing, the Judge will decide without hearing your side of the case. This is called an *inquest*. If the landlord/owner wins the inquest, he or she will get a *judgment on default*. You can be evicted if the landlord/owner gets a judgment against you. See page 24 on going back to court to ask the Judge to do something on your case.

What happens if the Judge holds a trial and the landlord/owner gets a judgment against me?

The Judge will order you to move, but may give you some time to find a new place to live. The Judge can't give you more than six months.

If the Judge finds that you have broken the lease and orders you to move, you may be given 10 days to fix the problem. If you fix it, the case is over, you may have to pay legal fees and costs, but you will not be evicted.

What if I need more time to find a place to live?

You must come to court and ask the Judge for more time. See page 24 on how to go back to court to ask the Judge to do something on your case. Save all ads for apartments that you tried to get, with dates and notes like "already taken," "too small" or "bad neighborhood" to prove to the Judge that you really tried to find another apartment. You can also tell the Judge reasons you were unable to look, like you were sick, or you had a death in your family.

What if the landlord/owner evicted me without a court order?

The landlord/owner can't evict you without first going to Housing Court and getting a court order if you have lived in your home for more than 30 days. You can start an *illegal lock-out* case if you are evicted without a court order and want the court to let you back in your home.

What do I do if the landlord/owner has changed my locks, or turned off my heat, water or electricity to try to force me to move?

Call the police, they may be able to help. The police may order the landlord/owner to let you back in to your home and tell the landlord/owner that a case must be started in Housing Court.

Or you can start an *illegal lock-out* case against the landlord/owner in Housing Court.

How do I start my illegal lock-out case?

Go to the Landlord-Tenant Clerk's office and fill out a court form called a *Petition* in Support of an *Order to Show Cause*. If you can, bring your lease, rent receipts, utility bills and mail addressed to you at your home.

If the Judge signs the Order to Show Cause, you will get a court date a day or two away.

Who tells the landlord/owner about my case?

The Order to Show Cause will have instructions explaining how and when the court papers must be given to the landlord/owner. You must *serve* the court papers on the landlord/owner in the way the Order the Show Cause says.

What happens on the court date?

Bring your copy of the papers, proof of service, and any other proof that shows you live in the apartment with you on the court date. If you win at the hearing, the Judge will order the landlord/owner to put you back in the apartment.

Can I get money back that I spent because I was locked out?

If you spent money on a hotel, food, clothing, or household items, or you missed work, the Judge may order the landlord/owner to pay you back if you ask for this in the *Petition*. In some cases, you may be able to get three times the amount of money you spent. This is called *treble damages*.

What should I do if I need housing repairs?

If you have problems in your apartment or building, first notify the landlord/owner or superintendent about the condition. If the condition is not fixed:

- call 311 and ask for a housing inspection, or
- start a HP case in Housing Court.

How do I notify the landlord/owner about conditions in my home or building?

Before you start a HP case you should tell the landlord/owner and superintendent about any problems in your apartment or building. Write a letter to the landlord/owner and mail it by certified mail, return receipt requested, so you have proof. Include a list of the problems in the apartment and how long each problem has existed. Keep a copy of the letter and the certified mail receipt.

What is a housing inspection?

An inspector from the NYC Department of Housing Preservation and Development (DHPD) will come and record housing violations in your home and the public areas of your building. The landlord/owner will get a notice of all the violations that need repair. You can call 311 to ask for an inspection without going to court.

If you have any case in Housing Court, you can ask the Clerk in the Landlord-Tenant Office or in the courtroom for a housing inspection. You will have to make a list of all the repairs needed in your apartment and the public areas. If you do not list a problem, the inspector will not look at it. The court will get a copy of the inspector's report.

Important! Make sure someone is home to let the inspector in on the inspection date.

What is a HP case in Housing Court?

You can start a HP case if you need repairs in the home that you rent or in the public areas of the building. Go to Housing Court and tell the Clerk that you want to start a HP case. You will fill out a HP Petition, and pay the \$45 court fee. The Petition should list every condition that needs to be repaired in your home and public areas of your building. You should also ask for a housing inspection.

You will get a court date to come back and instructions on how to give the landlord/owner and DHPD notice of the HP case.

What do I do if I need emergency repairs?

When you start a HP case and you have dangerous conditions in your home, such as no heat or hot water, no electricity, flooding, or a fire hazard, tell the Clerk. If the condition is an emergency, you will get an earlier court date.

What happens in court during a HP case?

On the court date you should find the DHPD attorney. The DHPD attorney is not your lawyer, but is also interested in making the landlord do the repairs. The case may be settled or given another date for a trial.

What is an *order to correct*?

In a HP case, as part of a settlement agreement, or after a trial, the Judge may order the landlord/owner to correct any repairs in your apartment and building in an *order to correct*.

What happens if the landlord/owner does not make the repairs in the order to correct?

If the landlord/owner does not make the repairs in the order to correct, you ask the court for another court date to tell the Judge. See page 24 on how to go back to court to ask the Judge to do something on your case. On the new court date, the Judge may order the landlord/owner to pay a fine to the City of New York if the Judge decided that the landlord/owner did not do the repairs in the order to correct. In some cases, the landlord/owner may even be jailed.

What can I do if the landlord/owner is not maintaining my building and it needs serious repairs?

If your entire building has serious problems, such as no heat or hot water, or a lack of basic maintenance or services, a group of tenants can start an *Article 7A Proceeding* in Housing Court. An Article 7A case asks the court to replace the landlord/owner with an administrator to run the building and make repairs.

How do I start an Article 7A case?

You need at least one-third of all the tenants in the building to bring a 7A case. You can contact the DHPD Tenant Assistance Unit for help at (212) 863-7356.

What happens if the court appoints a 7A administrator?

The landlord/owner still owns the building, but is removed as active manager. The administrator collects the rent monies and uses them to make repairs and to put the building back in shape. Tenants still have to pay rent. If the 7A administrator repairs the building, the court can give control of the building back to the landlord/owner.

What do I do if the landlord/owner is harassing me?

You can start a *Harassment Proceeding*:

- if the landlord/owner is trying to force you to move out, and
- you live in a building with three apartments or more, and
- your building is not government housing.

If the Judge finds that the landlord/owner is harassing you, the Judge will order the landlord/owner to stop and can order the landlord/owner to pay a fine.

When can I start a Harassment case?

You can start a case against the landlord/owner if the landlord/owner has tried to force you to move out by harassing you. Examples of harassment include:

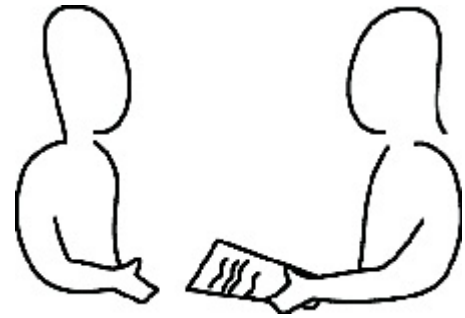
- trying to hurt you,
- threatening to hurt you,
- stopping your heat and hot water or other services after you file a complaint,
- leaving your apartment in an unlivable condition,
- taking you to court for nothing over and over again,
- removing the door or changing the lock of the apartment without giving you a key.

How do I start a case?

Go to Housing Court and tell the Clerk that you want to start a Harassment case. You will fill out a Petition, and pay the court fee. Your Petition should list how the landlord/owner is trying to force you to leave. If there are conditions that need to be repaired in your home and public areas of your building, you should list that too. You can ask for a housing inspection. You will get a court date to come back and instructions on how to serve the court papers.

How are legal papers delivered?

Legal papers must be given to you the right way. This is called *service*. The person that served the papers must swear how they were given to you in an *Affidavit of Service*.



The landlord/owner handed the papers to me, is that ok?

No, the landlord/owner can't serve the papers. Someone who is 18 or older - **not** the landlord/owner - can hand legal papers to you. This is called *personal delivery*.

The papers were given to someone else to give to me, is that ok?

Maybe. Legal papers can be given to someone who lives or works in your home, this is called *substituted delivery*. Papers left with a neighbor or doorman are not served the right way.

The person that the papers are left with must be responsible. This person does not have to be an adult but it should not be a small child. Papers also must be mailed to you.

The papers were left on my door, is that ok?

Maybe. Legal papers can be left on or under your door as long as the landlord/owner has first made two attempts to find you at home. Papers also must be mailed to you. This is called *conspicuous place delivery*.

I only got the papers by mail, is that ok?

No. Before copies of the papers are mailed to you by regular and certified mail, someone must go to your home and leave a copy of the papers:

- with someone who lives or works in your home, or
- on or under your door.

I didn't get any papers by mail, is that ok?

Maybe. If the papers were handed to you in person, a copy of the papers doesn't have to be mailed. If the papers were left for you, copies of the papers have to be mailed by regular and certified mail.

I got a postcard from the court, but no papers from the landlord/owner, is that ok?

No. But you still must go to court. Tell the Clerk you didn't get the papers the right way.

I got papers, but the other people that live with me didn't, is that ok?

No. Every person named in the case must get his or her own set of papers. If the landlord/owner doesn't know someone's name, the person may be listed on the papers as "John" or "Jane Doe."

What do I do if I was not served the right way?

It is a defense if you were not served the right way. You must tell the Court Clerk or the Court Attorney or Judge right away or you may not be able to say this later. The Judge may hold a hearing to decide if the papers were served the right way. This is called a *Traverse* hearing.

What happens at a Traverse hearing?

To get ready for a Traverse hearing you should ask the Clerk for a copy of the Affidavit of Service. At the hearing, the server is asked about the truth of the statements in the Affidavit. The Judge hears testimony and decides if the papers were served correctly.

If you win the hearing, the case will be dismissed. But the landlord/owner may start the case over again by giving you a new set of legal papers.

What do I do if I get a certified mail pick-up slip from the Post Office?

If you get a notice from the Post Office that there is registered or certified mail for you, go pick it up. The court considers the papers served whether you picked them up or not, as long as the rest of the rules were followed.

How do I get ready for court?

Get all your court papers together. Find your lease and lease renewals. Gather any materials you have to prove your case. It is good to make a record of the dates and conversations you had with the landlord/owner so you can talk about them in court.

What should I bring to court if I have repair issues?

You should bring:

- Records of all your apartment and building problems
- Photos. Mark each photo with the date it was taken and what is pictured.
- Letters you received and copies of letters you wrote.
- Bills and receipts for labor and materials.

What should I bring to court to prove I don't owe rent money or I am being overcharged?

Bring proof of your rent payments, such as rent receipts, DSS print-outs, canceled checks or copies of money orders. Bring any papers that show your legal rent, such as DHCR records, your lease, or Section 8 papers.

What do I do when I go to court?

What time should I get to court?

Get to court early. Plan to arrive 45 minutes before your court time. You will have to go through a security line at the entrance to the courthouse. Remember you may be in court all day with a break between 1:00 - 2:00 pm.

Can I bring my children with me?

Yes, but if you can it is better to find someone to watch them during your court appearance.

How should I dress for court?

Court is a formal place and you should dress respectfully. Do not wear t-shirts with curses, belly shirts, plunging necklines, sunglasses, or torn clothing. You will be asked to take your hat off. You do not have to buy new clothing for court.

What happens on my first court date?

Your case will not be tried on your first court date.* You will go to a courtroom called a *Resolution Part* where the Judge and the Court Attorneys (or HPD Attorney for HP cases) will speak to you and the landlord/owner to see if an agreement can be reached to settle your case. You can watch a video to learn more about the Resolution Part: <http://nycourts.gov/courts/nyc/housing/resolutionvideo.shtml>.

**Exception! If you are in court for an illegal lock-out case, you may have a trial on your first court date.*

What do I do in the Resolution part?

Go see the Clerk seated at the front of the courtroom and let him or her know you are there. If you need an interpreter, more time, or an inspection, tell the Clerk. Then take a seat and wait for the clerk to call all the cases. This is called the *calendar call*.

Should I speak to the landlord/owner or the attorney by myself?

The landlord/owner or the landlord/owner's attorney may call out your name to talk to you alone. You can talk to the landlord/owner or the attorney to try to settle the case, but you do not have to; you can tell the attorney that you want to wait until the case is called. You will have a chance to see if the case can be settled when you and the landlord/owner meet with the Judge or the Court Attorney.

What should I do when my case is called in the calendar call?

When you hear your name answer **tenant**. Tell the court again if you need more time, an inspection or an interpreter.

What should I do if I need more time to get ready for my case?

If you need time to get an attorney or documents, or if you are not ready to talk about your case, this is called an *adjournment*. This means you are asking to come back on a later date.

Important! If you owe rent and ask for a second adjournment, or if the case has been in court for more than 30 days, the Judge may make you deposit the money in court.

What happens when the court calls my case?

That depends on why you are in the courtroom:

- If you are there to see if your case can be settled, you will see the Court Attorney or Judge.
- If you have settled the case you will be called to see the Judge. The Judge will ask questions to make sure you and the landlord/owner understand the agreement.
- If you are there because you or the landlord/owner served papers asking the Judge to do something on your case by an *Order to Show Cause*, you will see the Judge. The Judge will listen to you and the landlord/owner and make a decision.

What happens if the case is not settled?

If the case is not settled, you will be given a date to come back to court for a trial in a different courtroom. Before going to a Trial Part, you will see a Clerk called the *Expediter*. The Expediter sends you to the Trial Part when everyone is ready.

Important! You may get papers from the landlord/owner or the court that tell you to come to court before your next court date. Do not ignore the papers, come back to court on that date.

Can the landlord/owner and I agree to settle the case?

You and the landlord/owner can settle your case with or without the help of the court.

What should I do if the landlord/owner and I agree to settle the case before the court date?

If you and the landlord/owner make an agreement, you should:

- Put your agreement in writing.
- Both you and the landlord/owner must sign the agreement.
- Make a copy for the court and another for your records.
- Go to court to show the Judge what you and the landlord/owner agreed.

How do the landlord/owner and I settle the case in court?

If you want to try to settle the case, find the landlord/owner or the landlord/owner's attorney. You can talk to the landlord/owner or the attorney by yourself or you can wait until a Court Attorney calls your case. You will have a chance to see if the case can be settled when you and the landlord/owner meet with the Judge or the Court Attorney

If you and the landlord/owner make an agreement it will be written down in a *Stipulation of Settlement*. When settling the case:

- Only agree to what you think is fair.
- Be sure you can do what you promise by the dates you promise.
- Make sure the agreement addresses all your defenses.
- Ask the Court Attorney to explain any legal terms.
- Do not sign anything unless you have read and understand it.

The Judge will review the Stipulation of Settlement and speak to you and the landlord/owner. If something is not clear, you can ask the Judge questions.

What should the Stipulation say if I need repairs?

The stipulation should list the repairs that the landlord/owner agrees to fix. The stipulation should list the dates and times the landlord/owner will come to do the repairs and the dates that the repairs will be finished.

What should the Stipulation say if the landlord/owner agreed to reduce the rent I owe?

If the landlord/owner agrees to reduce or *waive* some of the rent you owe because of conditions you have lived with in the apartment, or because you have agreed to move, the Stipulation should say the amount of money waived and the time period covered.

What should the Stipulation say if I have agreed to correct any issues?

The stipulation should give you enough time to correct any issues which you have agreed to take care of. For example, if you have agreed to give up the apartment or the

landlord/owner has agreed to waive rent in exchange for giving up the apartment, the stipulation should give you enough time to find a place to move.

What should the Stipulation say if the landlord/owner and I have agreed to a payment plan?

If the Stipulation sets up a payment schedule, it should clearly list the amounts and the dates the payments are due. Be sure you can make the payments by the dates you agree to pay.* If you miss a payment and need to ask the court for more time, the court will make you deposit all of the money due on the judgment unless the Stipulation says you don't have to. The Judge may not be able to give you more time to pay.

**Remember, rent money from the Department of Social Services can be delayed.*

Will settling the case hurt my credit rating?

Maybe. Your credit rating will be affected if the Stipulation has a judgment for the landlord/owner. If the Stipulation has a payment agreement and it says that the judgment will be vacated after payment, you can have the judgment removed after you pay and it won't be on a credit report.*

**Your name may appear on a Tenant Screening Report which reports the names of tenants sued in Housing Court. Landlord/owners use this report to screen out people they think may be bad tenants.*

Must the Stipulation have a judgment for the landlord/owner?

No. You can agree to settle the case without a judgment. If the Stipulation has a judgment, and you do not do what you promised to do, the landlord/owner can evict you without coming back to court.

What if the landlord/owner doesn't do what is supposed to be done in the Stipulation? What if I need more time to do what I am supposed to do?

If you **or** the landlord/owner do not do what you agreed to in the Stipulation of Settlement, or you need more time to do what you agreed, you can go back to court. This is called an *Order to Show Cause*. See page 24 on how to go back to court to ask the Judge to do something on your case.

What if I don't want to settle the case?

If you don't want to settle the case you do not have to. Nobody can force you to settle the case. If the case is not settled there will be a trial.

Can the landlord/owner and I make an agreement that changes the Judge's decision?

Yes, but put it in writing and keep a copy for your records. Keep the written agreement handy, especially if the landlord/owner agrees to let you stay.

What happens at a trial?

At a trial, the petitioner tries to prove his or her case and the respondent tries to prove his or her defenses or counterclaims. Both sides testify and show their proof to the Judge. Then the Judge makes a decision.*

**Your case may be decided by a jury if you filed a jury demand.*



How do I get ready for trial?

Get all the information related to your case. This may include witnesses or papers, such as:

- copy of the lease
- letters you wrote or received about the apartment
- photos
- housing inspection reports

Bring the original papers or certified copies to the trial.

What can I do if a witness refuses to come to court or I can't get documents I need?

If a witness refuses to come to court or you are having trouble getting documents you need, you can *subpoena* them. Go to the Landlord-Tenant Clerk's office and tell the Clerk you need a subpoena. A subpoena must be served at least 48 hours before the trial date.

What do I do when I get to the courtroom for trial?

Tell the Clerk that you are there. The Judge will ask you and the landlord/owner or the landlord/owner's attorney some questions and may try to settle the case. If you do not settle and both sides are ready, the Judge will hold a trial of your case that day.

What should I do if I need more time to get ready for my trial?

If you need time to have all your witnesses or documents ready or for some other reason you can ask for an adjournment. The court may say no because your case is supposed to be ready for trial by the time is sent to a Trial Part.

How do I act during the trial?

During the trial:

- be yourself and just say what happened,
- give complete answers,
- don't argue with the landlord/owner or the landlord/owner's attorney or the Judge.

What happens during the trial?

The Petitioner tries to prove his or her case first. If your landlord/owner started the case against you then the landlord/owner goes first. If you started the case, you go first. This is called *testifying*. You will have a turn to ask each witness questions. Everyone who testifies must swear to tell the truth.

You and the landlord/owner can *object* to questions, answers or documents.

How do I object?

You can *object* if you think there is a reason why the testimony or the document should not be allowed by the Judge, not just because you disagree with it. You can object if:

- the witness is only repeating what someone else told him or her (this is called *hearsay*),
- you think that the testimony or document has nothing to do with the case (this is called *irrelevant*),
- a document is not certified or an original or has been changed.

If you have an objection you must interrupt the trial and say, **objection**. The landlord/owner can also object.

What happens at the end of the trial?

When you and the landlord/owner are finished explaining your side of the case, the Judge will make a decision and the winning side will get a *judgment* from the court. You may find out the decision right away or you may get it in the mail later on.

What if I think the Judge was wrong?

If you lose and think the Judge made a mistake, you can go to the Appellate Term of the Supreme Court to *appeal*.

How do I appeal if I lose the case?

You can only appeal a Judge's order or judgment. An appeal is expensive and must be made quickly. The Clerk can tell you what to do. The appeal is made at the Appellate Term of the Supreme Court.

What is an eviction?

An eviction is when a City Marshal comes to your home, changes the locks, or removes your things, and makes you and your family leave.



What is a Notice of Eviction?

A Notice of Eviction is a paper given to you by a City Marshal after the landlord/owner wins the court case. This can happen even if you missed your court date. The Notice of Eviction tells you that you will be evicted from your home in a few days.

If I got a Notice of Eviction when will I be forced to leave?

Very soon. Call the number for the Marshal on the Notice of Eviction and ask when the eviction is going to happen. Immediately go to court to ask the Judge to stop the eviction.

Can I be evicted if I have children, or live with a disabled, or elderly person?

Yes. But, if you or someone you live with is disabled or elderly, or is unable to take care of him or herself, the Marshal must notify a social services agency before that person can be evicted.

Can the landlord/owner change my locks and evict me?

Probably not. The landlord/owner can only change the locks and evict someone who has been in the apartment for less than 30 days. If you have lived in your home for more than 30 days, only a City Marshal can evict you **and** only after the landlord/owner has taken you to Housing Court and won a judgment against you.

How can I stop an eviction?

Go to the Landlord-Tenant Clerk's Office immediately. You will need to get an *Order to Show Cause*. If a Judge signs the Order to Show Cause with a *stay* of the eviction, this will stop the eviction at least until you can come back to court and tell a Judge what happened. See page 24 on how to go back to court to ask the Judge to do something on your case.

Important! It may be hard to stop the eviction if the landlord/owner has a judgment against you after trial or you did not keep the promises you made in a Stipulation of Settlement.

A *Notice of Eviction* is different from the *Notice of Petition and Petition*, which are the papers that start a court case against you.

What do I do if I need to go back to court to ask the Judge to do something on the case?

An *Order to Show Cause* is a way to ask the Judge for to do something on the case. It can be used:

- to ask the court to stop an eviction,
- to make a landlord/owner do what he or she was ordered to do or agreed to do,
- to ask for more time to do what you were ordered to do or agreed to do,
- to bring your case back before the Judge for any other reason,
- to explain why you missed your court date or didn't Answer.



How do I make an Order To Show Cause?

Go to the Housing Court Clerk's Office. The Clerk will give you an *Affidavit* to fill out. An *Affidavit* is your sworn statement that tells the Judge what you need. The Clerk will create the Order to Show Cause (OSC) and send the OSC and your *Affidavit* to the Judge. You may have to wait for some time for the Judge to review the papers.

If you missed your court date or didn't Answer the Notice of Petition and Petition you can use the court's free DIY (Do-It-Yourself) Form program to make your *Affidavit*. You can use the program in Housing Court or on the internet:

http://www.nycourts.gov/courts/nyc/housing/int_tenantaffidavit.shtml.

Important! Tell the Clerk if you know that your eviction is already scheduled.

What do I write in the Affidavit if I missed my court date or didn't Answer the Notice of Petition and Petition?

If you are being evicted because you did not come to court when you were supposed to, you must show two things in the *Affidavit*:

1. A good reason for not going to court when you were supposed to, for example, "I never received the court papers" or "I was sick," **and**,
2. A good defense against the landlord/owner's claim in the petition, such as "I paid some of the rent," or "I need repairs."

If you use the court's free DIY program, it will help you fill in the two things you need to prove in the *Affidavit*.

If you never came to court and you were evicted already in addition to a good reason and good defense, you have to show the Judge *good cause* for putting you back in your home. This depends on the facts of your case. The Judge will want to know things

like, how much money you owe, if your home was re-rented to someone else, how long ago were you evicted, how long did you live there, how is your health, or if you have any disabilities.

What do I write in the Affidavit if the landlord/owner didn't do what he or she was supposed to do?

If the landlord/owner did not do what he or she promised to do in a Stipulation of Settlement or was ordered to do by the Judge, your Affidavit must explain what happened. For example, "The landlord didn't make repairs to the kitchen," or "The landlord didn't send me the new lease."

What do I write in the Affidavit if I need to ask for more time to do what I was ordered to do or agreed to do?

If you need to ask for more time to do what you promised to do in the settlement agreement or were ordered to do by the Judge, you must give the court a good reason. For example, "DSS didn't send me the check yet," or "I haven't found a new apartment even though I've been looking very hard." The Judge may not be able to give you more time.

Come to court to make an OSC as soon as you know that you will not be able to do what you are supposed to do. You do not have to wait until the date passes.

What happens if the Judge signs the OSC?

If the Judge signs the OSC you will have to serve the papers on the landlord/owner and maybe the Marshal. The Clerk will tell you what to do.

You will have to come back to court on the date on the OSC to see the Judge. Bring your proof with you. The Judge will listen to you and the landlord/owner and make a decision.

What happens if the Judge does not sign the OSC?

The Clerk will give you a copy of the OSC and tell you the reason the Judge didn't sign the OSC.

It is also possible to go to the Appellate Term of the Supreme Court to ask the Judges there for help. Ask the Clerk what to do.

If you are in danger of eviction and the Judge or the Appellate Term do not help you, you can be evicted.

Can I make more than one OSC?

Yes. But you have to tell the Judge that you made an OSC before.

Where can I go for help?

Where can I find a lawyer?

The following organizations can be of help:

- Legal Referral Service (212) 626-7373: This service gives you a contact information for a lawyer who will charge a \$35.00 consultation fee for the first half-hour. If you hire the lawyer after this consultation, you and the lawyer will work out the cost.
- Legal Aid Society (212) 577-3300 and Legal Services (212) 431-7200: These organizations are available free of charge if you cannot afford a lawyer.

Is there free help at the courthouse?

Yes. There is a Help Center in every Housing Court where you can meet with a court attorney to get legal information. The Help Center also has helpful videos, written information and forms, and internet access for legal help. No appointment is necessary. You are seen on a first come, first serve basis. Most centers are open late on Thursdays.

There are also Volunteer Lawyers in the Help Center that can give you free legal advice. You can check the website to see when a volunteer will be in there:

<http://www.nycourts.gov/courts/nyc/housing/vlpselfrep.shtml>.

Where do I get Housing Court information on the internet?

The Housing Court has a website with more information. There are free court forms, videos, and publications. The website is also available in Spanish and Chinese. Visit: <http://nycourts.gov/nychousing>.

For case information, visit:

<http://iapps.courts.state.ny.us/housing/HousingJcaptchaServlet>.

Can I call Housing Court?

Yes. For information on your case and legal and procedural information call (646) 386-5750. The service is provided 24 hours and is available in Spanish.

To find phone numbers to call the courthouse directly:

<http://www.nycourts.gov/courts/nyc/housing/addresses.shtml>.

How can I get more information on my rights in Housing Court?

Housing Court Answers (formerly City-Wide Task Force on Housing Court) has information tables in most Housing Courts, or you can call them at (212) 962-4795 or the Metropolitan Council on Housing at (212) 979-0611.

Where can I go to get financial help?

- To apply for public assistance: Go to your local office of the New York City Department of Social Services ("DSS"). Also, check to see if there is a DSS liaison office in the Housing Court building.
- For rental assistance: The Emergency Rent Coalition is a group of NYC charities that provides financial assistance to tenants facing eviction. Which charities have funding available changes from week to week. To see who may be able to help you, call Housing Court Answers (formerly City-Wide Task Force on Housing Court), rental arrears hotline at (212) 962-4795.

Is there a number to call to about bad housing conditions and heat or hot water complaints?

Call the New York City Hotline at 311. They can send an inspector.

Where can I find help to organize the tenants in my building?

- Metropolitan Council on Housing: (212) 979-0611.
- Tenants and Neighbors: (212) 608-4320.

Where do I go if the landlord/owner is discriminating against me?

If the landlord/owner is discriminating against you due to your age, race, gender, sexual orientation or any other grounds, call the New York City Commission on Human Rights at (212) 306-7500 or the New York State Division of Human Rights at (718) 741-8400.

Where can I find information about rent control or rent stabilization?

Call the New York State Division of Housing and Community Renewal at (718) 739-6400. This office hears complaints about:

- rent overcharges,
- decreases in service,
- harassment, and
- lease renewals.

Where can I get help solving my problem without going to court?

You can find the location of a community dispute resolution center near you in the phonebook or at: <http://www.nycourts.gov/ip/adr/ProgramList.shtml>.

Are there any helpful community seminars about Housing Court topics?

Yes. There are free community seminars held in the Housing Court. For information about upcoming events visit: <http://www.nycourts.gov/courts/nyc/housing/news.shtml>.

To watch past community seminars on the internet, visit:

<http://www.nycourts.gov/courts/nyc/housing/videos.shtml#seminars>.



Send comments about this book to
www.nya2j@courts.state.ny.us.
Follow us on Twitter: www.twitter.com/NYCcourtsA2J