

# Instructions

## Service by Mail & Post for Eviction Action Complaint

### Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

#### Have questions about court forms or instructions?

- Visit [www.MNCourts.gov/SelfHelp](http://www.MNCourts.gov/SelfHelp)
- Call the Statewide Self-Help Center at 651-435-6535

#### Not sure what to do about a legal issue or need advice?

- Talk with a lawyer.
- Visit [www.MNCourts.gov/Find-a-Lawyer.aspx](http://www.MNCourts.gov/Find-a-Lawyer.aspx)

Helpful materials may be found at your public county law library. For a directory, see <https://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact court administration or call the Minnesota State Law Library at 651-297-7651.

### Forms You May Need

- *Affidavit of Service by Mail* (HOU108);
- *Affidavit of Not Found* (HOU109);
- *Affidavit of Plaintiff* (HOU110); and
- *Affidavit of Service by Posting* (HOU111).

Forms are available online at [www.mncourts.gov/forms](http://www.mncourts.gov/forms) under the “Housing / Landlord-Tenant” Category.

Helpful information about Landlord-Tenant issues including Frequently Asked Questions (FAQs), links to court forms, and related laws can be found on the Landlord Help Topic at [www.mncourts.gov/help-topics.aspx](http://www.mncourts.gov/help-topics.aspx) under “Landlord Resources.”

## General Information

### Service by Mail & Post

**These instructions are only for residential evictions.**

The *Summons* and *Eviction Complaint (Complaint)* must be served on each Defendant (tenant). The *Instructions for Eviction Action Complaint (HOU101)* explain in detail how to serve by personal or substitute service. As explained below, personal or substitute service **must** be tried at least 2 times before you can serve by Mail & Post. Service must be completed at least 7 days before the hearing. All of the *Affidavits* must be filed with court administration at least 3 days before the hearing. If attempts at personal or substitute service are unsuccessful, service of the *Summons* and *Complaint* may be made by mail and posting.

**Note:** If you regularly communicate with the Defendant by electronic means (email, text, social media app) then you must also make a good faith attempt to give notice of the eviction hearing by that same type of electronic means or to the last known electronic address you used to communicate with the Defendant. The communication must have a time and date stamp and include the date, time, and place of the hearing as stated in the *Summons*. This notice must be given at least 7 days before the hearing. This requirement is in addition to completing service by personal or substitute service or by mail and post.

See [Minn. Stat. § 504B.332](#) for more information on service of the *Summons* and *Complaint*.

### Step 1

#### Attempt Personal or Substitute Service

At least 7 days before the hearing, you must attempt personal or substitute service as explained in the *Instructions for Eviction Action Complaint (HOU101)*. Service must be attempted at least 2 times on 2 different days at the last known address of the Defendants. At least one of the attempts must be made between the hours of 6:00 p.m. and 10:00 p.m.

### Step 2

#### Send Notice by Electronic Communication (if applies)

If you regularly communicate with the Defendants by electronic means, for example, by email, text messages, social media apps, etc., then you must also make a good faith attempt to give notice of the eviction hearing by electronic communication. It should be sent by the same type of electronic means or to the last known electronic address you used to communicate with the Defendants.

The communication must have a time and date stamp and include the date, time, and place of the hearing as stated in the *Summons*. This notice must be sent at least 7 days before the hearing. This requirement is in addition to completing service by personal or substitute service or by mail and post as explained in Steps 1 and 3.

### Step 3

#### Mail & Post *Summons* and *Complaint*

At least 7 days before the hearing the following must happen:

1. **Mail a Copy of *Summons* and *Complaint*.** Plaintiff, Plaintiff's Attorney, or another adult, makes a copy of the *Summons* and *Complaint* and mails a copy to **each** Defendant at their last known address by first class mail.
2. **Post a Copy of *Summons* and *Complaint*.** Have an adult, who is not a party or involved with the case (like personal or substitute service), post the *Summons* and *Complaint* on the entry to the Defendant's individual unit. If the Defendant lives in a multiunit building, the *Summons* and *Complaint* must be posted on the door of the Defendant's individual unit.

### Step 4

#### Fill out *Affidavits*

There are 4 separate affidavits that must be filled out and filed with court administration **at least 3 days before the hearing**. A separate affidavit must be completed for **each** defendant so if there is more than 1 tenant, you will need an affidavit for **each Defendant** served.

- *Affidavit of Service by Mail* (HOU108);
- *Affidavit of Not Found* (HOU109);
- *Affidavit of Plaintiff* (HOU110); and
- *Affidavit of Service by Posting* (HOU111).

Each affidavit must be signed under penalty of perjury. Read below for information on who must sign each affidavit. Perjury is the crime of intentionally lying or misrepresenting the truth. The affidavits are your proof that you had the Defendants served.

#### The Caption

<b>State of Minnesota</b>	<b>District Court</b>
County of: _____	Court File Number: _____
Judicial District: _____	Case Type: <u>Eviction</u>
_____	
Plaintiff (Landlord)	
VS.	
_____	
_____	
_____	
Defendant (Tenant)	

At the very top of each *Affidavit*, you will fill in:

- The **county** where the property is located;
- The **judicial district number**. Each county belongs in one of ten judicial districts. If you need help finding the correct judicial district number, see <http://www.mncourts.gov/Find-Courts.aspx>;
- The court file number that court staff included on the *Summons*;
- The names of each Plaintiff and each Defendant as it is listed on the *Eviction Action Complaint*.

### ***Affidavit of Service by Mail (HOU108)***

- Service by mail can be completed by the Plaintiff, Plaintiff's Attorney, or another adult.
- Whoever mails the copy of the *Summons* and *Complaint* to the Defendant's last known address must sign the *Affidavit of Service by Mail*. If there is more than 1 Defendant served, an *Affidavit of Service by Mail* is needed for each Defendant served.

### ***Affidavit of Not Found (HOU109)***

- Fill in the address where service was attempted along with the time and date of each attempt.
- Signed under penalty of perjury by the adult, who is not a party or involved in the case, who tried to personally serve the Defendant at least 2 times but was unable to do so.

### ***Affidavit of Plaintiff (HOU110)***

- Filled out by Plaintiff or Plaintiff's Attorney for each Defendant that was not served by personal or substitute service.
- Check whether a copy of the *Summons* and *Complaint* was mailed and if any notice was given by electronic communication.
- Signed under penalty of perjury by Plaintiff or Plaintiff's Attorney.

### ***Affidavit of Service by Posting (HOU111)***

- Posting of the *Summons* and *Complaint* is done by an adult who is not a party or involved in the case.
- Fill out who posted the *Summons* and *Complaint*, when they were posted, and exactly where they were posted. If they were posted in multiple places throughout a property fill out an *Affidavit* for each post.
- Signed under penalty of perjury by adult who is not a party or involved in the case.

## Step 5

### File Affidavits with the Court

File the following documents with court administration at least **3 days** before the hearing (not counting Saturdays, Sundays, or legal holidays):

- *Affidavit of Service by Mail* (HOU108);
- *Affidavit of Not Found* (HOU109);
- *Affidavit of Plaintiff* (HOU110); and
- *Affidavit of Service by Posting* (HOU111).

### How to File

**Note:** If you eFiled your *Eviction Action Complaint* you must also eFile your *Affidavits* through the eFS System.

- **At the Courthouse**

This can be done either in person at the courthouse or by mail. Addresses for courthouses are online at <https://mncourts.gov/Find-Courts.aspx>. Use the drop-down menu or map to find your county.

- **Electronic Filing through the eFS System**

The eFS System allows you to eFile your completed forms. Information on eFiling is on the MN Judicial Branch website at <https://www.mncourts.gov/eFile>.

Once you choose to eFile, you must eFile for the rest of the case. See [Minn. Gen. R. Prac. 14.01\(b\)\(5\)\(i\)](#) (revisor.mn.gov/court\_rules/gp/id/14/).