

**CIRCUIT COURT OF  
LAFAYETTE COUNTY,  
MISSOURI**



**LANDLORD COMPLAINT  
BOOKLET**

**LANDLORD COMPLAINT  
COURT FILINGS**

Office of the Circuit Clerk  
Lafayette Hall, 2<sup>nd</sup> Floor  
116 S. 10<sup>th</sup> St.  
PO Box 10  
Lexington, MO 64067  
660-259-6101

**NOTICE TO THOSE WISHING TO FILE A  
LANDLORD COMPLAINT  
Pursuant to Chapter RSMO 535**

The clerks of this office will explain and provide all forms necessary for the presentation of your claim to the Court. Office hours are 8:00 am to 4:30 pm Monday through Friday.

The clerks of this office have no authority to provide legal advice or help you prepare forms and/or pleadings necessary for the presentation of your petition to the Court. If you have questions or concerns about your claim please seek the advice of an attorney.

**When can a landlord end a lease?**

- At the end of a written lease
- When a tenant does not pay rent
- When a tenant damages the property
- When a tenant violates a term of a written lease
- A landlord can end a month-to-month lease at any time, but the landlord must give one month's written notice to the tenant.

**When can a tenant end a lease?**

- At the end of a written lease
- When a landlord violates a term of a written lease
- A tenant can end a month-to-month lease at any time, but the tenant must give one month's written notice to the landlord.
- Note that some written leases are automatically renewed unless the tenant gives written notice of intent to leave at a certain time.

**What happens if a tenant does not pay rent when due?**

The landlord will demand the rent. If rent is not paid, the landlord may file a Landlord Complaint petition.

**What happens if a landlord does not refund a security deposit?**

A landlord has 30 days after the lease ends to refund the security deposit or give the tenant a written explanation of any amount withheld from the deposit. The landlord must send the refund and/or explanation to the tenant's new address in writing.

If a landlord fails to give either a refund or an explanation within a 30 day time limit, the tenant may file a Small Claims Petition for twice the amount wrongfully withheld.

**Eviction**

A landlord cannot evict a tenant without a court order. The landlord may begin eviction proceedings if a tenant:

Under RSMO Chapter 535

- Fails to pay rent
- Violates terms of the lease
- Fails to move when lease is up

Under RSMO Chapter 441

- Damages Property
- Injures the landlord or another tenants
- Allows drug-related criminal activity or gambling on the premises

The tenant will receive notice if an eviction petition has been filed and will have the chance to be heard in court before any eviction can take place.

**How do you make a claim?**

You will need to fill out a Landlord Complaint Form, which can be obtained from the Circuit Clerks office or [www.lafayettecountymo.com](http://www.lafayettecountymo.com) under the Courts tab. You must have the name and address of the person(s) whom you wish to file suit against. The clerk is restricted from helping you fill out the papers, but will inform you of the court date and time at the time of filing or by mail.

For up-to-date information about your case, you may access our state website [www.courts.mo.gov](http://www.courts.mo.gov) then click on Case.net.

**Settling Your Claim Before Court**

If your case is settled or agreed upon, prior to the court date. Please notify the clerk's office in writing that your case has been settled and you wish for it to be dismissed. If you do not notify the clerk, your case may be dismissed in court.

**What do you do on hearing day?**

The owner or owner’s attorney must appear in Court.

If the owner is a Limited Liability Partnership, Limited Liability Company or a Corporation, the petition must be signed and filed by an attorney through the Court’s e-filing system, and the plaintiff must be represented by the attorney in Court.

You must appear in court on the scheduled hearing date. Bring all papers you need to assist with presentation of your case. If you do not appear, your case may be dismissed.

**THE PETITION**

**THE PLAINTIFF AND DEFENDANT**

In a Landlord Complaint action plaintiffs act as their own attorney unless they choose to retain an attorney to represent them. The plaintiff must complete all forms and present their own evidence in court. The Landlord Complaint Form must be legible, and printed in black or blue ink or typed.

The plaintiff must properly identify himself both on the petition in the upper left hand corner, then again when he signs the complaint.

It is essential that you name the defendant(s) properly.

As a general rule, there are three types of plaintiffs and defendants. The following are examples of how each must be listed on a landlord complaint petition:

1. An individual is listed as “John Doe”

2. An unincorporated business or a partnership is listed as, “John Doe and James Roe d/b/a Roe’s Tractor”
3. A Corporation is listed as:  
Doe’s Tractor, Inc.  
(Serve) John Doe, Registered Agent  
(or) James Roe, President

**FILING THE PETITION**

You must file your landlord complaint in the county where the property is located.

**FILING INFORMATION**

Landlord Complaint Filing Fee is \$48.00 + service fee

Service Fee by Lafayette County Sheriff for 1 Defendant

Alma	\$44.00	Higginsville	\$39.00
Aullville	\$46.00	Lexington	\$30.00
Bates City	\$43.00	Mayview	\$37.00
Concordia	\$47.00	Napoleon	\$37.00
Corder	\$41.00	Odessa	\$41.00
Dover	\$37.00	Waverly	\$42.00
Emma	\$50.00	Wellington	\$34.00
Blackburn	\$46.00	Oak Grove	\$45.00

Additional Defendants \$30.00 each

Our Office accepts the following for payment/filing fees:

Local Checks from Lafayette County

Cashier’s Check

Money Orders

Visa/MasterCard/Discover/American Express, a transaction fee will apply.

**Service by Special Process Server:**

If you choose to use the service of a Special Process Server, you pay their fee directly to them. A Motion and Order for Special Process Server must be filled out and signed by the Judge or a Clerk.

**Service by Posting:**

An additional Service Fee of \$30.00 for Posting, is required, if served by the Lafayette County Sheriff.

You pay the Special Process Server directly for service by posting.

If you are requesting service by posting, a motion and order to post will need to be completed and filed. Service is issued to the defendant by regular service, placing the summons on the door, ten (10) days before the court date, and by regular mail. If the summons is posted on the door of the residence only and the defendant does not appear in court, you may only obtain a judgment for possession only. Landlords cannot receive a money judgment unless personal service is obtained on the defendant or through an appropriate member of the family.

**NOTE:** If your first attempt at personal service is not successful, it will be necessary for you to request an “alias” summons. Additional service information and/or service fee will be necessary.

**The Court Hearing:**

Show up on time and bring all your evidence (pictures, papers, estimates, witnesses, etc.) available for the judge. If you do not

appear in court, your case may be dismissed. When your case is called, present yourself at the bench. The judge will ask you to describe the purpose of the claim and to present facts in support of the claim. The person you filed a claim against will be asked to respond. Be ready to inform the Court of the total amount of the judgment requested. The judge will then enter a judgment.

**ONCE THE JUDGE ANNOUNCES A DECISION, BY LAW/RULE, THE JUDGE CANNOT HELP YOU ANY FURTHER.**

**YOU ARE SOLELY RESPONSIBLE FOR COLLECTING YOUR MONEY. NEITHER THE JUDGE NOR THE CLERK WILL COLLECT THE MONEY FOR YOU.**

**IF THE LANDLORD WINS:**

1. If the Court awarded Plaintiff possession of the premises, the Plaintiff may file a Request for a Writ of Execution for Possession any time after the hearing; however, the Writ of Execution will not be issued until the appeal time (10 days) has expired.
2. The landlord may wait until the appeal time has expired to request a Writ of Execution which will be issued to the Sheriff until an appeal has been filed with a bond to stay execution of the Writ of the Judgment has been Set Aside on motion of either party.
3. Once the Writ of Execution has been issued, the Plaintiff should make arrangements with the Sheriff to be placed in possession of the premises within (5) days.

### IF YOU LOSE:

1. Either party has the right to appeal the decision of the Court within ten (10) days of the date of Judgment. If you wish to appeal, contact the Court Clerk.
2. If no appeal is filed or the Appellant fails to post appeal costs and fees in the amount of \$45.00 within ten (10) days, the decision of the Court will be final. If the Defendant appeals an Order for Possession of the premises the Plaintiff is still entitled to possession of the premises unless an appeal bond has been posted.

### **Collecting on Your Claim**

There are several ways to collect your money:

1. Losing Party Voluntarily Pays
2. Garnishment
  - a. Through Wage Withholding
  - b. Through a Bank Account

### **Losing Party Voluntarily Pays**

Whether the loser agrees to pay you in a lump sum or in installments over a period of time, an agreement between you and the losing party is the best and most efficient way to collect your money.

### **Garnishment**

Garnishment is the most frequently used legal procedure to collect money in a landlord/tenant case. Under this procedure, an employer or other person holding money belonging to the losing party pays to the court the money owed to the winning party. (This employer, bank, or other person is called the “garnishee”.) The court then pays the winning party.

### **Post Judgment: For Plaintiff**

If you wish to execute on this judgment, there is a ten (10) day appeal time. After the ten (10) days is up you may need to do one or both of the following:

1. To have the defendant(s) removed from the premises please fill out a Request for Writ of Execution/Possession along with a service fee for the Lafayette County Sheriff.
  - a. It is your responsibility to call and make an appointment with the Lafayette County Sheriff at 660-259-2545 to take possession of premises.
2. To collect money the Plaintiff may Garnish the Defendant in two different ways:
  - a. If you know where the Defendant works, you can garnish his/her wages.
  - b. If you know where the Defendant banks, you can garnish his/her bank account, as long as it is a single person bank account.
  - c. If the bank account is a joint account, the judgment has to be against both parties of the account.

To start the Garnishment process, please fill out the following forms which can be accessed at the Clerk’s Office or at our website [www.lafayettecountymo.com](http://www.lafayettecountymo.com) Then click on Court Forms

- a. Execution/Garnishment/Sequestration Application and Order, Form CV90
- b. Interrogatories to Garnishee, Form CV110

Note: Instructions for completing these forms are also available at this site.

A service fee will be required if served by a Sheriff. If you request a special process server, you pay them directly.

### **Post Judgment: For Defendant**

If you wish to appeal the judge's decision, you have up to ten (10) days from the date of judgment to file a Trial De Novo. To file a Trial De Novo you will need to fill out a Trial De Novo Form, Form CV50 and present it to the Circuit Clerks Office with a filing fee of \$45.00. The clerk's office has a Trial De Novo Form or the form can be obtained at [www.lafayettecountymo.com](http://www.lafayettecountymo.com) under Court Forms.

If a Trial De Novo is filed without a bond it does not stop the Landlord/Plaintiff from filing a Writ of Execution/Possession.

If a Trial De Novo is filed with a judge approved bond, which must be posted with the Clerk's Office, then the Landlord/Plaintiff is prohibited from filing a Writ of Execution/Possession.

The Clerks or Judges of the Court cannot advise the Landlord/Plaintiff what to do with the Tenants/Defendants possessions i.e. clothes, boxes, furniture, etc after the Tenants/Defendants have been ordered removed from the premises.

### **Satisfaction of Judgment:**

Once you have collected or paid the judgment in full, please advise the court in writing of the judgment being satisfied. Only the winning party can file a Satisfaction of Judgment. The clerk's office has a Satisfaction of Judgment form, CV250. The form is also available at [www.lafayettecountymo.com](http://www.lafayettecountymo.com) under Court Forms.