

INSTRUCTIONS FOR EVICTION

IMPORTANT! READ BEFORE USING THIS PACKET
Court employees cannot help you fill out the form(s).

You should consult a lawyer if you do not know how to answer the questions on these forms or if you think the other party will hire a lawyer.

You may go to court without a lawyer, but you will have to abide by the state or federal laws that apply to your case, the appropriate court rules, including North Dakota Rules of Civil Procedure, North Dakota Rules of Court, North Dakota Administrative Rules and Orders, and any local court rules. Links to the rules and state laws can be found at www.ndcourts.gov.

These instructions and forms are not a complete statement of the law. They cover basic procedure for eviction. For legal information, consult a lawyer.

Chapter 47-32 of the North Dakota Century Code governs evictions in North Dakota. The most common reason to evict a tenant is failure to pay their rent. However, a tenant can be evicted for other material violations of a lease or rental agreement. Examples of a material violation are: unreasonable peace disturbances, illegal activity on the premises, unreported pets, too many occupants, or damage to the premises.

EVICTION FORMS

1. Notice to Evict
2. Summons
3. Complaint
4. Findings of Fact, Conclusions of Law, Order
5. Judgment
6. Affidavit of Identification

Notice to Evict

- This gives the tenant notice to move out of the residence within 3 days.
- The first line should be filled in with the name of the person renting from you (tenant).
- Fill in the street address, city and zip code of the property.
- Fill in the date the lease was signed or the date of the rental agreement.
- Check #1 if there is unpaid rent – fill in the amount of unpaid rent and the period of time that was unpaid.

- No. 1-6: Check all that apply. Use #5 and #6 to explain violations that aren't already listed. Example: illegal activity
- Date and sign the document.

The Notice to Evict must be served on the tenant. Please read the section of law that deals with service of the Notice to Evict in the North Dakota Century Code section 47-32-02. The Notice can be served by someone who is 18 years of age or older and not a party to the action (landlord) by personally handing it to the tenant. If it is served this way, you must file an Affidavit of Personal Service. If the Notice to Evict is mailed to the tenant, you must fill out an Affidavit of Service by Mail. If the tenant can't be found, the Sheriff can serve the notice by posting the Notice to Evict on the premises.

Summons

- If the tenant does not move out of the premises within the 3 days given on the Notice to Evict, you can file a Summons and Complaint with the District Court. This begins the legal action.
- Fill out the heading:
 - Name of County – this is the county in North Dakota where you will file the case.
 - Plaintiff – you are the Plaintiff. Fill in your full name.
 - Defendant – The tenant is the Defendant. Fill in the tenant's full name.
 - Case Number – You will get a case number from the Clerk of Court when you file the case and pay the filing fee. You will fill in the case number at that time.
- #1 – On the blanks provided, write the reasons why you are trying to evict the tenant.
- #3 – You will get the hearing information from the Clerk of Court after you file the case and pay the filing fee. You will fill in the day, month, year, time and location of the hearing at that time.
 - The hearing must be set no less than three (3) days and no more than fifteen (15) days after the Summons and Complaint are served on the tenant.

Complaint

- Fill in the heading the same as you did for the Summons.
- #1 – Fill in the address of the property and the length of the lease (e.g. 6 months, 1 year).
- #2 – Fill in the amount of the rent per month, the date the rent is due each month, the amount of the late fee, if any, and the circumstances when the late fee is charged.
- #3 – Check the reasons for the eviction. If one of the reasons is unpaid or delinquent rent, fill the amount owed and the timeframe of the unpaid or delinquent rent.
- WHEREFORE #3 – Fill in the amount owed in rent and fees.

- WHEREFORE #4 – If you are claiming there is physical damage to the property, fill in the amount for physical damage to the property.
- Sign and print your name, address and phone number.

Summons and Complaint

The Summons and Complaint should be served together on the tenant. If they are mailed make sure you fill out and file an Affidavit of Service by Mail. If they are personally handed to the tenant, make sure the person who hands the Summons and Complaint to the tenant fills out an Affidavit of Personal Service. Remember: the person who personally hands the Summons and Complaint to the tenant must be 18 years of age or older and not a party to the action.

Findings of Fact, Conclusions of Law, Order and Judgment

- Only fill out the heading. These are your proposed Findings of Fact, Conclusions of Law, Order and Judgment.
- An eviction cannot proceed until a Judicial Referee or Judge completes, then signs and dates a findings of fact, conclusions of law, order and judgment.

Affidavit of Identification

- This may be required. If required, you will be asked to file an Affidavit of Identification with the Clerk of Court only if the District Court orders the eviction.
- Read the full statement. By filling out the form and signing it in front of a notary public, you swear that the statement and the information you include about the Defendant(s) is accurate.
- Fill out the heading.
- Fill in your full name.
- Fill in each Defendant's full name, address and occupation.
- Sign the affidavit only when a notary public can witness your signature.
- A Clerk of Court may sign as a notary public. Contact the Clerk of Court's office in the District Court where you file your case to find out if a Clerk can sign as a notary public.

FILE THE FOLLOWING WITH THE CLERK OF COURT:

You will be asked to pay a filing fee. Verify the amount of the filing fee with the Clerk of Court. At the time of filing and fee payment, the Clerk of Court will schedule a hearing date.

1. Summons
2. Complaint
3. Proof of Service of the Summons and Complaint on the tenant.

4. Notice to Evict
5. Proof of Service of the Notice to Evict
6. Findings of Fact, Conclusions of Law, Order
7. Judgment

ATTEND THE EVICTION HEARING:

You should bring all of your evidence with you to the hearing. This may include copies of the lease, ledgers showing payments, photos, etc.

IF THE EVICTION IS GRANTED BY THE COURT:

If required, you will be asked to file a notarized Affidavit of Identification with the Clerk of Court.

***NOTE: The eviction process can be used also on a person not listed on the lease.