

STATE OF INDIANA)
) (\$):
COUNTY OF MARION)

IN THE WAYNE TOWNSHIP OF MARION COUNTY
SMALL CLAIMS COURT
5401 WEST WASHINGTON ST
INDIANAPOLIS, IN 46241
Phone No. 317-241-9573
FAX No. 317-248-7917
CAUSE NUMBER 49K08 - _____-EV- _____

Plaintiff's Full Name, Address, Phone #, Email

Notice of Claim for Possession of Real Estate and Summons

Designation of Service
___ Personal Service
___ Certified Mail
___ Other

* Parties may receive an email/phone call prompting them to participate in a survey. This will help the court gain valuable information about procedure.

VS. Defendant's Full Name, Address, Phone #

You should appear in court on _____ at _____ o'clock ____M. to answer the Plaintiff's claim in a trial or hearing.

A damage hearing is schedule on _____ at _____ o'clock ____M.

On _____ the Plaintiff rented to the Defendant the premises located at (address) _____ in Marion County, Indiana at a rent of \$_____ per week_/month__ (check one) and that on _____ this tenancy expired because: _____ . Ever since _____, the Plaintiff has been entitled to the Possession of this premises. That the Defendant unlawfully hold over and retains Possession of these premises from the Plaintiff and owes damages in the amount of \$_____.

The Plaintiff states the following are true.

1. The Plaintiff is the owner of the Real Estate.
2. An **Affidavit of Debt** may be attached with the current information. If the Plaintiff believes the Defendant owes more than the amount listed when the final hearing is held, the Plaintiff is to send a detailed summary with the revised amount to the Defendant with-in 45 days from the date of Possession of the Real Estate or at least five (5) days before the final hearing, by one of the following options: personally give notice to the Defendant; mail notice 1st Class Mail (not Certified) Defendant's last known address; e-mail notice to the Defendant.
3. If there is a **written contract or lease** between the Plaintiff and Defendant ("the Parties"), a Copy is attached. If a Social Security Number is listed in the document, the Plaintiff has redacted at least the 1st five digits.

WHEREFORE, Plaintiff demands judgment for the Possession of the premises and for said damages, court cost(s) and other proper relief. (Attach document(s) that support the above statements.)

I affirm, under the penalties for perjury, that the foregoing statements are true. [See Ind. Code 32-30-3-1(b).]

Date

Signature of Attorney or Pro Se Party

CERTIFICATION OF VENUE BY PRO-SE LITIGANT

Small Claim Rule 12 (A)(2) provides that proper venue in a Marion County Small Claims Court for a non-landlord tenant matter shall be in the township where the transaction or occurrence took place, where the obligation was incurred or is to be performed, or where a defendant resides or is employed at the time the complaint is filed.

Small Claims Rule 12 (A)(3) provides that the proper venue for any landlord and tenant claim, including but not limited to a claim for rent, possession of real estate, return of property, return of security deposit or for damages filed in a Marion County Small Claims Court shall be in the township court where the real estate is located .

I, _____ certify that the Wayne Township of Marion County Small Claims Court is the court of correct venue for the claim I wish to file against _____ because:

_____ Wayne Township is the township in which the transaction took place;

_____ Wayne Township is the township in which occurrence took place;

_____ Wayne Township is the township in which the obligation was incurred;

_____ Wayne Township is the township in which the obligation is to be performed;

_____ Wayne Township is the township wherein the defendant resides at the time the claim is filed;

_____ Wayne Township is the township wherein the defendant is employed at the time the claim is filed;

_____ The claim I wish to file is based upon a landlord tenant relationship and the real estate that is the subject of this relationship is located in Wayne Township

DATE: _____

SIGNATURE OF PRO-SE LITIGANT

NAME OF PRO-SE LITIGANT PRINTED

The following information is provided by the Court.
Two (2) hearings may be scheduled. The dates and times are listed above and below.

The 1st hearing is for the Judge to decide, if a pre-judgment order of Possession should be issued. [See I.C. 32-30-3-5 and I.C. 32-30-3-2(b)(3).] If an order is entered, the Defendant would be ordered to vacate the Real Estate and the Plaintiff would be given Possession of the Real Estate on a date set by the Court. The 1st hearing cannot be sooner than 10 days after the Defendant is served with a copy of the Notice of Claim for Possession of Real Estate. [See I.C. 32-30-3-2 and LR49-SC-03-203.] The Defendant may file supporting affidavits with the Court; and may appear and present supporting testimony; and may file a written undertaking in an amount set by the Court at the 1st hearing to state the pre-judgment delivery of the Real Estate. The Court may issue a pre-judgment order of Possession in favor of the Plaintiff, if the Defendant fails to appear at the first hearing.

2nd hearing is for the Plaintiff and the Defendant to present evidence proving whether the Defendant owes money to the Plaintiff. A final judgment may be entered based upon the evidence.

A Plaintiff or Defendant (“a party”) may appear by an attorney in this case for claims up to \$10,000.00 plus court cost. If a party is a person, he or she may represent himself or herself without an attorney. If a party is a sole proprietorship or a general partnership, the party may appear by the sole proprietor or by a general partner. If a party is a corporation, a limited liability company(LLC), a limited liability partnership (LLP), or a trust the party may appear by a full-time employee for claims up to \$6000.00 as the party’s Ind. Small Claims Rule 8(C) representative. U.S. Bureau of Labor Statistics says a person is a full-time employee, if the employee works at least 35 hours per week. The salary or wages would be reported on a W-2.

A party should bring to the trial all documents in the party’s Possession or control relating to this case.

If the Defendant agrees that the Plaintiff is entitled to the relief requested in the Notice of Claim for Possession of Real Estate, the Defendant may appear at the 1st hearing to help decide when the Defendant will vacate the Real Estate and the Defendant may appear at the 2nd hearing to help decide how much the Defendant owes and how to pay the judgment.

If a party is unable to appear at the 1st or 2nd hearing, the party may file a written motion for continuance with the Clerk of the Wayne Township Small Claims Court, at the address on the 1st page, explaining why the parties is unable to attend the hearing. A motion to continue a hearing should be filed at least 48 hours before the hearing. **Continuance of 1st hearing is seldom granted.** If the Defendant does not appear at the final hearing, a default judgment may be entered against the Defendant. (LR49-SC09-301)

The Plaintiff waived the Plaintiff’s right to a jury trial when the case is filed. The Defendant may request a jury trial by submitting a written request to the Court within 10 days after receiving the Notice of Claim for Possession of Real Estate and paying the additional amount required by statute to transfer this case to the Marion County Circuit or Superior Court’s plenary docket, within ten days after filing the jury trial request. If the written request is not filed on time and if the additional court cost is not paid on time or waived, the Defendant’s right to jury trial is waived. (LR49-TP38-303)

If the Defendant has a claim against the Plaintiff, the Defendant may file a Counter-Claim under this cause number. If the Plaintiff does not receive the Defendant’s Counter-Claim at least seven (7) days prior to the trial, the Plaintiff may request a continuance of the trial date.

You may learn more about the Small Claims Rule and read the Indiana Small Claims Manual online. The State website is <http://www.on.gov/judiciary/>. Type “Indiana Small Claims Manual” in the search block and you may download the Manual. You may also pick up a copy from the Clerk.

SUMMONS

You should appear in court on _____ at _____ o’clock __.M. to answer the Plaintiff’s claim in a trial or hearing. A damage hearing is schedule on _____ at _____ o’clock __.M.

RETURN OF SERVICE OF NOTICE OF CLAIM FOR POSSESSION OF REAL ESTATE:

I certify that on _____:

_____ I served this Notice of Claim by delivering a copy to the Defendant.

_____ I served this Notice of Claim by leaving a copy:

_____ at the dwelling or usual place of abode of the Defendant; OR

_____ with a person of suitable age and discretion residing therein, namely _____.

AND

_____ by mailing a copy of this Notice of Claim to the Defendant, by First Class Mail, to the address listed on the Notice of Claim (date copy mailed if different from below: _____, 20__).

_____ Service remarks concerning dwelling or abode: _____. I was unable to serve this Notice of Claim because _____.

Date served _____

Service Perfected By: _____

Cause No.: _____

Plaintiff

VS

Defendant

LANDLORD'S AFFIDAVIT FOR POSSESSION
DUE TO NONPAYMENT OF RENT

I, _____, swear or affirm under penalty of
(Print name)

perjury that the following statements are true and correct:

1. The Tenant/defendant _____
(Print name) rented the property on
_____, 20__ and a copy of the lease is attached;
2. The Tenant/defendant paid a security deposit in the sum of \$ _____;
3. The Tenant/defendant paid the sum of \$ _____ in rent and \$ _____
in late fees since she or he took possession of the real estate and a copy of his/her
payment history is attached;
4. The Tenant/defendant should have paid the sum of \$ _____ in rent and
\$ _____ in late fees;
5. As to date of this Court hearing, the Tenant/defendant is in arrears in his/her rent
in the amount of \$ _____ and
6. To the best of my knowledge, the Tenant/Defendant has no legal, physical or
mental disability that would keep him or her from attending the trial or that would
prevent the Tenant/defendant from understanding the nature of the proceedings.

**I AFFIRM UNDER PENALTY OF PERJURY THAT THE ABOVE STATEMENTS ARE
TRUE AND THAT ANY FALSE CLAIMS MADE BY MEANS OF THIS AFFIDAVIT MAY POSSIBLE RESULT TO CRIMINAL
PROSECUTION UNDER THE LAWS OF PERJURY
OF THE STATE OF INDIANA.**

Date: _____

(Signature)

EVICTION DAMAGES BREAKDOWN

CAUSE NO: 49K08 _____ SC _____

TENANT VACATED PREMISES ON _____, 20__

Month/Rent owed: _____
Month/Rent owed: _____
Month/Rent owed: _____
Month/Rent owed: _____

Repairs: Copies of repairs, estimates, replacement or receipts must be attached.

_____ \$ _____
_____ \$ _____
_____ \$ _____
_____ \$ _____
_____ \$ _____
_____ \$ _____
_____ \$ _____
_____ \$ _____
_____ \$ _____
_____ \$ _____
Total Repairs: \$ _____
Minus Tenant's Security Deposit: \$ _____
Total Claimed: \$ _____

Did you provide an itemized list of damages to the tenant within 45 days of him/her vacating the premises?
Y / N

I affirm under penalties of perjury that the above statements are true:

Dated

Landlord's Signature

Printed Signature

Wayne Township Small Claims Court
Judge Gerald B. Coleman
Preparing your Small Claims Case for Trial

- 1) Your opening statement should summarize the nature of your claim and the damages you have suffered because of injury, breach of contract, or whatever basis for your claim and why the other person is at fault.
- 2) Bring your evidence (Exhibits) to prove your case! This may be a written contract, Receipts, Letters, Estimates in writing, Repair Orders, Photographs, Canceled Checks, Account Books, Advertisements, Warranties, Service Contracts, or other documents.
- 3) Ask your witnesses to come to court. If a witness does not want to attend, you may request that the clerk issue a subpoena ordering the witness to appear.
- 4) Arrange your Exhibits in a clear understandable manner. Number all of your exhibits (1, 2, 3, etc.). If you are the defendant, use letters instead of numbers (a, b, c, etc.).
- 5) Bring two copies of all Exhibits that you intend to submit to the Court for your case, one copy for the court and one copy for the opposing party.
- 6) The Court cannot look at any evidence on your telephone, laptop or tablet so you must print out any evidence if you want the Court to consider it.**
- 7) Consider practicing your presentation in front of someone or a mirror. You can also come visit a small claims session to see how cases are conducted.

This is your one opportunity to present your case. Make it count!