



# MINNESOTA GUIDE & FILE

## NEXT STEPS: Eviction Action Complaint (Paper Filing)

Below are the next steps for filing an **Eviction** when you are printing your forms at the end of the Minnesota Guide & File interview.



### STEP 1: Review the completed forms

- Are your forms complete? Is the information accurate and true? If you find any errors, go back into the interview (<https://minnesota.tylerhost.net/SRL>) and make changes.
- Print all of the forms that you see listed on the **Summary Page** in the interview.

### STEP 2: Sign the *Eviction Action Complaint*

- Sign the *Eviction Action Complaint* form under penalty of perjury. This means you are saying that everything in the form is true; if you know something in the form is not true when you sign it, you could be found guilty of the crime of perjury (see Minn. Stat. § 609.48, <https://www.revisor.mn.gov/statutes/?id=609.48>).
- Businesses filing in District Court must be represented by an attorney. **The exception would be if filing in Hennepin County.** The attorney filing on behalf of the business must complete the contact information on the signature page. If you are not sure if this applies to you, then you should talk with an attorney for legal advice.
- **Is there more than one plaintiff?** Each plaintiff must sign the *Eviction Action Complaint*.

### STEP 3: File the *Eviction Action Complaint*

AT THE COURTHOUSE	ELECTRONIC FILING (NOT USING GUIDE & FILE)
<ul style="list-style-type: none"> <li>• You will need to file the original <i>Eviction Action Complaint</i> (HOU102) with Court Administration. You may also need to file the <i>Additional Litigants Form</i> (HOU120) and any attachments, as needed. For example, a copy of the lease, Notice to Vacate, police reports, etc.</li> <li>• When you file the forms with Court Administration, there will be a civil filing fee of at least \$310 plus other fees. You can find the filing fees for your county online starting at <a href="http://mncourts.gov/Help-Topics/Court-Fees.aspx">http://mncourts.gov/Help-Topics/Court-Fees.aspx</a>.</li> <li>• If you cannot afford to pay the filing fee, and you are not a business, please fill out the <i>Affidavit for Proceeding In Forma Pauperis</i> (IFP102) and the <i>Proposed Order for Proceeding In Forma Pauperis</i> (IFP104) and file it when you file the other Eviction forms. The forms are available online at <a href="http://www.mncourts.gov/GetForms.aspx?c=19&amp;p=69">http://www.mncourts.gov/GetForms.aspx?c=19&amp;p=69</a>.</li> </ul>	<ul style="list-style-type: none"> <li>• If you have an account with the eFS System (Minnesota Judicial Branch’s web-based system that is used to electronically file documents in Minnesota district and housing courts), you can file electronically. See <a href="http://www.mncourts.gov/eFile">http://www.mncourts.gov/eFile</a>.</li> <li>• Once you choose to eFile, you will need to continue to use the eFS System for the rest of the case. See Minn. Gen. R. Prac. 14.01(b)(5)(i) (<a href="https://www.revisor.mn.gov/court_rules/rule.php?type=gp&amp;id=14">https://www.revisor.mn.gov/court_rules/rule.php?type=gp&amp;id=14</a>).</li> <li>• Along with the civil filing fee and costs, there is also a fee of \$5 for using the eFS System.</li> <li>• A person, not filing as a business, who cannot afford to pay the filing fee, can file the <i>Affidavit for Proceeding In Forma Pauperis</i> (IFP102) and the <i>Proposed Order for Proceeding In Forma Pauperis</i> (IFP104) and file it when you file the other Eviction forms.</li> </ul>

\* If you are filing on behalf of a business in **Hennepin County**, be sure to include a completed *Power of Authority* when you file your forms.

## STEP 4: Serve the *Summons* and *Eviction Action Complaint* on the Tenant

- The Court will create a *Summons*. A *Summons* is a written notice telling the Tenant that a legal action has been filed and will be heard in court on a certain day. It also states that if the Tenant disagrees with the action or wants to tell a different side of the story, they must appear in court at the time of the hearing.  
**You will need a copy of the *Summons* for each Tenant.**
- You (the Plaintiff) **cannot be the person who serves the *Summons* and *Complaint***. If you gave Power of Authority to an agent, do not ask the agent to serve the papers. It is best not to ask the building manager to serve papers. Use a neutral person who is over the age of 18, or pay a service of process agency or the Sheriff to serve the papers.
- Service of the *Summons* and *Complaint* must be completed **at least 7 days before** the hearing date. **Example:** If court is on Friday, the last day to serve is Friday of the week before.
- A *Summons* and *Complaint* cannot be served on a legal holiday.
- Each named Tenant must be served. **Example:** if there are 3 tenants, each tenant must be served with a separate copy of the *Summons* and *Complaint*. If there is a husband and wife and 2 children, the husband and wife must each be served with a separate copy of the *Summons* and *Complaint*. Minor children should not be named as defendants or served.
- A separate *Affidavit of Service* **for each Tenant** must be filed with the Court at least **3 working days before** the court hearing. Which *Affidavit of Service* form you use will depend on the type of service. **There is more information about the *Affidavit of Service* below.**
- If Section 8 is involved, the contract between the landlord and the Housing Authority may require the landlord to serve a copy of the *Summons* and *Complaint* on the Housing Authority at the same time the papers are served on each tenant.

### PERSONAL SERVICE OF THE SUMMONS & COMPLAINT (HOU106)

#### ***Personal Service:***

An adult who is not involved with the case may act as the server and may hand the *Summons* and *Complaint* directly to the Tenant at least seven days before the court date.

#### ***Substitute Service:***

An adult who is not involved with the case may “serve” the *Summons* and *Complaint* by leaving a copy of the documents with a responsible person who lives with the Tenant. This person is then responsible for delivering the *Summons* and *Complaint* to the Tenant. **Example:** *Joe and John are adult roommates. If only Joe is home, the server can leave 2 copies of the *Summons* and *Complaint* with Joe, one for Joe and one for John.*

The server fills out one *Affidavit of Personal or Substitute Service* (HOU106) **for each** Tenant. The server must sign the *Affidavit* under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. The *Affidavit of Personal or Substitute Service* is your proof that you had the Tenant served. **File the completed *Affidavits* with the court at least 3 working days before the hearing.**



It is always best if the Tenant is personally served with the *Summons* and *Complaint*. However, if you cannot find the Tenant, you may be able to have Tenant served in another way called *Mailing and Posting*.

## MAILING AND POSTING of the SUMMONS & COMPLAINT

*Use this method of service when:*

1. Tenants cannot be found in the county **AND**
2. Personal or substitute service has been tried at least twice on different days with at least one of the attempts at service made between 6 and 10 p.m.

If the property is commercial instead of residential, the attempts to serve are not required. Instead, there must be proof that the commercial property is not occupied.

See the form *Instructions – Service by Mail and Post* (HOU107) for instructions on using this form of service online, as well as the other forms you will need to fill out at <http://www.mncourts.gov/GetForms.aspx?c=23&p=81>.

### STEP 5: Prepare for the hearing, then go to court

- The Landlord or Landlord’s attorney must attend the hearing or your case may be dismissed. If the Landlord is a business, you must have an attorney in court. There is one exception to this rule. In Hennepin County, an officer or agent with *Power of Authority* (signed and filed with the court) may appear and represent the business without a lawyer, in Housing Court. If a decision is appealed to a judge or appellate court, an attorney will be required.
- You may find it helpful to read the “How to Prepare for Trial in Housing Court” booklet which is available on the Landlord/Housing Help Topics, along with a lot of other helpful resources online at <http://www.mncourts.gov/Help-Topics/Landlord-and-Tenant-Issues.aspx#tab07ToolsAndResources> .
- Many eviction cases settle at court. The landlord and tenant should try to work out an agreement. In some counties, if a trial with witnesses and evidence is needed, the trial will be scheduled for a separate date. In other counties, you may be expected to have your witnesses ready at the first hearing date. For more information about what to expect at an eviction hearing, contact court administration for the county where you are filing, and/or look at the court’s website at <http://www.mncourts.gov/Find-Courts.aspx> and then pick your District/County.

### Other Information

<b>Requesting an Interpreter</b>	If you need interpreter services for the hearing, call court administration right away. The court generally needs 48 hours notice (2 full days), excluding weekends and holidays, to provide an interpreter.
<b>Expedited Hearing</b>	If tenant’s behavior is seriously endangering the property or safety of other residents or the owner, landlord can request that the eviction court date be scheduled within 5 to 7 days, rather than 7 to 14 days. An additional affidavit is required, and a judicial officer must pre-approve the request before court administration sets the date. A landlord can be fined up to \$500 for abuse of the expedited hearing process. See <a href="#">Minn. Stat. §504B.321 Subd.2</a> .
<b>Collecting the Rent</b>	An eviction action decides if the tenant must move. It does not include a judgment for rent or other money owed.  Claims for rent and other money issues cannot be brought in housing court with the eviction complaint and must be brought separately in either conciliation court or district court. Claims that are less than \$15,000 should be brought in Conciliation Court.  Claims over \$15,000 must be filed in District Court.

<p><b>Eviction Notice (Writ of Recovery of Premises and Order to Vacate)</b></p>	<p>A “Writ of Recovery of Premises and Order to Vacate” is a legal notice ordering the Tenant to move and authorizing the sheriff to take certain actions if tenant does not move voluntarily. It is issued by the court if the landlord wins an eviction action in court, the landlord asks for the Writ, and pays a Writ <a href="#">fee</a>.</p> <p>Landlord takes the Writ to the sheriff. If the sheriff cannot find the tenants to serve the Writ, the sheriff may post it in a noticeable place at the property.</p> <p>The Tenant has 24 hours to remove all property and turn in keys. If the Tenant ignores the notice, Landlord may contact the sheriff to schedule a “move out” time.</p> <p>For more information, read <a href="#">Minn. Stat. § 504B.365</a> (Unlawful exclusion or removal; action for recovery of possession).</p>
<p><b>Tenant’s Personal Property</b></p>	<p><a href="#">Minn. Stat. § 504B.271</a> covers what the landlord can do with property a tenant leaves behind after moving out. For more information, see links to booklets published by the Attorney General and other agencies, at <a href="http://www.mncourts.gov/selfhelp/?page=415">www.mncourts.gov/selfhelp/?page=415</a></p>

**Need Help?**

Call the Statewide Self-Help Center at 651-435-6535, or go to <http://mncourts.gov/Help-Topics/Self-Help-Centers/Self-Help-Centers-Contact.aspx>.

For help with the eFS System (see Step 3 above), call the eFS Support Center at 651-227-2002 or 1-855-291- 8246, or email [eCourtMN@courts.state.mn.us](mailto:eCourtMN@courts.state.mn.us).