



Texas
LawHelp.org

Defendant's Answer – Eviction

This toolkit tells tenants how to file an Answer in an eviction case.

Forms are included.

You can use this form to file an Answer if you have received an Eviction Citation with a hearing date.

This packet was developed by TexasLawHelp.org in collaboration with Texas RioGrande Legal Aid and Legal Aid of Northwest Texas.

Do not file this page.

Instructions for Eviction Answer

- Step 1: Caption** – Fill out the Cause No., Plaintiff, Defendant, Precinct No., and County blanks at the top exactly as they appear in the citation that the court sent you.
- Step 2: Defenses** – Check the applicable boxes, if any:
- a. CDC Halt on Evictions – The CDC issued an order to halt evictions for nonpayment of rent through at least March 31, 2021. To get this protection, you must give your landlord a signed document that says you meet the CDC's. See TexasLawHelp's [CDC Eviction Moratorium article](#) for forms and information.

Check this box if you truthfully signed the CDC Declaration and gave it to your landlord. You may give your landlord the declaration at any time, even after your landlord has filed for eviction. Be sure to file a copy with the court as well.

- b. CARES Act – The CARES Act says that landlords of certain properties cannot give tenants a Notice to Vacate for unpaid rent until July 25, 2020. After July 25, 2020, landlords of covered properties must give a 30-Day Notice to Vacate before filing for eviction.

Check this box if you live on a **covered property** and any of the following apply:

- The landlord gave you a Notice to Vacate or filed an eviction for nonpayment between March 27, 2020 and July 25, 2020
- The landlord did not give you a 30-Day Notice to Vacate, or
- The landlord gave you a 30-Day Notice to Vacate (at any time) but filed for eviction before the 30 days ended.

Covered Properties: Go to the [National Low Income Housing Coalition](#) for a list of properties that fall under Section 4024 the CARES Act. There is also a [map](#) from BASTA, Texas RioGrande Legal Aid, and Texas Housers [here](#). **Note that the list and map are not complete.** If you check the list and the map and are still unsure whether you live on a covered property, see this TexasLawHelp [article](#).

- c. Thirty-second Emergency Order Petition Requirements – The Supreme Court of Texas gave an [emergency order](#) that requires landlords to include certain things in their Petition for Eviction. Check this box if the Petition was filed after March 27, 2020 and any of the following four things apply:
- i. Covered Dwelling – Check this box if the Petition does not say whether your home is a “covered dwelling” subject to Section 4024 of the CARES Act.
- ii. Federal Housing Administration Mortgage – Check this box if the Petition does not say whether the property is subject to or used to secure an FHA single-family mortgage. (The FHA has banned eviction of owners who

defaulted on single-family FHA mortgages.) The Petition must say this even if you did not own the home.

- iii. CARES Act Notice – Check this box if the Petition does not say whether the landlord gave you a 30-Day Notice to Vacate under Sections 4024(c) of the CARES Act. (Not all cases require 30 days’ notice. Many only require three days’ notice or less. However, your landlord must still say whether they gave you 30 days’ notice.)
 - iv. Signed CDC Declaration – Check this box if the Petition does not say whether you gave the landlord a signed CDC Declaration. The Petition must say this even if you did not give the landlord a signed CDC Declaration.
- d. Thirty-first Emergency Order Petition Requirements – The Supreme Court of Texas gave an emergency order that requires landlords to say in the eviction petition that they have reviewed information about something called the Texas Eviction Diversion Program. You can find information about the program on the State Court Website, TexasLawHelp, or the Stop TX Eviction Tool.

Check this box if the petition was filed after September 25, 2020 and does not say that the Petitioner reviewed information about the Texas Eviction Diversion Program.

- e. FHA Eviction Prohibition – Check this box if you are being evicted from a property with a single-family mortgage insured by the Fair Housing Administration. This generally happens after you default on your mortgage and the lender forecloses.

The fair housing administration does not currently allow foreclosures or evictions where it insures a single-family mortgage. Visit the FHA website for tips on finding out whether the FHA insures your mortgage.

- f. Local Halt on Evictions – Some cities and counties have halted evictions independently. Be aware of your local rules before checking this box. You can find these rules on your city or county website, or they may be listed on the TexasLawHelp COVID Evictions page. If possible, enter the name of the city or county that made the rule.
- g. Texas Notice to Vacate – Check this box if you did not get a Notice to Vacate. Texas law requires all landlords to give tenants a Notice to Vacate at least three days before filing for eviction unless the lease states a shorter time period.

You can also check this box if the time between when you received a Notice to Vacate and the date on your citation is 1) less than the time period stated in your

lease, or 2) less than three days if the lease does not state a time period.

Note: This Notice to Vacate is separate from the CARES Act Notice above and the Notice of Possible Eviction below.

- h. Notice of CDC Order – Check this box if the citation the court sent you did not contain the following statement in English and in Spanish:

“The Centers for Disease Control issued an order stopping some evictions. You may be able to stop your eviction if you sign the attached Declaration under Penalty of Perjury for the Centers for Disease Control and Prevention’s Temporary Halt in Evictions to Prevent Further Spread of COVID-19 and provide it to your landlord and the court. Before signing the Declaration, read it carefully and make sure all the statements are true. The Declaration is sworn, meaning you can be prosecuted, go to jail, or pay a fine if any of the statements are not true. Find out more about the order at [TexasLawHelp.org](https://www.texaslawhelp.org).”

- i. Blank Copy of CDC Declaration – Check this box if the citation the court sent you did not have a blank copy of the [CDC Declaration](#) attached.
- j. Notice of Possible Eviction – Some local governments, including [Dallas](#), temporarily require landlords to give you an extra written notice and a chance to pay missed rent before giving you a Notice to Vacate for unpaid rent. (The Notice to Vacate is what they are supposed to give you right before they file for eviction.) Be aware of your local rules before checking this box. You can find these rules on your city or county website, or they may be listed on the [TexasLawHelp.org](https://www.texaslawhelp.org) [COVID Evictions page](#). If possible, enter the name of the city or county that made the rule.

- Step 3: Further Information** – You may list any further defenses or information that you think the court should know about.
- Step 4: Jury Trial** – Check this box if you want a jury to decide your case instead of a judge. There is a \$22 fee for this.
- Step 5: Email** – Check this box if you agree to get case information through email.
- Step 6: Attachments** – If your explanations do not fit in the form, feel free to add an attachment. You can also attach other evidence, such as a copy of the lease, evidence that the CARES Act applies, etc. List the title of each attachment.

For example: “Signed CDC Declaration”

- Step 7: Signature and Contact Information** – Sign and fill out your contact information.
- Step 8: Service** – Give a copy of the Answer to the Plaintiff or the Plaintiff’s attorney, if they have one. You can give them a copy by hand, mail, or fax. If you and the Plaintiff agree, you can email them a copy.
- Step 9: Certificate of Service** – Enter the date on which you sent a copy of the Answer to the Plaintiff. Check the method you used.
- Step 10: Sign** – Sign the Certificate of Service.
- Step 11: File** – File the completed Answer with the court.
- Step 12: Hearing** – Go to the court hearing. If you absolutely cannot show up to the hearing, file a Motion for Continuance to ask for another date. **You must have a very good reason to move the court date.** The court does not have to give you a new court date just because you ask. Note that having to work is not usually an acceptable reason.

Cause No. _____

Plaintiff

v.

Defendant

§ In the Justice Court
§
§
§ Precinct No. _____
§
§
§ _____ County, Texas

Defendant's Answer (Eviction)

The Defendant, _____, submits this Answer.

General Denial: The Defendant generally denies all of the Plaintiff's allegations and demands that Plaintiff prove each allegation.

Affirmative Defenses: Based on information and belief, the Defendant asserts that:

- CDC Halt on Evictions:** The Plaintiff is prohibited from taking action to evict the Defendant per the September 1, 2020 CDC Order to Temporary Halt Evictions to Prevent Further Spread of COVID-19, and the Defendant presented the Plaintiff with a signed declaration to that effect;
- CARES Act Notice:** the property is a "covered dwelling" under Section 4024 of the CARES Act and the Plaintiff did not provide 30 days' notice of this action;
- Thirty-second Emergency Order Petition Requirements:** the Plaintiff's sworn petition fails to state one or more of the following, as required by the December 29, 2020 Supreme Court of Texas Thirty-second Emergency Order, or as extended by any subsequent COVID-19-related Supreme Court of Texas emergency order¹ (check all that apply):
 - Covered Dwelling:** the Plaintiff fails to state whether the premises is a "covered dwelling" subject to Section 4024 of the CARES Act;
 - Federal Housing Administration Mortgage:** the Plaintiff fails to state whether the premises are a property securing an FHA-insured single-family mortgage;
 - CARES Act Notice to Vacate:** the Plaintiff fails to state whether they have provided the defendant with 30 days' notice to vacate under Sections 4024(c) of the CARES Act;
 - Signed CDC Declaration:** the Plaintiff fails to state whether the tenant gave them a signed Centers for Disease Control Declaration;
- Thirty-first Emergency Order Petition Requirement:** the Plaintiff's sworn petition fails to state that the Plaintiff has reviewed the information about the Texas Eviction Diversion Program as required by the December 22, 2020 Supreme Court of Texas Thirty-first Emergency Order, or as extended by any subsequent COVID-19-related Supreme Court of Texas emergency order;

¹ See The Texas Judicial Branch webpage for current Supreme Court of Texas emergency orders:
<https://txcourts.gov/court-coronavirus-information/emergency-orders/>

- FHA Eviction Prohibition:** the FHA prohibits this action because the property secures an FHA-insured single-family mortgage;
- Local Halt on Evictions:** this action is prohibited by local rule or ordinance of _____ (city or county) (only applicable in some jurisdictions);
- Texas Notice to Vacate:** the Plaintiff has not given the Defendant proper Notice to Vacate as required by Section 24.005 of the Texas Property Code;
- Notice of CDC Order:** the citation issued per Texas Rule of Civil Procedure 510.4(a) failed to include notice of the Centers for Disease Control’s Temporary Halt on Evictions in both English and Spanish as required by the Supreme Court of Texas Thirty-second Emergency Order or by any subsequent COVID-19-related Supreme Court of Texas emergency order;
- Blank Copy of CDC Declaration:** the citation issued per Texas Rule of Civil Procedure 510.4(a) failed to include a Centers for Disease Control Declaration form as required by the Supreme Court of Texas Thirty-second Emergency Order or by any subsequent COVID-19-related Supreme Court of Texas emergency order; and
- Notice of Possible Eviction:** the Defendant has not received proper Notice of Possible Eviction prior to receiving a Notice to Vacate, as required by local rule or ordinance of _____ (city or county) (only applicable in some jurisdictions).

- Further Information:** The Defendant further answers as follows (give any other defenses or necessary information, if any, and attach additional pages if necessary):

- Jury Trial:** The Defendant asks for a jury trial. The fee is \$22 and must be paid at least 3 days before trial.

- Email Service:** The Defendant agrees to email service for all documents filed in this case. The Defendant’s email address is: _____.

- Attachments:** The Defendant attaches the following documents:

Plea for Relief: The Defendant asks the Court to enter judgment for Defendant, award the Defendant's costs, and provide such other just relief to which Defendant is entitled.

Respectfully submitted,

Defendant Signature

Printed Name: _____

Address: _____

Telephone: _____

Email: _____

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of this Answer to the Plaintiff on the _____ day of _____, 2020, pursuant to Texas Rule of Civil Procedure 501.4 by:

- Hand delivery
- Mail
- Fax
- Email (if both parties have agreed in writing and provided email addresses)
- Another method approved by the court: _____

Defendant's Signature

Signature Date