

# Landlord Tenant Plaintiff.

## What forms will I need to file a civil complaint?

- You will need to fill out and file the following forms:
  - Summons
  - Complaint
  - Praecipe
  - Copy of Notice to Vacate
  - Lease Agreement, if applicable
- Additional forms that may be required:
  - Affidavit of Non-Military Service
  - Motion to Enter Default and Entry of Default
  - Default Judgment
  - Notice of Entry of Judgment
  - Writ of Execution
  - Notice of Appeal
  - Answer to Counterclaim

## What words do I need to know?

- **Plaintiff:**
  - is someone who files an action in court. You are the Plaintiff in this case.
- **Defendant:**
  - is the person that you are filing against is the Defendant in this case.
- **Praecipe:**
  - is a request to the entity that serves the Summons and Complaint on the Defendant.
- **Summons:**
  - tells the Defendant that you have filed a claim against him or her in Justice Court. It also tells the Defendant that he or she should file an answer within the time allowed to avoid a default judgment.
- **Complaint:**
  - is a short and simple statement of your conflict with the Defendant. It asks the Court to enter a money judgment in your favor or order the Defendant to return property to you.
- **Affidavit of Non-Military Service:**
  - a court document that legally determines whether the defendant is or isn't an active-duty military member.
- **Motion to Enter Default and Entry of Default:**
  - the first step to obtaining a default judgment against the defendant.
- **Default Judgment:**
  - is a judgment in favor of either party.
- **Notice of Entry of Judgment:**

- is a document stating that an entry of judgment has been granted.
- **Writ of Execution:**
  - is a court order that is filed for the purpose of securing payment after a judgment has been granted.
- **Notice of Appeal:**
  - is a notice to inform the court that you are appealing the decision.
- **Answer to Counterclaim:**
  - a response to the defendant's counterclaim.

### **What do I do?**

1. Fill out the forms
  - Fill out all the blanks on the Summons, Complaint, and Praecipe.
  - Sign and date your Complaint and Praecipe.
    - i. Both must be signed in front of a notary or the court clerk.
2. File Forms with Justice Court.
  - Go to the Yellowstone County Justice Court in room 603 to file the Summons, Complaint, and Praecipe with a clerk.
  - Pay the filing fee of \$50 or request a fee waiver.
  - Ask for copies of filing and keep your copies in a secure place.
3. Have the Defendant served.
  - You will need to hire a process server to personally serve the defendant with the Summons and Complaint.
    - i. See attached list of process servers
4. Wait for the Defendant to respond.
  - The Defendant has 5 judicial days following the date of service to file an answer with the court.
    - i. The Defendant may also file a counterclaim, in which case you will be able to file an answer to their counterclaim.
5. Go to your hearing.
  - A date will be scheduled with the court after an answer has been filed.
  - Bring all evidence you have with you to court either printed or on a USB.
  - See "Guidelines for Courtroom Conduct" for more information.

# Get Help with your Eviction Lawsuit

Take action as soon as possible to get help.

Your landlord has sued you for eviction. If you act now, you can protect yourself.

You may still have options to stay in your home, get resources, and make a plan.

## FILE AN ANSWER WITH THE COURT

Respond to this lawsuit within 5 Business days.

If you don't file a written answer with the Justice Court, your landlord might evict you automatically. Legal aid can help you file an answer for free.

## SPEAK WITH A FREE LAWYER

Legal aid lawyers can help you know your rights, answer the lawsuit, and prepare for court. Call Montana Legal Services Association at

1-800-666-6899 or go to [montanalawhelp.org](http://montanalawhelp.org)

## GET RENT HELP

You may find help to pay rent, utilities, & other costs. Call as soon as possible to find financial help.

Call Montana Emergency Rental Assistance at (406) 841-2840 or visit [housing.mt.gov](http://housing.mt.gov)

Have more questions or need accommodations?

Contact the Court Help Program

[courts.mt.gov/selfhelp/](http://courts.mt.gov/selfhelp/)

(406) 444-9300



Scan this QR Code to go to a free eviction help guide on Montana Law Help

IN THE JUSTICE COURT OF RECORD  
CITY OF LIVINGSTON, PARK COUNTY, STATE OF MONTANA  
BEFORE CLAY HERBST, JUSTICE OF THE PEACE

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	)	
	)	
	)	
Plaintiff(s)	)	Case Number CV-_____
-vs-	)	<b>COMPLAINT FOR POSSESSION AND DAMAGES</b>
	)	
	)	
	)	
Defendant(s)	)	

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I am the Plaintiff in this case. I am the landlord/owner of the property located at the following address: \_\_\_\_\_ I am asking for possession of the premises. \*

1. Defendant(s), the Tenant(s), currently reside in the premises for which I am seeking possession, and has/have a (Check one):

written rental agreement, a copy of which is attached as an Exhibit

**OR**

an oral month-to-month rental agreement

**POSSESSION:**

I am entitled to take back the Property for the following reason(s) (Check all that apply):

2.  LANDLORD TERMINATED TENANCY

I terminated the tenancy by providing a 30-day written notice on the following date: \_\_\_\_\_. \* A copy of the notice is attached as an

**Exhibit.**

FAILURE TO PAY RENT

a. Per the lease/rental agreement, rent is due and owing on the \_\_\_\_\_ day of each month.

b. Tenant(s) has/have failed to pay rent for the month(s) of: \_\_\_\_\_  
\_\_\_\_\_. Rent continues to be due and owing.

c. I sent a 3-Day Notice of Nonpayment to the Tenant(s) on the following date: \_\_\_\_\_  
\_\_\_\_\_. \* No rent was paid, and the rental agreement was terminated. \*A copy of the notice is attached as an Exhibit.

**OTHER VIOLATIONS OF THE LEASE:**

3. The Tenant(s) has/ have violated the terms of the lease for the following reasons other than non-payment of rent:

The Tenant(s) has/have unauthorized pet(s). I provided at least 3 days' notice to remove the pet. The tenant(s) did not remove the pet(s).

The Tenant(s) has/have allowed unauthorized people to reside at the premises, and I provided at least 3 days' notice to remove the unauthorized person. The tenant(s) did not fix the violation.

The Tenant(s) has/have violated in a different way. I provided at least 14 days' notice. The tenant(s) did not fix the violation. The Tenant's violation was:

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A written Notice of the violation was sent to the Tenant(s) on the following date:

\_\_\_\_\_. \* The Tenant(s) did not correct the violation of the lease, and the rental agreement was terminated. **A copy of the notice is attached as an Exhibit.**

Despite proper notice, the Tenant(s) continue to hold over and reside on the premises after the expiration of the notice.

**DAMAGES** (Select all that apply):

Defendant(s) continue to owe rent in the amount of \$ \_\_\_\_\_ per month from the date of (date since rent has not been paid) \_\_\_\_\_ until Defendant(s) vacate the property.

Damages to the premises in an amount to be determined by the court.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff(s) prays for a Judgment against the Defendant (Select all that apply):

- Award me possession of the premises and remove the Tenant(s).
- Award me damages and/ or rent in an amount of \$ \_\_\_\_\_
- Award other proper relief, including court costs and interest.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Plaintiff Signature

Please Print Legibly

\_\_\_\_\_  
Plaintiff(s)

\_\_\_\_\_  
Defendant(s)

\_\_\_\_\_  
Plaintiff(s) Address

\_\_\_\_\_  
Defendant(s) Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Email Address



IN THE JUSTICE COURT OF RECORD  
CITY OF LIVINGSTON, PARK COUNTY, STATE OF MONTANA  
BEFORE CLAY HERBST, JUSTICE OF THE PEACE

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_____ )	Case Number _____
_____ )	
Plaintiff(s) )	
_____ )	
-vs- )	<b><u>AFFIDAVIT OF AMOUNT DUE</u></b>
_____ )	
_____ )	
Defendant(s) )	

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I \_\_\_\_\_, the Plaintiff(s) in the above-entitled action, that as of the date of Motion filed for Default the sum of \$ \_\_\_\_\_, plus \_\_\_\_\_ owing by the Defendant to the Plaintiff as set forth in the Complaint to which reference is hereby made, together with costs of suit incurred.

**I DELCARE UNDER PENALTY OF PERJURY AND UNDER THE LAWS OF THE STATE OF MONTANA THE FACTS STATED IN THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I ALSO UNDERSTAND THAT PROVIDING FASLE INFORMATION IS A CRIME.**

**NOTARY SEAL OR JUDGE'S SIGNUTARUE**

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Seal

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

(For use by notary)

\_\_\_\_\_ signed  
Name \_\_\_\_\_ printed  
Notary Public for the State of Montana.  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_



## Is Your Complaint for Possession Ready to File?

1.  Complete your name and contact information in the top left corner of page 1.
2.  Enter your name (and any other co-filers) on the "Plaintiff" line in the caption.
3.  Enter the person(s) name(s) who you are suing on the "Defendant" line in the caption
4.  Leave the Case Number and Judge lines blank in the caption for the Clerk to complete.
5.  Complete the address of the property for which you are requesting Possession and specify the type of lease you have.
6.  Under the "Possession" section, select all boxes that apply and fill in the blank information requested regarding Notices and dates.
7.  Attach copies of all Notices referenced to this Complaint when you file with the Clerk.
8.  Under the "Damages" section enter the amount of money you are asking the court to award you for back due rent.
9.  Enter the date that you are signing this complaint.
10.  Sign on the "Signature" line
11.  Print your name on the "Print Name" line.
12.  Make copies of the complaint and any notices included. You must provide the clerk with the original and at least two additional copies of the complaint. (Original for court file, one copy for each defendant and one copy for your records.
13.  Take your originals and copies of the Complaint and Summons to the Justice Court Civil Clerk with your \$50.00 filing fee. The clerk will file-stamp and separate your paperwork into "sets" for you to provide to a Process Server for Service on the Defendant.

### MCA Statutory References for Landlords\*:

§ 70-24-427, MCA provides Landlords remedies after termination of a lease agreement in an action for possession

§70-24-441, MCA outlines the specific timeframes of which notice must be provided by Landlord or Tenant for termination of specific leases (tenancies).

§70-24-422, MCA provides Landlord's Rights of Termination and required notifications when regarding noncompliance of a lease agreement by Tenant.

**PRAECIPE**

**IN THE JUSTICE COURT, THE COUNTY OF PARK, IN THE STATE OF MONTANA.**

\*\*\*\*\*

\_\_\_\_\_

\_\_\_\_\_  
**Plaintiff(s)/Petitioner(s)**

**Case Number:** \_\_\_\_\_

**Vs.**

\_\_\_\_\_

\_\_\_\_\_  
**Defendant(s)/Respondent(s)**

\*\*\*\*\*

**To the agency:** \_\_\_\_\_

**Type of papers to serve:**  Summons & Compliant  Answer with Counter Claim

WRIT and Notice to Levying Officer  WRIT or Possession

Temporary Order of Protection & Petition for Temporary Order of Protection,

Permanent Order of Protection

Other \_\_\_\_\_

**Please serve the attached papers to (Name of Defendant(s) or Respondent(s):**

\_\_\_\_\_

**Physical Address:** \_\_\_\_\_

**Phone number(s):** \_\_\_\_\_

**Place of Employment (if known):** \_\_\_\_\_

**Address and Phone number of employer:** \_\_\_\_\_

\_\_\_\_\_

\*\*\*\*\*

**Name and Signature of  
Plaintiff(s)/Respondent:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone number(s):** \_\_\_\_\_

**Email Address** \_\_\_\_\_

**Dated this** \_\_\_\_\_ **day of** \_\_\_\_\_, **20** \_\_\_\_\_.

IN THE JUSTICE COURT OF RECORD  
CITY OF LIVINGSTON, PARK COUNTY, STATE OF MONTANA  
BEFORE CLAY HERBST, JUSTICE OF THE PEACE

\_\_\_\_\_) )  
\_\_\_\_\_) )  
\_\_\_\_\_) )  
Plaintiff(s) (Landlord) ) Case Number CV-\_\_\_\_\_) )  
\_\_\_\_\_) )  
-vs- ) **EVICITION SUMMONS** )  
\_\_\_\_\_) ) **Action for Possession or Eviction** )  
\_\_\_\_\_) )  
\_\_\_\_\_) )  
Defendant (Tenant) )

Dear Tenant,

Your landlord (the Plaintiff) is seeking to evict you from the rental property located at the address \_\_\_\_\_ in Park County, Montana.

<b>What</b>	<b>If you wish to challenge the eviction, you must file a written answer with the Justice Court.</b> You can also assert a counterclaim against the Plaintiff. Call Montana Legal Services at 1-800-666-6899 to get free legal help.
<b>How</b>	<b>Your answer must contain</b> a denial of any or all of the material facts stated in the Complaint that the Defendant believes to be untrue, and also a statement, in plain or direct manner, of any other facts constituting a defense. Any matter not denied shall be deemed admitted.
<b>Where</b>	<b>Your answer must be filed in Park County Justice Court</b> , 414 E Callender St, Livingston, Montana. You must pay a filing fee of \$30 unless the fee is waived by the Court. A copy of your answer <u>must</u> be sent to the Plaintiff.
<b>When</b>	<b>You have five (5) business days after service of the Summons</b> to file your answer with the Court. The date of service is when you are given this Summons document.

**WARNING!** If you do not file an answer or counterclaim within five (5) business days after service of the Summons, the Plaintiff may ask the court to enter a judgment against you by default.  
  
This can result in your eviction from the rental property.

\_\_\_\_\_) )  
Date (Clerk of Court)

\_\_\_\_\_) )  
Plaintiff(s) / Plaintiff Attorney  
\_\_\_\_\_) )  
Plaintiff(s) Address City, State, Zip Code  
\_\_\_\_\_) )  
Phone Number Email Address

