

Lawsuit for Taking Tenant Property When Not Authorized

You can use this form for filing suit in justice court, also called justice of the peace or JP court. If a landlord improperly removes property you are entitled to the return of the property (or its replacement value), actual damages plus the greater of one month's rent and \$1,000 (minus any amount you owe), 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 than in other courts. 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 prior to filing the case.
2. On the right side at the top is the court information. Put the **County** where you are filing suit in the blank and write the **Precinct** and **Place** of the justice court where you are filing the suit (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 your precinct, 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. 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 obtaining 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 entity 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. Fill in the **address of the Defendant** in the Parties section of the form, as well. This is the address where a constable will serve court papers to the Defendant. Try to get the correct address and completely list it. The easier it is for the constable to serve the court papers, the faster your case will be heard. 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 in the body of the form petition is a **listing of the property that was wrongfully taken**. Be complete about each item removed. You can attach a separate sheet if you need to. You should understand why the landlord broke the law -- either you were not behind on the rent, the lease did not allow the landlord remove tenant property, the landlord took exemption property, the landlord did not leave a list of the property taken, the landlord breached the peace when the property was removed, the landlord did not return the property after you paid the rent, etc. One or more of these reasons is enough. You should have an idea of the replacement value of the property by the time your case is called to trial, as well.
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 (3 total) to the justice court for filing. The court will keep the original, keep one copy to serve on the Defendant and return one 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 removed the following item(s) from the premises to secure payment:

_____.

7. Defendant improperly removed such item(s) because (mark all that apply):

- the lease does not properly provide for landlord liens;

- Plaintiff did not owe Defendant rent;
- the item(s) removed were exempt from lien;
- Defendant breached the peace during the entry or removal;
- Defendant failed to provide written notice of entry and list of items removed, the amount of delinquent rent, the name, address and telephone number of the contact person, and that the items will be promptly returned on full payment.

8. Any provision of the lease that purports to waive or diminish Plaintiff's rights is void pursuant to Section 54.043(b) of the Texas Property Code.

V. CAUSES OF ACTION

9. Defendant is liable to Plaintiff for each violation noted in Paragraph 7. Pursuant to Section 54.046 of the Texas Property Code, Plaintiff is entitled to the return of all property removed (or its replacement value), and one month's rent and \$1,000 for EACH violation noted, actual damages, and court costs from Defendant.

VI. REQUEST FOR RELIEF

Plaintiff requests this Court grant the following relief:

- a. return of any property removed (or its replacement value);
- b. actual damages;
- c. a civil penalty of one month's rent and \$1,000;
- d. court costs; and
- e. 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)