

# General Procedures for Filing an Eviction for Non-Payment of Rent

Justice of the Peace, Pct 1

100 W. Houston Ste 27, Sherman, Texas 75090

(903)-813-4346 main (903) 893-9264 fax

Hours of Operation: 8:00 A.M. – 4:30 P. M. Monday-Friday

1. The tenant must have already failed to pay the rent as agreed. The Landlord cannot refuse to accept rent and thereafter claim rent was not paid.
2. The landlord must deliver a written **“Notice to Vacate”** or **“Demand for Possession”** naming each occupant the landlord seeks to evict from the premises. The notice must give the reason for demanding possession. The written notice must give the tenant time to vacate voluntarily. The time to vacate in the notice must be at least (3) days, unless the landlord and tenant have agreed to a greater or lesser than three day time period in a written lease or agreement.
3. Delivery of the notice must be accomplished by one of the following methods:
  - a. **Handed to a tenant in person** (Or anyone living at the premise that is at least 16 yrs old)
  - b. **Mailed to the tenant** (if mailed the landlord must wait an additional (2) two days to allow for delivery of mail before filing for eviction)
  - c. **Attached to the inside of the main entry door.**
4. After the notice is delivered, wait until after the notice period expires, then go to the Justice of the Peace Court in the precinct where the property is located to file a written **“sworn complaint”** for eviction. The court will determine who has a greater right to possession of the property. Forms for filings are available online or at the Justice Court Office.

(SAMPLE wording for the “Notice to Vacate for Non-Payment of Rent)

Dear \_\_\_\_\_, (Name all Tenants)

Today is the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

The rent has not been paid. I demand possession of my rental property. This is a notice that you vacate the premises by \_\_\_\_\_, 20\_\_\_\_\_ or I will file an eviction suit with a Justice of the Peace Court.

\_\_\_\_\_, (Landlord)

Official Department of Defense Servicemembers Civil Relief Act (website): <https://scra.dmdc.osd.mil>;

When it says “There is a problem with this website Certificate” click on “Continue to this website”. THIS WEBSITE IS FREE OF CHARGE!!! You do not need to pay for this information.

Proper attire will be required for all hearings before the court.

Cost including service, one defendant: **\$149.00**. Cost for each additional defendant is **\$95.00**. Writ of Possession is **\$170.00**

# EVICTION SUIT PROCEDURE

## Limit of the Court is \$20,000.00

The Judge CANNOT discuss this case with you prior to the hearing. The Clerk's CANNOT give you legal advice or advise you on any legal questions. If you have legal questions, you must consult an attorney or legal aid at 800-906-3045.

## Courts Requirements for a Definitive Eviction

- The Complaint for Eviction must be completely filled out including the reason for suit and the identifying information of Defendant(s);
- Provide the court with supporting documentation of the SCRA report for each Defendant(s);
- Provide the 3 copies of any evidence you would like to present at the hearing;

**NOTE: Failure to fill in the correct information could result in a Dismissal.**

Website for legal help or to look for an attorney: [Texasbar.com](http://Texasbar.com)  
Under "helpful Resources" click on "free consumer legal information"

## WRIT OF POSSESSION

This instrument directs the Constable or Sheriff to take possession of the property and turn it over to you. **Writ of Possession is \$165.00 service and \$5.00 filing fee for a total of \$170.00.** After fees are paid in full, the Writ will be turned over the appropriate Constable or Sheriff for execution of service. You may contact the Constable by phone (903) 813-4342 or email ([carter@co.grayson.tx.us](mailto:carter@co.grayson.tx.us)) for any questions concerning the Writ after it has been posted.

## Constable Requirements for a Definitive WRIT

- A means of entry (keys) to location or a locksmith available to make forced entry at the time of the scheduled "set-out";
- Any abandoned pets could result in a Criminal charge being filed against the owner;
- Have a crew with a minimum of 3 people for the "set-out";
- Additional manpower may be required based on the size of the unit;
- Crew has to be prepared to complete the "set-out" within the allotted time to avoid the additional cost per hour per deputy; and
- Have equipment to complete the "set-out", i.e.... construction size trash bags and or any other additional tools such as scoop shovels, brooms etc....prior to the constable's arrival.

ANY PORTION OF THE HOUR BEYOND TWO (2) HOURS: AN ADDITIONAL FEE OF \$55.00 PER HOUR OR PORTION IS DUE.

**OFFICIER DOES NOT PHYSICALLY REMOVE ANY PROPERTY FROM THE PREMISES. THE LANDLORD IS RESPONSIBLE FOR REMOVAL.**

Case No. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s)/Landlord/(Actual Landlord)

Vs.  
\_\_\_\_\_

\_\_\_\_\_  
List all Defendant(s)/Tenant(s) for which eviction is sought

§  
§  
§  
§  
§  
§

**In the Justice Court**

**Precinct 1, Place 1**

**County of Grayson**

**State of Texas**

**COMPLAINT for EVICTION**

**MONTHLY RENT AMOUNT IS \$ \_\_\_\_\_**

*(For all addresses, you MUST include number, street, apartment number, city, state, & zip code.)*

Plaintiff, being duly sworn on oath, files this written Complaint against the above named Defendant(s) to Evict Defendant(s) from Plaintiff's premises, which is Located in Justice of the Peace Pct 1 of Grayson County and which is described as:

Property Address:

\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Plaintiff requires service of citation by personal service at the previously described premises or by alternate service, if necessary, under Rule 742 or 742a.

<p>Any work or <b>other known address</b> for the Defendant(s) known to Plaintiff are as follows:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Phone: _____ Fax: _____</p>
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Plaintiff and Defendant(s) have established a **landlord tenant** relationship by: *(check one)* \_\_\_\_\_ a written lease or agreement, \_\_\_\_\_ An oral agreement, \_\_\_\_\_ occupancy after foreclosure sale, \_\_\_\_\_ occupancy after contract for deed default, \_\_\_\_\_ other \_\_\_\_\_

**Grounds for eviction are:** *(check one)* \_\_\_\_\_ non-payment of rent, \_\_\_\_\_ holding over, \_\_\_\_\_ non-rent default by: \_\_\_\_\_

Written notice to vacate for the grounds stated above was delivered to Defendant(s) at the above described premises on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_. *(check one)* \_\_\_\_\_ in person to the tenant(s). \_\_\_\_\_ in person to an occupant at least 16 YOA. \_\_\_\_\_ by mail. \_\_\_\_\_ by affixing to the inside of the main entry door. \_\_\_\_\_ other (describe) \_\_\_\_\_

Thereafter, Defendant(s) failed to surrender possession of the above described premises by the date described premises by the date specified in the **notice to vacate** thereby committing a **forcible detainer**.

**Plaintiff request** judgment for Plaintiff(s) against Defendant(s) for possession of the above described premises, for WRIT OF POSSESSION, plus \$ \_\_\_\_\_ rent due through today, plus accruing rent at the **daily rate** of \$ \_\_\_\_\_ per day until the date of judgment, plus reasonable attorney fees in the amount of \$ \_\_\_\_\_, plus all cost of court, plus post-judgment interest at the highest legal rate.

**Defendant/Tenant Information:** \_\_\_\_\_

DL#: \_\_\_\_\_  
D.O.B: \_\_\_\_\_  
SEX: \_\_\_\_\_  
RACE: \_\_\_\_\_

**X** \_\_\_\_\_  
*Landlord, Landlords authorized Agent or attorney (if any)*  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

SWORN to and SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

*(seal)*

*(Notary or Clerk of Court)* \_\_\_\_\_



# AFFIDAVIT OF NON-MILITARY STATUS (SCRA)

DOCKET NO. \_\_\_\_\_

AFFIDAVIT  
50 USC Sec.520

Plaintiff being duly sworn on oath deposes and says that defendant(s) is (are)

(CHECK ONE)

- \_\_\_\_\_ Not in Military
- \_\_\_\_\_ Not on active duty in the military and/or
- \_\_\_\_\_ Not in a foreign country on military service
- \_\_\_\_\_ On active military duty and/or subject to the Servicemembers Civil Relief Act of 2003
- \_\_\_\_\_ Has waived his/her rights under the Servicemembers Civil Act of 2003
- \_\_\_\_\_ Military status is unknown at this time

\_\_\_\_\_  
Plaintiff

(Select the applicable title under the signature for the jurat below)

Subscribed and sworn to before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_

\_\_\_\_\_  
NOTARY/CLERK / JUDGE

\_\_\_\_\_  
SEAL

\_\_\_\_\_ Notary Public in and for the State of Texas

\_\_\_\_\_ Clerk of the Justice Court

\_\_\_\_\_ Judge of the Justice Court

\*Penalty for making or using false affidavit – a person who makes or uses an affidavit knowing it to be false shall be fined as provided in Title 18. United States Code, or imprisoned for not more than one year or both.