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EVICITION SUITS

An eviction suit must be filed in the County and Precinct where the rental property is located.

NOTICE TO VACATE The landlord must give the tenant a written notice to vacate. It must state the reason for demand of property and give a specific date by which the tenant must vacate the property. The notice must be signed by the landlord or landlord's agent and must include the date and time of delivery to the tenant. The notice to vacate shall be given in person or by mail at the property in question. Notice in person may be by personal delivery to the tenant or any person residing at the premises who is 16 years of age or older or personal delivery to the premises and affixing the notice to the inside of the main entry door. If the property has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises to leave the notice to vacate on the inside of the main entry door, then the landlord may affix the notice to the outside of the main entry door. Notice by mail may be by regular mail.

Unless there is a written lease regulating the notice requirements, the landlord must give the tenant 72 hours (3 days) notice to vacate in cases pertaining to non-payment of rent and/or breach of lease.

WHO MAY FILE The owner of the property or the owner's agent may file the eviction suit. The agent may represent the owner in cases pertaining to non-payment of rent and holding over. All other types of cases, (breach of lease, foreclosure, etc.) Must be represented by the owner or the owner's attorney.

SUIT FOR RENT When a eviction suit is filed for non-payment of rent, the landlord may include in the suit any unpaid back rent that is owed by the tenant. The amount must be within the jurisdictional limit of the Court which is \$10,000.00. Any damages, late charges or other charges may not be included in the suit, however, the landlord may file another suit in small claims court for these amounts.

FILING AN EVICTION SUIT If the tenant does not vacate the property by the date given in the notice, the landlord or agent may then file an eviction suit. The landlord or agent must fill out the enclosed petition & affidavit. The petition and affidavit must be signed in front of the court clerk or in front of a notary public. Bring to this office, the petition & affidavit, a copy of the notice to vacate and the filing fees in the amount of \$41.00 and service fees in the amount of \$65.00 per tenant until January 1, 2013 then \$75.00 per tenant. Each tenant that has signed the lease must be served with a citation. The exact amount of cash or check will be accepted. At the time of filing, a hearing date will be set by the Court. The date will be 10 to 21 days from the

date of filing. A citation for each tenant will be issued to the Randall County Sheriff's Office to be served on the tenant. The citation notifies the tenant that they are being sued for eviction and they are commanded to appear at the date and time of hearing. Either party has a right to a JURY TRIAL. A \$22.00 jury fee must be paid prior to the hearing date.

HEARING The landlord or landlord's agent must appear in court for the hearing. Proper representation is essential. The landlord or agent must appear with all pertinent evidence pertaining to the case, (lease, notice to vacate, etc.) The burden of proof lies with the landlord. The landlord or agent must show the Court good and sufficient evidence proving right to regain possession of the property.

If the landlord fails to appear for the hearing, the case will be dismissed by the Court and the landlord will have forfeited all costs and will have to start the process over.

If the landlord wishes to drop the suit for whatever reason, (tenant moves, pays rent, etc.) a letter of dismissal is requested by the Court. Please notify the Court prior to the hearing so that the docket can be adjusted. At the hearing, a judgment will be entered for either the landlord or the tenant. Either party has the right to appeal the decision of the Court within 5 days from date of the judgment.

If a judgment is rendered in favor of the landlord, the tenant has 5 days to vacate the property or appeal the decision of the Court. If they do not, the landlord has the right to obtain a Writ of Possession.

WRIT OF POSSESSION A writ of possession may not be issued more than 60 days after judgment for possession is signed. For good cause, the court may extend the deadline for issuance to 90 days after judgment is signed. A writ of possession is a legal document issued to the Sheriff's Office by the Court directing them to take possession of the property and turn possession over to the landlord. The costs of a writ are \$155.00 The Sheriff's office is required to give the tenant notice that the writ will be executed not sooner than 24 hours after the notice is posted. When the writ is executed, the Sheriff's office will turn the premises over to the landlord.

IF YOU HAVE ANY QUESTIONS REGARDING PROCEDURES YOU MAY CONTACT OUR OFFICE. THE JUDGE WILL NOT DISCUSS THE CASE WITH EITHER PARTY PRIOR TO THE HEARING. THE CLERK'S WILL TRY TO ANSWER ANY PROCEDURAL QUESTIONS, HOWEVER, THEY ARE NOT ATTORNEY'S AND WILL NOT ANSWER ANY LEGAL QUESTIONS. IF YOU HAVE ANY LEGAL QUESTIONS, PLEASE CONTACT ANY ATTORNEY OR CONSULT THE TEXAS PROPERTY CODE WHICH IS AVAILABLE AT THE PUBLIC LIBRARY.