

Lawsuit for Failing to Rekey

You can use this form for filing suit in justice court, also called justice of the peace or JP court. **If a landlord fails to rekey a security device (either between tenancies or later at your expense) you are entitled to actual damages, one month's rent plus \$500, attorney fees and court costs.** Justice court has a jurisdictional limit of \$20,000 and is sometimes more friendly to landlords because JP courts hear evictions in their courts frequently. But, it is easier to represent yourself in justice court, cheaper to file the suit and you get to trial much quicker. See Sue Your Landlord to learn how to file suit and try the case in justice court.

How to fill in the blanks in the form:

1. The first blank at the top of the form is the **Case Number**. When you file the case, the court clerk will assign a number to the case and write that number at the top. You do not need to fill that blank in before filing the case.
2. On the right side at the top is the court information. Put the **County** you are filing suit in the blank and put which **Precinct** and **Place** of the justice court you are filing the suit in (e.g., Precinct 1, Place 2, Dallas County, Texas). Each county often has more than one JP court, so the county is divided into two or more precincts. The easiest way to find out which precinct you are in, is to call one of them nearby and tell them the address of the property you are leasing. The court clerk will then tell you which precinct the property is in. For precincts with large populations, more than one JP court is assigned to a precinct. In these precincts, each JP court is assigned a different "Place number." You are allowed to file the case in any "Place" in your precinct. So if there is more than one JP court in your precinct, pick the court that is easy to get to or the one that is friendliest to tenants.
3. Since you are bringing the suit first, you are the **Plaintiff**. Put your name in the blank for Plaintiff on the left side, and again in the Parties section of the form petition.
4. The landlord is the **Defendant**. This is probably not the manager of the property. It is best to sue the owner of the property. You have a right to know the name and address of the owner of the property. See Who owns the property? for details on getting this information. Often a business entity owns the property (like a corporation, or a limited partnership). If the owner is a business entity, list the business as the Defendant in the suit and put the name in the blank for Defendant at the top and in the Parties section of the form petition.
5. The **address** of the Defendant in the Parties section of the form petition needs to be filled in, as well. This is the address where a constable will serve the Defendant with court papers. Try to get the correct address and completely list it. The easier it is for the constable to serve the court papers, the faster the judge will schedule your case. You are entitled to know the address of the owner of the property. As we stated above, it is best to sue the owner of the property.
6. The last blank area in the body of the form petition is a listing of the security devices that were not rekeyed and the selection of the type required. If the landlord failed to rekey the devices since the last tenant moved out, select option one on the form. If the landlord failed to rekey the devices at your expense at a later time, select option two on the form. You can either circle or check the option that is applicable. **You should have a copy of the letter you sent the landlord requesting the device be rekeyed.**
7. Sign your name at the bottom. Print your name, complete address, phone number, and email below your signature.
8. Read over the form and make sure it has been filled out completely.
9. **Make two copies** of the signed form and take them, with the original to the justice court for filing (3 documents in total). The court will keep the original and take one copy to serve on the Defendant. The court will return the third to you with a file stamp for your records. For more information on proceeding with the case, see Sue Your Landlord.

NO. _____

(filled in by court)

_____ ,)	IN THE JUSTICE COURT
PLAINTIFF (Your Name),)	
vs.)	
)	PRECINCT ____, PLACE ____
)	
_____ ,)	
DEFENDANT (Landlord).)	_____ COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiff files this original petition in the above-styled and numbered cause, and in support, shows the Court as follows:

I. DISCOVERY

1. Plaintiff intends to conduct discovery under Level 1.

II. PARTIES

2. _____, Plaintiff, is a resident of the county of this Court, within Texas.
3. _____, Defendant, may be served at the following address:

_____.

III. JURISDICTION AND VENUE

4. The amount in controversy is within the jurisdictional limits of this Court, and venue is proper as the cause of action arose in the county of this Court within Texas.

IV. FACTS

5. Plaintiff leased premises from Defendant.
6. Defendant failed to timely rekey or change security device(s) to the premises.

Select One:

- Rekey at Landlord's Expense: Section 92.156 of the Texas Property Code requires each of these devices to be rekeyed or changed between tenancies at Defendant's expense within seven days of the move. This was not performed.

Rekey at Tenant's Expense: Section 92.156 of the Texas Property Code requires Defendant to rekey or change these devices at Plaintiff's expense as many times as requested.

7. Plaintiff gave Defendant a written demand to rekey on or about _____ (date). Defendant did not rekey within seven days.
8. Any provision of a lease that purports to waive or diminish Plaintiff's rights is void pursuant to Section 92.006(a) of the Texas Property Code.

V. CAUSE OF ACTION

9. Defendant is liable to Plaintiff for failing to rekey or change the security devices to the premises. Pursuant to Section 92.164 Texas Property Code, Plaintiff requests the following relief:
 - a. civil penalties of one month's rent plus \$500,
 - b. actual damages, and
 - c. and court costs from Defendant.

VI. REQUEST FOR RELIEF

Plaintiff requests this Court grant the following relief:

- a. civil penalties as requested herein;
- b. actual damages;
- c. court costs; and
- d. any other relief to which Plaintiff is entitled.

Respectfully submitted,

(Your Signature)

(Your Printed Name)

(Your Address)

(Your City, State, Zip)

(Your Phone Number)

(Your Email)