

**PIMA COUNTY CONSOLIDATED JUSTICE COURT
EVICTON ACTION INSTRUCTIONS TO PLAINTIFF**

1. PRE-FILING REQUIREMENTS

Before filing an eviction action, notice must be given to the tenant. The type of notice and time the tenant has to fix the problem depends on the nature of the allegation. (These time standards are different for tenants renting a space in a mobile home park.)

Non-Payment of Rent

Before a lawsuit requesting that the tenant be evicted for non-payment of rent can be filed, the tenant must be given a five-day notice and an opportunity to pay the amount due in full. The eviction lawsuit can be filed on or after the sixth calendar day.

Material Non-Compliance

If the landlord alleges a material noncompliance with the lease, (e.g. violating the rules of the apartment complex, unauthorized pets) then the landlord must give the tenant a ten-day notice and an opportunity to come into compliance with the terms of the lease. The eviction lawsuit can be filed on or after the eleventh day.

Material Non-Compliance Affecting Health and Safety

If the landlord alleges a material noncompliance with the lease that affects health and safety, then the landlord must give the tenant a five-day notice and an opportunity to come into compliance with the terms of the lease. The eviction lawsuit can be filed on or after the sixth day.

Material and Irreparable Breach

If the landlord alleges that the tenant has committed a material and irreparable breach, then the landlord can deliver a notice of immediate termination of the rental agreement. The lawsuit requesting an eviction can be filed on the same day. Examples of a material and irreparable breach include but are not limited to gang activity, the discharge of a weapon on the premises or inflicting serious bodily harm on another.

If the notice was mailed by certified or registered mail, add an additional 5 days before filing the lawsuit. The notice time periods are mandatory and your case may be dismissed if you file too early.

All forms can be found on our website at www.jp.pima.gov or at our customer service windows at 240 N. Stone Avenue, Tucson, AZ 85701

2. BEGINNING THE LAWSUIT

Complete the Eviction Action summons and complaint (form JP06). File the summons and complaint at the customer service window and pay the required filing fee. The clerk will create a case and provide a court date within 3 to 6 business days.

3. GIVING NOTICE TO THE TENANT

After the clerk has assigned a case number and court date and time, the tenant must be served. The summons, complaint, the residential eviction information sheet and the lease agreement must be served by a constable or process server. If the action is based on non-payment of rent a copy of the accounting of charges and payments for the preceding six months must be served with the complaint. You can contact the constable at 724-5442 or search for private process servers in the yellow pages. You will have to pay a fee for the service. After the tenant has been served, the process server must file proof of service with the court prior to your court date.

4. FILING DISMISSALS

If the tenant pays the rent due, moves out, or has settled the dispute at least one day before the hearing date, you must file a dismissal (form JP18) with the court and give the tenant a copy. The hearing date will be vacated and the case will be closed.

5. APPEARING IN COURT

On the hearing date, you must appear and provide testimony. The Judge will listen to both you and the tenant(s) and will decide if judgment should be entered and whether or not the tenant(s) must move. Be prepared to provide documentation such as a contract, proof of past due rent or police report. If a judgment is entered, the Judge will also order a date when you may file a "Writ of Restitution" which is required to remove the tenant from the property.

6. THE EVICTION PROCESS

If the tenant has not moved out, you can file a Writ of Restitution (form JP406) on or after the date ordered by the Judge. The Writ of Restitution must be served by the Constable. The Constable will require a fee for servicing the Writ of Restitution; for more information you can call 740-5442. The Constable will then go to the property and serve the tenant. The tenant will be required to leave the property immediately.

7. THE COLLECTION OF A MONEY JUDGMENT

If you receive a money judgment, the court offers forms and instructions regarding collection options but does not assist in the collection process. You can try to collect by sending a demand letter to the tenant and if that is not successful, you can try additional collection remedies. Please see form number JP193.

8. NOTIFICATION OF SATISFACTION OF JUDGMENT

After you collect the judgment, you must file a Satisfaction of Judgment (JP18) with the Court.