Tenants *and* Landlords

a practical guide

Dear Friend:

This booklet is designed to inform tenants and landlords about their rights and responsibilities in rental relationships. It serves as a useful reference—complete with the following:

- *An in-depth discussion about rental-housing law in an easy-to-read question-and-answer format;*
- *Important timelines that outline the eviction process and recovering or keeping a security deposit;*
- *A sample lease, sublease, roommate agreement, lead-based paint disclosure form, and inventory checklist;*
- *Sample letters about repair and maintenance, termination of occupancy, and notice of forwarding address; and*
- *Approved court forms.*

Whether you are a tenant or a landlord, when you sign a lease agreement, you sign a contract. You are contractually obligated to perform certain duties and assume certain responsibilities. You are also granted certain rights and protections under the lease agreement.

Rental-housing law is complex. I am grateful to the faculty and students of the MSU College of Law Housing Law Clinic for their detailed work and assistance in compiling the information for this booklet.

Owners of mobile-home parks, owners of mobile homes who rent spaces in the parks, and renters of mobile homes may have additional rights and duties. Also, landlords and renters of subsidized housing may have additional rights and duties.

It is my pleasure to provide this information to you. I hope that you find it useful.

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This informational booklet is intended only as a guide—
it is not a substitute for the services of an attorney
and does not constitute legal advice.

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(Rev. 9/2011)

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Creating and Terminating Tenancies and Understanding the Lease

Read the lease. Read the lease. Read the lease. When most people hear the term "lease" they think of the long sheets of paper written in very small type that they sign when they agree to move in and rent an apartment or house. A lease contains a variety of legal terms. It is important to recognize and know the following terms of a lease and to understand the substance of the agreement.

■ ***Landlord:*** The party agreeing to transfer possession and use of the rental property, usually the owner (but may also include an agent or employee of the owner, or a management company).

■ ***Tenant:*** The party taking possession and use of the rental property from the landlord under a lease. A tenant's right to possession and use is called a tenancy or leasehold.

■ ***Lease (or Rental Agreement):*** The contract between the tenant and landlord, transferring possession and use of the rental property. (*See* Sample Residential Lease Agreement, page 32.) A lease can be written or oral, but a written lease provides the best protection for both the landlord and the tenant.

■ ***Joint and Several Liability.*** If more than one person signs the lease as a tenant, the lease may state that their obligations are "joint and several." This means that each person is responsible not only for his or her individual obligations, but also for the obligations of all other tenants. This includes paying rent and performing all other terms of the lease.

■ ***Escrow Account:*** A bank account or other account held by a third party, generally established in the name of the tenant, into which whole or partial rent payments are deposited to show that the tenant was ready, willing, and able to pay the rent—but is withholding the rent until a certain problem is fixed that the landlord is legally responsible for fixing. Once the problem is fixed, the escrowed rent amount will be released to the landlord.

■ ***Plaintiff:*** A person who files a civil action to seek judicial relief for some injury or damage caused in violation of his or her rights.

■ ***Defendant:*** A person against whom relief or recovery is sought in a civil action.

A. THE TENANCY

Q1 What are the types of tenancies?

While the lease refers to the written (or oral) agreement, the "tenancy" refers to the actual property right a tenant receives under the lease. When the owner conveys to another a lesser interest in the property for a term less than that of the owner's for valuable consideration (generally rent), thereby granting another use and enjoyment of his or her property during the period stipulated, that creates a tenancy. In Michigan, there are three types of tenancies:

1. Fixed-Term Tenancy. This type of tenancy is created when the lease agreement specifies when the tenancy begins and when it ends. It terminates automatically at the end of the period specified. Generally, a written lease provides that if a tenant holds over after the fixed term expires, the tenancy shall be considered a month-to-month tenancy. On the other hand, if the lease does not so provide, and the parties acquiesce—i.e., tenant stays in possession and landlord accepts the rent—the lease is considered renewed for the same fixed term upon the same conditions.

2. Periodic Tenancy OR Tenancy at Will. This type of tenancy is indefinite in duration. It is created by actual or implied consent. Usually a month-to-month tenancy, the lease is considered renewed at the end of each rental period (month-to-month or week-to-week, depending how often rent must be paid). Termination procedure is governed by statute and requires notice.

3. Tenancy at Sufferance OR Holdover Tenancy. This type of tenancy is created by operation of law only. A tenant holds possession after his or her legal right to

possession has ended (oftentimes based on landlord's failure to act). The person is just short of being considered a trespasser. The elements: (a) the tenant entered into possession lawfully, (b) the tenant's legal right to possession has ended, and (c) the tenant remains without the landlord's consent.

Q2 Are there advantages and disadvantages to the different types of tenancies?

Fixed-Term Tenancy

Advantages. The advantage to the tenant is that the rental period is fixed and the rental amount is stable; the landlord may not regain possession or raise the rent, with few exceptions. The advantage to the landlord is that the tenant is committed to pay rent for a specified period of time; the tenant is bound by the lease terms, with few exceptions.

Disadvantages. The disadvantage to the tenant is that he or she is bound by the lease term and may not simply move without remaining liable for the rent, permitting fewer changes in arrangements. The disadvantage to the landlord is that he or she is stuck with the tenant until the lease term ends.

Periodic Tenancy OR Tenancy at Will

Advantages. The advantage to the tenant is that he or she is free from any further obligation once proper notice of termination is given to the landlord—different housing arrangements can be made more quickly. The same advantage is true for the landlord; he or she may decide to no longer rent to the tenant if the same proper notice is given.

Disadvantages. The disadvantage to the tenant is that the landlord, with proper notice, can also raise rent. The disadvantage to the landlord is that he or she is not provided with any certainty as to how long the tenant will remain.

B. THE LEASE

Q1 Are there advantages to a written lease?

Although it is common for tenants to sign some type of written agreement, a lease is not always put in writing. Sometimes it is nothing more than an oral agreement as to the move-in and move-out dates, the address of the rental property itself, and the amount of the rent and when it must be paid. However, if the lease agreement is for a period of more than one year, an oral lease is not an option—it must be put in writing to comply with the Statute of Frauds (MCL 566.106).

Whether there is a fixed-term tenancy or a periodic tenancy, it is best to have a written record of the rental agreement. A written record is a permanent record that may be used for reference if misunderstandings arise—and they do. In the absence of a written lease, signed by both the landlord and the tenant, it is advisable to keep a personal written record of the agreement.

Q2 What provisions should be included in the lease?

The Michigan Truth in Renting Act (Act 454 of 1978, MCL 554.631 to 554.641) regulates residential leases—requiring the landlord to disclose certain information. Leases differ somewhat in terms, but **a written lease agreement should include:**

1. Name and signature of the landlord;
2. Name and signature of the tenant;
3. Rent amount to be paid, how frequently, and when and where it is to be paid;
4. Address of the rental property;
5. Starting and ending dates if it is a fixed-term tenancy;
6. Landlord's mailing address;
7. Amount of the security deposit, if any;
8. Name and address of the financial institution holding the security deposit;
9. Notice of the tenant's obligation to provide a forwarding address to the landlord within 4 days of terminating the tenancy;
10. Who is responsible for paying utilities;
11. Repair and maintenance responsibilities;
12. Eviction procedures;
13. Any other terms and conditions that the landlord and tenant agreed to; and
14. This statement *must be provided* in a prominent place in the lease, in at least a 12-point font size:
    "NOTICE: Michigan law establishes rights and obligations for parties to rental agreements. This agreement is required to comply with the Truth in Renting Act. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person."

Note: Two copies of an inventory checklist must be provided to the tenant when he or she takes possession of the rental property. (*See* Sample Inventory Checklist, page 41.)

Q3 What provisions are prohibited by law from being included in the lease?

The Michigan Truth in Renting Act regulates residential leases—prohibiting certain clauses or provisions and prescribing penalties. A provision or clause in a lease that violates the Truth in Renting Act is void. In particular, **a written lease shall not include** a provision which:

1. Waives or alters a remedy available to a party when the rental property is in a condition that violates the covenants of fitness and habitability;
2. Waives a right established under the laws that regulate security deposits;
3. Unlawfully excludes or discriminates against a person in violation of the laws relating to civil rights;
4. Provides for a confession of judgment and/or warrant of attorney, e.g., requiring a person to give up certain legal rights in advance;
5. Relieves the landlord from liability for the landlord's failure to perform a duty or for negligent performance of a duty imposed by law (however, the landlord's duty could be waived to the extent a tenant was able to recover under an insurance policy for loss, damage, or injury caused by fire or other casualty);
6. Waives or alters a party's right to demand a jury trial or any other right of notice or procedure required by law;
7. Provides that a party is liable for legal cost or attorney fees incurred by the other party in excess of costs or fees specifically permitted by statute;
8. Provides for the landlord to take a security interest in any of the tenant's personal property to assure payment of rent or other charges, except as specifically permitted by statute;
9. Provides that rental payments may be accelerated if the tenant violates a lease provision, unless that amount is determined by the court;
10. Waives or alters a party's right with respect to possession or eviction proceedings;
11. Releases a party from the duty to mitigate (or minimize) damages;
12. Provides that the landlord may alter a lease provision after the lease begins without the tenant's written consent, *EXCEPT: with 30 days' written notice, the landlord may make the following types of adjustments, as long as there is a clause in the lease allowing for the adjustments:*
    - changes required by federal, state, or local law, rule, or regulation;
    - changes in rules relating to the property meant to protect health, safety, and peaceful enjoyment; and
    - changes in the amount of rental payments to cover additional costs incurred by the landlord because of increases in property taxes, increases in utilities, and increases in property insurance premiums.
13. Violates the Consumer Protection Act (MCL 445.901 to 445.922) which lists multiple unfair trade practices; or
14. Requires the tenant to give the landlord a power of attorney.

Q4 What if the lease contains a provision that is prohibited by law or is missing the required disclosure language?

A provision or clause in a lease that violates the Truth in Renting Act is void. The *lease* is not void—only the prohibited provision. However, a landlord must fix the prohibited provision or add the required disclosure language within 20 days after the tenant brings the deficiency to the landlord's attention in writing. If the landlord fails to fix it within the time specified, the tenant may bring an action to:

- void the entire lease agreement;
- make the landlord remove the prohibited provision from all lease agreements in which it is included; and
- recover $250 per action (for prohibited provisions) or $500 per action (for missing disclosure provisions required by law), or actual damages, whichever is greater.

Q5 What other provisions can be included in the lease?

As long as a provision or clause does not violate federal, state, or local laws, rules, or regulations, the parties can agree to almost anything and include it in the lease. It can be as outlandish as stating, "Only blue cars can

be parked in the driveway." Some special provisions to be aware of include:

› ***Smoking:*** A landlord is free to prohibit smoking in the rental property, as this would not violate any state, federal, or local laws.

› ***Pet Restrictions:*** A landlord may prohibit all pets in a rental unit. A landlord may charge a fee for having a pet. An exception here is that a landlord may not prohibit a disabled individual relying on a service animal from housing the animal.

Q6 How can a lease be terminated?

Fixed-Term Tenancy

This type of tenancy is created when the lease agreement specifies when the tenancy begins and when it ends. **It terminates automatically at the end of the period specified.** A fixed-term lease ends on its own without further action. However, many leases include the provision that the lease converts to a month-to-month tenancy at the end of the fixed term. Other leases state a sky-high increase in rent—sometimes double—if the tenant stays beyond the fixed term.

Periodic Tenancy OR Tenancy at Will

This type of tenancy is indefinite in duration. It is created by actual or implied consent. Usually a month-to-month tenancy, the lease is considered renewed at the end of each rental period (month-to-month or week-to-week, depending on how often rent must be paid). **Termination procedure is governed by statute and requires notice.**

Additionally, there are special termination rights for senior citizens or persons incapable of independent living.

RESIDENTIAL LEASE AGREEMENT

NOTICE:

Michigan law establishes rights and obligations for parties to rental agreements. This agreement is required to comply with the Truth in Renting Act. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from an attorney or other qualified person.

We Agree That

_____ (Landlord's Name(s))

Leases To

(1)_____ (Tenant's Name)

(2)_____ (Tenant's Name)

(3)_____ (Tenant's Name)

(4)_____ (Tenant's Name)

The Following Premises To Be Used For Private Residential Purposes Only

_____ (Street Address, City, State, and Zip Code)

For A Term

Beginning _____ _____, 20____, and

Ending _____ _____, 20____.

Month-To-Month

Beginning _____ _____, 20____.

(a) JOINT AND SEVERAL TENANCY: If more than one person signs this lease as a Tenant, their obligations are joint and several. This means that each person is responsible not only for his or her individual obligations, but also for the obligations of all other Tenants. This includes paying rent and performing all other terms of this lease. A judgment entered against one or more Tenant(s) does not bar an action against the others. Each Tenant must initial this paragraph: (1) ____ (2) ____ (3) ____ (4) ____ being

(b) RENT: Tenants must pay Landlord, as rent for the entire term, a total of $ _____ _____ _____ being $ _____ each month, beginning _____ _____, 20____, and the same amount on or before the 1st day of each succeeding month. Rent must be paid and all correspondence must be sent to the Landlord at the following address: _____

_____ (Street Address, Apartment, City, State, and Zip Code)

(1) ____ (2) ____ (3) ____ (4) ____ (Each tenant must initial.)

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Q7 What are the termination rights for senior citizens or persons incapable of independent living?

Lease agreements entered into, renewed, or renegotiated after June 15, 1995, must provide special termination rights for senior citizens and persons incapable of independent living. These leases must allow the tenant who has already occupied a rental unit for more than 13 months to terminate the lease with 60 days' written notice if either of the following occurs:

1. Tenant becomes eligible to move into a rental unit in senior-citizen housing subsidized by a federal, state, or local government program, OR
2. Tenant becomes incapable of living independently, as certified by a physician in a notarized statement. (MCL 554.601a)

Q8 What does "joint and several liability" mean?

If more than one person signs the lease as a tenant, the lease may state that their obligations are "joint and several." This means that each person is responsible not only for his or her individual obligations, but also for the obligations of all other tenants. This includes paying rent and performing all other terms of the lease.

Q9 Can a landlord raise the rent once the lease has started?

Generally, the landlord may not alter a lease provision after the lease begins without the tenant's written consent. There are, of course, exceptions to this. With 30 days' written notice, the landlord may make the following types of adjustments, as long as there is a clause in the lease allowing for the adjustments:

› changes required by federal, state, or local law, rule, or regulation;
› changes in rules relating to the property meant to protect health, safety, and peaceful enjoyment; and
› changes in the amount of rental payments to cover additional costs incurred by the landlord because of increases in property taxes, increases in utilities, and increases in property insurance premiums.

The Security Deposit

The security deposit is an amount of money paid by the tenant to the landlord other than the first rent payment (for whatever period is established in the lease: weekly rent payment, monthly rent payment, semiannual rent payment, and so on). The security deposit remains the tenant's property, but is held by the landlord for the term of the lease to ensure that the tenant pays the rent due, pays the utility bills, and returns the rented property in proper condition, as required by the lease. It is held as security as the name implies.

Once the lease is terminated, the tenant has the right to have the entire security deposit returned *unless* the landlord can substantiate a claim to it because the tenant:

1. Owes unpaid rent;
2. Owes unpaid utility bills; or
3. Caused damage to the rented property beyond reasonable wear and tear.

Under Michigan law, both a tenant and a landlord have duties and must perform specific acts regarding the security deposit. Understanding the duties and taking action are crucial. The law requires mandatory notice provisions, written communications, mailings, and strict compliance with time limits. If the duties are not performed precisely, the tenant risks losing the return of his or her security deposit and the landlord risks losing a claim to it. This chapter explains the duties and the necessary actions that must be taken.

A. COLLECTING THE SECURITY DEPOSIT AT THE BEGINNING OF THE TENANCY

Q1 Is there a limit on the amount that a landlord may collect as a security deposit?

Yes. The law states that a security deposit shall not exceed 1½ times the monthly rent.

> ***Example:*** If a landlord charges $500 a month for rental property, the maximum the landlord may collect as a security deposit is $750 ($500 x 1.5 = $750).

Q2 What exactly is considered a security deposit?

Any prepayment of rent—other than for the first full rental payment period established in the lease—and any refundable fee or deposit are considered by law to be part of the security deposit.

Sometimes the lease requires that both the first and last months' rent be paid before a tenant moves in. If this is the case, the last month's rent would be considered a security deposit. Sometimes, too, additional fees or deposits are charged to hold the rental property, for credit checks, for pets, for cleaning, for keys, for mailboxes, for storage, and for many other reasons. While these fees or deposits may not be called "security deposits" in the lease, if they are otherwise refundable, they are still considered by law to be part of the security deposit and subject to the strict rules that Michigan has adopted—including the limit on the total amount that a landlord may collect.

Q3 Is there a difference between a fee and a deposit?

Yes. The law defines the term "security deposit" and limits the amount that may be collected (not to exceed 1.5 times the monthly rent). ***Refundable*** fees are deemed—by definition—to be security deposits. ***Nonrefundable*** fees are not; and they can be assessed in any amount for any reason but the reason and matters covered by the fee must be clear. A nonrefundable fee may not cover matters also covered by refundable fees and may be charged in any amount as long as the tanant accepts them by undertaking the tenancy.

> ***Example:*** The monthly rent is $500 and the lease calls for a $750 security deposit. In addition to the security deposit, the lease calls for a $100 refundable snow removal fee for "removing snow from any common area" and a nonrefundable $250 community fee for "costs of landlord-sponsored social events and common-area snow removal." Because the $100 snow removal fee is refundable, it would be considered part of the security deposit and

violate Michigan law because the amount collected for a security deposit would exceed the 1.5 times monthly rent limit. The nonrefundable $250 fee violates Michigan law because it covers a matter also covered by a refundable fee. If the lease, instead, required a nonrefundable snow removal fee and a nonrefundable community fee for "cost of landlord-sponsored social events," it would, absent other contrary or confusing lease terms, be allowed.

Q4 Once collected, what must the landlord do with the security deposit?

The landlord must either:

a) Deposit the money with a regulated financial institution (e.g., bank), OR

b) Deposit a cash bond or surety bond, to secure the entire deposit, with the Secretary of State. (*Note:* If the landlord does this, he or she may use the money at any time, for any purpose.) The bond ensures that there is money available to repay the tenant's security deposit.

Q5 Whose money is it anyway?

The security deposit is considered the lawful property of the tenant, until the landlord establishes a right to it—generally by obtaining a judgment in a court of law.

If the landlord sells the rental property, he or she remains liable with respect to the tenant's security deposit until any ONE of the following occurs:

a) The landlord returns the deposit to the tenant, OR

b) The landlord transfers the deposit to the new owner and sends notice—by mail—to the tenant informing him or her of the new owner's name and address, OR

c) The new owner sends written notice of their name and address to the tenant AND the name and address of the financial institution where the deposit is held AND the tenant's obligation to provide a forwarding address within 4 days of terminating occupancy.

Q6 What rights and responsibilities does the landlord have with regard to the tenant's security deposit?

The landlord must provide the tenant with certain notices. Within 14 days from the day the tenant moves in, the landlord must provide written notice of the following:

a) The landlord's name and address for receipt of communications regarding the tenancy; AND

b) The name and address of the financial institution where the security deposit is held, OR the name and address of the surety company; and who filed the bond with the Secretary of State; AND

c) The tenant's obligation to provide a forwarding address—in writing—within 4 days after the tenant moves out.

Generally these notices are found in the lease itself. (*See* The Lease section; *see also* the model lease in the Appendices, which displays all of these notices with the correct form and wording.)

Q7 What is the point of the inventory checklist?

The checklist preserves some proof of the condition of the property when the tenant moved in. The landlord must provide the tenant at move-in with 2 blank copies of an inventory checklist, referencing all items in the rental unit. The landlord must provide written notice on the first page of the checklist that the tenant must properly complete the checklist, noting the condition of the property, and return it to the landlord within 7 days after moving in. (*See* sample, page 41.)

The tenant may request a copy of the termination inventory checklist (generally referred to as the itemized list of damages caused by the previous tenant). If requested, the landlord must provide a copy to the tenant.

Q8 Is it important to properly complete the inventory checklist?

Yes. The checklist preserves some proof of the condition of the property when the tenant moves in. If the tenant fails to properly fill out the checklist, or fails to return it, and a dispute over damages to the property occurs at the end of the lease, it becomes the tenant's word against the landlord's word.

Further Recommendation:
Take photos or video tape recordings of the rental unit before leasing or moving in.

B. RECOVERING THE SECURITY DEPOSIT AT THE END OF THE TENANCY

Q1 What must the TENANT do at the end of the lease?

The tenant MUST provide his or her forwarding address—in writing—to the landlord within 4 days of moving out. Calling or telling the landlord, or landlord's agent, won't do. While the landlord must inform a tenant of this at the beginning of the lease, all too often a tenant forgets to do this when he or she moves out. Without a forwarding address, the landlord has no duty to make arrangements for returning the deposit. If the forwarding address is provided within the 4 days, the landlord has 30 days from move-out to respond.

Q2 What must the LANDLORD do at the end of the lease?

If the landlord receives the tenant's forwarding address within 4 days of move-out, the landlord has 30 days from move-out to either:

a) Return the entire amount of the deposit by check or money order, OR

b) Send—by mail—an itemized list of damages lawfully assessed against the deposit and a check or money order for the remaining balance of the deposit (if any).

The itemized list must also contain the following notice: *"You must respond to this notice by mail within 7 days after receipt of same. Otherwise you will forfeit the amount claimed for damages."* (*See* example, page 49.)

Q3 What must the tenant do when he or she receives the itemized list of damages?

If the tenant disputes any of the items on the itemized list, the tenant MUST respond—in detail, by mail—within 7 days of his or her receipt of that list. "Responding in detail" means giving reasons why the tenant disputes each item of damage and the amount assessed against the security deposit, and why he or she should not be responsible. *Simply making a blanket statement that the tenant does not agree will not do; the tenant must address each item on the list individually.* ***The tenant's detailed response must be sent to the landlord by mail.***

Q4 What must the landlord do once he or she receives notice of the tenant's dispute of the itemized list of damages?

If the tenant disputes all or part of the itemized list of damages, the landlord is left with two choices:

a) Negotiate or mediate an agreement in writing with the tenant; OR

b) Commence an action in court for a money judgment for damages that he or she claimed against the tenant's security deposit, which the tenant disputes.

Remember, the security deposit remains the tenant's property until the landlord perfects a claim to it—either by agreement or by court order. If the landlord and tenant cannot agree and if the landlord goes to court, he or she MUST prove that the tenant is actually responsible for the damages.

Q5 Who must file suit—the landlord or the tenant—for the security deposit?

Either the landlord or the tenant can be the plaintiff in a security deposit suit.

The landlord may file suit within 45 days from termination of occupancy. If both the tenant and the landlord have followed the security deposit timeline perfectly and there still remains a dispute on the amount of damages assessed against the tenant's security deposit, the landlord MUST file suit to retain the deposit. If the landlord does not file suit, he or she may be liable to the tenant for ***double*** the amount of the security deposit retained.

The tenant may be required to file suit in certain circumstances. The burden of filing suit shifts to the tenant if:

a) The tenant failed to provide his or her forwarding address in writing within 4 days of terminating occupancy; OR

b) The tenant failed to respond—by mail—to the itemized list of damages within 7 days of receiving it; OR

c) The landlord failed to return the tenant's deposit after receiving the tenant's response disputing the amount assessed against it.

C. Security Deposit Timeline

Security Deposit	Landlord's Duties	Tenant's Duties
Beginning of Lease (generally move-in) MCL 554.602, 554.604, 554.605, 554.608(2)	A security deposit, if required, shall not exceed 1½ months' rent. Deposit tenant's security deposit in a regulated financial institution OR file a surety bond with the state. Provide tenant: 1. A copy of the lease, and 2. Two blank copies of the inventory checklist.	The security deposit is the lawful property of the tenant. *Recommendation:* Read the lease (preferably before signing it) and all other information provided to you by the landlord. Request from landlord the inventory checklist and/or itemized list of damage report from previous tenancy.
Within 7 days from move-in (landlord and tenant may agree to a shorter period, but not a longer period) MCL 554.608(3)	*Recommendation:* Keep tenant's completed checklist.	Return to landlord the completed inventory checklist, noting condition of rental unit (add pages if necessary); be sure to keep a copy yourself.
Within 14 days from move-in MCL 554.603	Provide tenant in writing: 1. Landlord's name and address for receipt of rent and communications; and 2. Where tenant's security deposit will be held (name and address of the financial institution or surety bond company). 3. Include specific statutory notice of tenant's duty to provide forwarding address within 4 days of move-out.	*Recommendation:* Read the information provided to you by the landlord.
Move-out (not necessarily the end of the lease) MCL 554.608(5)	Complete a termination inventory checklist, noting condition of rental unit.	*Recommendation:* Remove all personal property, clean the rental unit; turn in keys.
Within 4 day after move-out MCL 554.611	*Recommendation:* Keep a copy of tenant's forwarding address.	Provide landlord in writing (not orally) your forwarding address.
Within 30 days after move-out MCL 554.609	Mail to tenant an itemized list of damages, with proper statutory notice provision claimed against tenant's security deposit accompanied by a check or money order for the difference. Only unpaid rent, unpaid utility bills, and damages to the rental unit beyond reasonable wear and tear caused by tenant may be claimed against the deposit (not cleaning fees).	*Recommendation:* Watch for the itemized list of damages in the mail.
Within 7 days of tenant's receipt of landlord's itemized list of damages MCL 554.612	Watch for tenant's response to the itemized list of damages by mail.	Respond in detail, by ordinary mail, indicating agreement or disagreement to the damages charged. Be sure to count the days; the date of mailing is considered the date of response.
Within 45 days—not thereafter—of move-out MCL 554.613	To be entitled to keep the disputed amount of security deposit, file suit against tenant for damages—unless an exception applies.	If suit is filed, appear in court and defend. *Note:* If suit is not filed, you may file suit for recovery of your security deposit.

Subleasing

Subleasing occurs when a tenant permits another party to lease the rental property that the tenant has leased from the landlord. (*Note*: Usually, the lease or the landlord must allow the original tenant to sublease, and most leases specify that the landlord must approve of the subtenant.) The tenant, then, assumes the position of landlord in relation to his or her subtenant. Subleasing usually occurs because the tenant has signed a fixed-term lease and wants—for whatever reason—to get out of the lease before it expires. Since the original tenant is bound by the terms of the lease, he or she cannot simply leave the property and stop paying rent. To avoid the financial burden of the unexpired portion of the lease, the tenant usually tries to find a subtenant who will assume that burden.

Word of warning: Subleasing is not without its problems—so put it in writing. Under a sublease, the original tenant is still bound by contract to the landlord by the terms of the lease. If the subtenant stops paying rent or causes damage to the rental property, the original tenant—not the subtenant—must answer to the landlord. Of course, the original tenant may have a legal cause of action against the subtenant for a violation of the sublease.

The following are important terms to understand:

■ ***Landlord:*** The party agreeing to transfer possession and use of the rental property, usually the owner.

■ ***Tenant:*** The party taking possession and use of the rental property from the landlord under a lease contract.

■ ***Subtenant:*** A third party who takes possession and use of the rental property from the original tenant, under a sublease contract. The subtenant contracts with the original tenant—not the landlord—but generally with the landlord's permission.

■ ***Sublease:*** The contract between the original tenant and subtenant, transferring, again, possession and use of the rental property. (*See* Sample Sublease, page 37.) A written sublease contract provides the best protection. Because a sublease can only transfer what is left of the rights given to the tenant in the original lease, it is important that the tenant provide the subtenant with a copy of the original lease.

Q1 Does the landlord have to agree to the sublease?

Generally, yes. Most leases specify that subleasing or assigning an interest in the rental property is not allowed without the landlord's consent, OR that subleasing or assigning is not allowed at all. But if the original lease agreement is silent, then the tenant need not seek the landlord's permission before entering into a sublease. First check the terms of the original lease. Then, if permission is required, check with the landlord.

Q2 If the tenant is to sublease, what exactly can be subleased?

The tenant can only sublease the rights he or she has been given in the original lease—no more. For example, if the tenant has only three months left on a one-year lease, the tenant can only sublease up to three months. The same holds true with any restrictions contained in the original lease—they all apply to the subtenant and cannot be waived by the original tenant. On the other hand, the tenant may decide to sublet less than all of the rights he or she has been given in the original lease (e.g., he or she may decide to return to the rental property).

Q3 What duties does the original tenant have when subleasing?

Generally, when a tenant subleases, he or she assumes the position of landlord in relation to his or her subtenant. Accordingly, all of the laws that apply to landlords apply to a tenant who subleases. These duties are explained in other parts of this book. They include the following:

- Complying with the duties to maintain a habitable rental property and to make reasonable repairs, when necessary;
- Complying with the duties to register or license the rental property under local ordinance (check with the local housing office);
- Complying with duties imposed under the security deposit laws and procedures; and

› Complying with the eviction laws and procedures, in the event the original tenant wants to remove the subtenant from the rental property.

Repair and maintenance still remain the ultimate duty of the original landlord. Because the subtenant, in a sublease, has no relationship with the original landlord, repair requests will usually be made by the original tenant. The original tenant makes a repair request to the landlord. This is not always the case; many times, the landlord, in granting the original tenant permission to sublease, will be aware of the subtenant's presence and will respond to his or her requests.

Q4 What about the security deposit?

Because nothing in the original lease agreement changes when a tenant subleases to a subtenant, the original tenant's security deposit will remain with the landlord. The tenant may decide to collect a security deposit from the subtenant to insure against nonpayment of rent or utility charges or damage to the rental property beyond reasonable wear and tear caused by the subtenant. Remember that the original tenant remains responsible to the landlord under the original lease. The original tenant's security deposit could be at stake.

Collecting a security deposit from the subtenant. If the original tenant decides to collect a security deposit from the subtenant, he or she would simply follow all of the normal steps that any landlord would in collecting a security deposit. These include being timely in providing proper notice, placing the security deposit in a financial institution, providing inventory checklists, and providing the itemized list of damages. (*See* Security Deposit section, page 7.)

Q5 What if the subtenant stops paying rent?

Two things may be done to help protect against this:

(1) Require the subtenant to sign a written sublease agreement that includes the same language as the original lease agreement; and

(2) Require the subtenant to pay a security deposit to the original tenant.

If the original tenant permits the subtenant to pay rent directly to the landlord, the tenant runs the risk of not knowing if the subtenant is continuing to meet the rental obligations. When the subtenant is required to pay rent directly to the original tenant—and the tenant pays the usual rent to the landlord—there is much less risk.

If the subtenant stops paying the rent, the landlord can hold the original tenant responsible for missed payments. This amount can be withheld from the original tenant's security deposit, as can charges for unpaid utility bills and damages beyond reasonable wear and tear caused by the subtenant. The landlord's recourse is with the tenant under the original lease, not the subtenant. The tenant's recourse is with the subtenant, under the sublease.

For this reason, it is risky to sublease rental property. Therefore, tenants should take all necessary precautions to ensure that they are subleasing to a financially responsible subtenant (e.g., running a credit check, asking for a reference from a previous landlord).

Q6 Can the original tenant be released from the obligations under the lease?

Sometimes, yes. Subleasing can be a complicated procedure, particularly if the tenant is leaving the area for the period of the sublease. There are two ways that a tenant can be released from the obligations under the lease:

1. **By mutual agreement.** Though it is rare, a landlord sometimes allows a tenant to terminate the lease early. Therefore, it is a good idea to talk to your landlord before looking for someone to sublease. (*Note:* If the landlord does allow the tenant to break the lease, the tenant should be sure to receive from the landlord a signed document describing the agreement.)
2. **By assignment.** Under an assignment, the new tenant is substituted for the original tenant. When this is done, the original tenant is "cut-out" of the entire lease agreement and the new person steps into his or her shoes. Accordingly, the new tenant will be responsible for all obligations under the original lease, including rent, utilities, and damages—the original tenant will be released of all obligations. (*Note:* If the landlord does allow an assignment, the tenant should be sure to receive from the landlord a signed document describing the assignment and the release of obligations.)

Eviction Proceedings

If the landlord wishes to remove a tenant from his or her rental property, the landlord must use the eviction process. The process is called a Summary Proceeding, and it moves quickly to restore rental property to the person lawfully entitled to possession.

The process starts with notice—an eviction notice—and may involve court appearances and a trial. If the landlord is successful in proving his or her case, an Order of Eviction may be issued and a court officer may remove the tenant and tenant's personal items from the rental property. It is important to remember, however, that there are many steps in the eviction process before the tenant is physically removed—and most landlords and tenants reach a settlement long before the matter moves that far.

The landlord must never forcibly remove the tenant (or occupant) himself or herself. This includes things like changing locks, turning off utilities, or some other act or omission that interferes with the tenant's right to possess, use, and enjoy the rental property. This is illegal.

A. STARTING THE EVICTION PROCESS– BEFORE GOING TO COURT

Q1 What lawful reason(s) must be given to evict a tenant?

There are nine reasons specified by law that would allow the landlord to start eviction proceedings:

1. Nonpayment of rent;
2. Extensive and continuing physical injury to property;
3. Serious and continuing health hazard;
4. Illegal drug activity on the premises and a formal police report filed (lease provision must allow for such termination);
5. Violation of a lease provision and the lease allows for termination;
6. Forceful entry OR peaceful entry, with forceful stay OR trespass;
7. Holding over after natural expiration of lease term;
8. "Just cause" for terminating tenant of mobile home park ("just cause" is defined for this purpose by MCL 600.5775); OR
9. "Just cause" for terminating tenant of government-subsidized housing. (*Note*: "Just cause" is defined by statute, *see* MCL 125.694a and 600.5714.)

Several of the lawful reasons describe prohibited behavior. One reason includes, "Violation of a lease provision." This could be any provision agreed to by the parties when the lease was signed. For example, it could be as silly as, "Only red cars may be parked in the driveway." If the tenant signed the lease, and if the tenant later buys a blue car, he or she cannot park it in the driveway without violating that provision of the lease. If the lease also includes a provision that allows the landlord to terminate the lease, the landlord could seek to evict the tenant on that basis.

Q2 If one roommate moves out and stops paying rent, can the other tenant(s) be evicted?

It may seem harsh and unfair but, yes, the other tenant(s) who are still paying rent may be evicted. The landlord is lawfully entitled to receive the full rent amount. Whoever signs the lease will be bound by its terms and conditions. If a "joint-and-several liability" clause is in the lease, who actually pays what amount is of no concern to the landlord.

Most leases include a provision that holds all tenants "jointly and severally liable" for any and all violations of the lease. **This means that each person is responsible not only for his or her individual obligations, but also for the obligations of all other tenants.** This includes paying rent and performing all other terms of the lease. Therefore, if only one tenant stops paying the rent (or violates any other provision of the lease agreement), the landlord may choose to evict any or all of the tenants. In addition, the landlord may choose to collect the rent or other money for damages incurred from any or all of the tenants.

Q3 What is proper notice of eviction and how important is it?

Proper notice is very important. Notice—due process—safeguards and protects individual rights provided by law. If the landlord wishes to remove a tenant from his or her rental property, the landlord must use the

eviction process—and it begins with proper notice. Before a court will enter a landlord's request for an Order of Eviction, the tenant must have been given a proper eviction notice.

Many times the rental problem can be fixed with nothing more than the eviction notice. For example, if the tenant simply forgot to pay the rent, the notice may simply serve as a reminder—and once he or she pays the rent, the eviction process ends.

The eviction notice may take many forms. It must state that the landlord intends to evict the tenant, within a specified time (either 24 hours or 7 days or 30 days), because of a specified reason or problem—otherwise, court action will be taken. The notice may allow the tenant time to correct the problem (like paying the rent, if nonpayment of rent is the reason for eviction).

The eviction notice MUST include certain information or the notice is not proper. While many district courts provide standard eviction forms, a letter can accomplish the same as long as it contains all of the following:

- Tenant's name;
- Address or rental property description;
- Reason for the eviction;
- Time to take remedial action;
- Date; and
- Landlord's signature.

Q4 How much notice must be given to the tenant before the landlord may file suit?

Each reason for eviction has a specific amount of time that MUST pass before the landlord may commence a lawsuit—either 24 hours or 7 days or 30 days.

A 24-HOUR NOTICE is required for the following reason:

Illegal drug activity on the premises and a formal police report filed (lease provision must allow for termination).

A 7-DAY NOTICE is required for the following reasons:

a) Nonpayment of rent;

b) Extensive and continuing physical injury to property;

c) Serious and continuing health hazard.

A 30-DAY NOTICE is required for the following reasons:

a) Violation of a lease provision and the lease allows for termination for that violation;

b) Forceful entry OR peaceful entry, with forceful stay OR trespass;

c) Holding over after natural expiration of lease term;

d) "Just cause" for terminating tenant of mobile home park;

e) "Just cause" for terminating tenant of government-subsidized housing.

Q5 Once the proper notice is prepared, how must it be delivered to the tenant?

Once the eviction notice is prepared, it must be properly delivered to the tenant. The eviction notice MUST be delivered:

a) In person to the tenant; OR

b) At the rental property, to a member of the tenant's household—of suitable age—requesting that it be delivered to the tenant; OR

c) By first-class mail, addressed to the tenant.

If the notice is delivered personally, the time of the notice begins to run the next day. If the notice is mailed, the time begins the next mail delivery day (not a Sunday or holiday).

The eviction notice is not the same as an Order of Eviction. A tenant is not required to move when the eviction notice expires—he or she may have a valid defense to the landlord's reason for eviction. Expiration of the 24-hour or 7- or 30-day time period only enables the landlord to file a lawsuit.

Remember: **Only a court officer may remove the tenant and tenant's personal items from the rental property—and only under court order.**

B. TAKING THE ACTION TO COURT

Q1 What must the landlord do to begin a lawsuit for eviction?

If some agreement or understanding cannot be worked out by the parties, and if the eviction notice has been properly delivered and the 24-hour or 7- or 30-day time period has passed, the landlord may commence a lawsuit—known as a Summary Proceedings action. This section will outline how the landlord may bring an action, and what the tenant can expect when being sued.

The Paperwork. The paperwork necessary to begin a lawsuit includes the following:

a) Complaint;

b) Copy of the Notice of Eviction (attached to the Complaint);

c) Lease (attached to the Complaint); and

d) Summons.

Most district courts will provide the landlord with pre-approved court forms, if requested. These forms meet all Michigan statutory and court-rule requirements. However, they must be properly filled out. *It is suggested that anyone not using the pre-approved court forms consult with an attorney.*

The lawsuit for eviction begins like any other lawsuit—the plaintiff (the landlord) files the appropriate paperwork with the court. Jurisdiction over eviction proceedings is granted to the district court and the few remaining municipal courts.

The Complaint tells the court why the landlord seeks to regain possession of his or her rental property—much the same as the original Notice of Eviction. The Complaint MUST include:

a) A description of the rental property;

b) The reason(s) for eviction;

c) A demand for a jury trial (if the landlord wants a jury);

d) If rent or other money is due, the rental period and rate, the amount due and unpaid when the Complaint was filed, and date(s) the payments became due; and

e) Allegations that the landlord has kept the residential rental property fit for the use intended and in reasonable repair during the term of the lease (unless the lease term is a year or more and the parties have modified these obligations by contract).

The following paperwork **MUST BE ATTACHED** to the Complaint:

a) Copy of the Notice of Eviction; and

b) Lease (unless the tenancy was created by an oral agreement).

The Summons MUST accompany the Complaint, commanding the tenant to appear at the district court for trial. It MUST also include information, advising the tenant that:

a) The tenant has the right to employ an attorney;

b) If the tenant does not have an attorney, but can otherwise afford to retain one, to contact the State Bar of Michigan or a local lawyer referral service;

c) If the tenant cannot pay for an attorney, he or she might qualify for legal-aid assistance; and

d) The tenant has the right to a jury trial (the fee must be paid when the demand is made in the first response—written or oral).

Proper filing of the paperwork with the court. The paperwork MUST be properly filed with the appropriate district court, as only this court has jurisdiction over eviction proceedings. A lawsuit for eviction is filed in the district court in the county where the rental property is located. Sometimes, the district court's jurisdiction borders are the same as the municipal borders, but this is not always the case. Check with the local court to determine the proper district court for your lawsuit.

Proper delivery of the paperwork to the tenant. The paperwork MUST be properly delivered to the tenant, notifying him or her that legal action has begun (and proof of how and when they were delivered must be filed with the court). The Summons and Complaint and a copy of the original Notice of Eviction and Lease MUST be properly delivered to the tenant BY MAIL AND ONE OTHER WAY:

a) Personally; OR

b) By first-class mail—certified, return-receipt requested, restricted delivery; OR

c) At the rental property, to a member of the tenant's household—of suitable age—requesting that it be delivered to the tenant; OR

d) After diligent attempts at personal service, by securely attaching the papers to the main entrance of the rental property unit.

> ***Note:*** This delivery method differs slightly from delivery of the initial Notice of Eviction. Here, two methods of delivery are required.

CHECKLIST FOR COMMENCING A LAWSUIT

- ☐ The Notice of Eviction was properly delivered to the tenant and the proper time period, either 24 hours or 7 days or 30 days, has passed.
- ☐ The pre-approved court forms—the Complaint and Summons—are properly completed.
- ☐ Copies of the Notice of Eviction and Lease are attached to the Complaint.
- ☐ All paperwork is filed with the appropriate district or municipal court.
- ☐ All paperwork is properly delivered to the tenant.

Q2 What must the tenant do after receiving the Complaint?

The lawsuit for eviction is like any other lawsuit. Once a Complaint is received, the tenant MUST APPEAR AND ANSWER by the date on the Summons. The time period is short—generally 3-10 days. The tenant must answer either in person, orally, or by filing a written response addressing each of the allegations in the landlord's Complaint. The tenant's answer generally objects to the landlord's reason(s) for the eviction and explains why the court should not evict the tenant from the rental property. Also at this time, the tenant can state a counterclaim with the answer and request a jury.

Q3 What happens if the tenant fails to appear and answer after receiving the Complaint?

If the tenant does not appear at the district court as commanded in the Summons, a default judgment—giving possession of the rental property back to the landlord—will be entered against the tenant. And 10 days later, at the landlord's request, the court will issue an Order of Eviction and a court officer will physically remove the tenant and the tenant's personal items from the rental property.

Additionally, the court may enter a money judgment against the tenant. This would allow the landlord to begin collection proceedings, which may include garnishment of wages, bank accounts, and tax refunds. It may also include execution against the tenant's personal property, like his or her automobile. Further, a money judgment may appear on the tenant's credit report, hindering his or her ability to get a loan or a credit card.

Notice to the tenant: **Do not fail to appear and answer!**

Q4 Once a lawsuit is started, can the parties still try to negotiate or mediate an agreement?

Up until trial, the parties may reach an agreement and settle the case themselves OR they may decide to resolve their dispute through mediation.

Community Mediation. Parties can choose to mediate before or after a lawsuit is filed. Mediation is an alternative dispute resolution technique that is voluntary, empowering, confidential, convenient, effective, and provided at little or no cost. (*See* pages 21-22 for the names, locations, and phone numbers of the Michigan Community Mediation Centers that can be contacted for assistance.)

Q5 If the parties reach an agreement, do they still have to appear in court?

At any time before trial, the landlord and tenant may decide to work out a compromise. In fact, most lawsuits for eviction end in compromise—minutes before trial. The parties may either:

a) Sign an agreement called a "Consent Judgment," putting an end to the case by consent and by order of the judge; OR

b) Agree to a dismissal subject to some condition (e.g., tenant paying rent by a particular day, tenant voluntarily vacating the rental property by a particular day). Once the condition is satisfied, the judge will order the dismissal.

If a Summons has been issued, the tenant must show up at the court. If an agreement is reached, the court must be notified. Whether the landlord and tenant must appear before the judge to put their agreement on the record is up to the judge.

Q6 What possible defenses to a lawsuit for eviction might a tenant have?

If the tenant has exhibited certain lawful behavior, Michigan law provides the tenant with a number of defenses—even if the landlord can prove any of the nine reasons for a lawful eviction. The most common defenses are:

(1) *A claim of retaliatory eviction.* There exists a presumption of retaliation if the landlord started the eviction proceedings within 90 days of the tenant trying to enforce his or her rights under law (e.g., reporting health and safety code violations, exercising rights under the lease, filing a complaint against the landlord for violation of the law, or joining in membership in a tenants' organization).

(2) *Full payment of the rent due.* After a lawsuit for nonpayment of rent was filed, the tenant may have actually paid the total amount of rent due.

(3) *Landlord's breach of the warranty of habitability and duty to repair.* The landlord must have been provided with notice of the problem, generally in writing, and must have been given a reasonable amount of time to fix

the problem. If a portion of the rent was withheld for the purpose of addressing the maintenance or repair issue(s), it must have been deposited into an escrow account. (That portion of rent must reasonably relate to the cost of repair or to the damage that the tenant incurred because of the problem.) The tenant must show that "but for the repair and maintenance required, he or she was ready, willing, and able to pay the rent."

Having a defense and being able to prove it are two different things. If the tenant is successful in offering his or her proofs, the tenant is generally allowed to remain in possession of the rental property. The Court may not order eviction if the Court believes that the tenant complied with the law and acted only to protect his or her rights, even though the landlord may have had a lawful reason to evict.

Q7 What can the parties expect to see happen at trial?

If the parties to a lawsuit for eviction cannot otherwise reach an agreement, they will have to go to court to have things decided for them. Even when they first get to court, most cases are resolved in the hallways. The judges generally encourage the parties to reach a settlement; the attorneys who are there on behalf of the parties also encourage their clients to do so. If they cannot, the parties then proceed to trial where the judge (or jury) will decide the outcome.

At trial, both parties will be given an opportunity to tell their side to the judge (or jury). They will be allowed to offer testimony and show documentation that may persuade the judge (or jury), by a preponderance of the evidence (51 percent), to rule in their favor.

In the courtroom, there is an order to things. The landlord must first prove that a lawful reason for eviction exists and that he or she is entitled to regain possession as owner of the rental property. The tenant, on the other hand, may next offer evidence that even though there is a lawful reason, a legal defense exists that protects him or her from being removed. (*See* a list of landlord's lawful reasons and tenant's possible defenses, pages 13 and 16, respectively.)

After both parties have had an opportunity to offer their proofs to the judge (or jury), a decision will be made either for the landlord (to regain possession) or for the tenant (to remain in possession).

Q8 If the landlord wins the lawsuit for eviction, how soon can the tenant and his/her personal property be removed?

Even if the landlord wins the lawsuit for eviction, the court cannot issue an Order of Eviction for *at least 10 days.* This allows time for the tenant to appeal the decision; it allows time for the tenant to cure by paying the rent owed if that was the reason for eviction, and it allows time to work things out by agreement.

Only after waiting 10 days can the prevailing landlord request that the judge issue an Order of Eviction. However—even then—Michigan law does not allow the landlord to forcibly remove the tenant or the tenant's property. Only an officer of the court, by a judge's order, can remove the tenant and tenant's property from the rental property; and that officer is generally the sheriff or someone from the sheriff's office. This is called executing the Order of Eviction, and there is little the tenant can do but start packing.

Q9 Can the tenant be evicted and still forced to pay money damages to the landlord?

Yes. In addition to regaining possession of the rental property, the judge (or jury) may award the landlord a money judgment for such things as unpaid rent, unpaid utilities, damages to the rental property beyond reasonable wear and tear caused by the tenant, and any other damages incurred because of the tenant's violation of the lease agreement.

Avoiding a money judgment is always a good idea. If the option to pay is still available, the losing party (if financially able) should remit what is owed. Once a money judgment is awarded, the prevailing party, through a lawful collection process, can garnish wages, garnish bank accounts, and garnish tax refunds. The prevailing party may also be entitled to another remedy—executing the money judgment against personal property (a car, fine jewelry, collectibles, and the like).

Remember that a lease agreement—whether written or oral—is a contract, enforceable by law. Both parties have rights and obligations under the lease. Simply having the tenant removed from the rental property may not provide the landlord with all that he or she is entitled to receive under the lease. (*See* Eviction Timeline, pages 18-19.)

C. Eviction Timeline

Eviction	**Some incident gives rise for eviction.** MCL 600.5714 **24-HOUR NOTICE is required for the following reason:** Illegal drug activity and formal police report filed (lease provision must allow for termination). **7-DAY NOTICE is required for the following reasons:** a) Nonpayment of rent; b) Extensive and continuing physical injury to property; c) Serious and continuing health hazard. **30-DAY NOTICE is required for the following reasons:** a) Violation of a lease provision and the lease allows for termination; b) Forceful entry OR peaceful entry, but forceful stay OR trespass; c) Holding over after natural expiration of lease term; d) Just cause for terminating tenant of mobile home park; e) Just cause for terminating tenant of government-subsidized housing.	**BEGIN THE LAWSUIT:** **After the time period in the notice has expired—either 7 days or 30 days—if things cannot be worked out:** File with the district court and serve on the tenant a Summons and Complaint. MCL 600.5735
Landlord's Duties	**Provide proper notice of intent to evict.** MCL 600.5716, 600.5718 Forms DC 100a, DC 100c (from the court) **The notice MUST:** a) Be in writing; b) Be addressed to the tenant; c) Describe the rental property (address is sufficient); d) Give reason for eviction; e) State the time for tenant to take remedial action; f) Include landlord's signature; and g) Include date. **The notice MUST be delivered:** a) In person to the tenant, OR b) At the rental property, to a member of tenant's household—of suitable age—requesting that it be delivered to the tenant, OR c) By sending it through first-class mail addressed to the tenant.	**The Summons.** The Summons commands the tenant to appear at the court for trial. Michigan Court Rule 4.201(C) Form DC 104 (from the court) **The Complaint.** The Complaint gives further notice of the cause of action, or grounds, for the eviction. Landlord MUST attach the following: a) A copy of the Lease; AND b) A copy of the notice of intent to evict—stating when and how it was delivered. Michigan Court Rule 4.201(B) Forms DC 102a, DC 102C (from the court) **The Summons and Complaint MUST be delivered** (and proof of how and when they were delivered must be filed with the court) **to the tenant BY MAIL AND ONE OTHER WAY:** a) Personally, OR b) Sent by mail—certified, return-receipt, restricted delivery, OR c) At the rental property, to a member of tenant's household—of suitable age—requesting that it be delivered to the tenant, OR d) After diligent attempts at personal service, by securely attaching the papers to the main entrance of the rental property unit. Michigan Court Rule 4.201(D)
Tenant's Duties	**Read the notice.** Certain reasons for eviction can be cured (e.g., nonpayment of rent can be cured by paying the rent). Certain other reasons cannot be cured and tenant must move out (e.g., breach of lease, illegal drug activity). Otherwise, you may be sued. *Recommendation:* Contact the landlord to peacefully discuss his or her reasons for eviction. Try to work things out to remain in the rental property.	The Summons will have a date and time ordering the tenant to appear in court. **As the Summons commands, you MUST appear at the court for this hearing.** **You MUST appear and answer the Complaint by the date on the Summons.** You can do this either in writing OR orally at the hearing. *Recommendation:* It is best to contact an attorney to help you through this process.

C. Eviction Timeline *(continued)*

Eviction	**TRIAL: Within 10 days there will be a trial/ hearing.** Michigan Court Rule 4.201(F) **If either party appears without an attorney, but requests to retain one, the judge will generally adjourn the trial/ hearing for 7 days.**	**JUDGMENT: After trial, the judge will render a decision either in favor of the:** a) Landlord (evicting the tenant), OR b) Tenant (allowing him or her to remain in possession). A money award may also be entered for damages incurred by either party. Michigan Court Rule 4.201(K)	**APPEAL: Within 10 days after judgment,** either party may appeal the judge's decision. The party appealing the judge's decision must pay an appeal bond, filing fees, and transcript fees to preserve the appeal and stop the Writ of Eviction from being issued. Michigan Court Rule 4.201(N)	**EVICTION: After 10 days—a Writ of Eviction may be requested, issued, and executed.** MCL 600.5744(4); Michigan Court Rule 4.201(L) **Issuance:** Issuance must occur within 56 days after judgment is entered and must be executed no later than 56 days after the writ is issued. **Important: Certain situations may allow issuance of a Writ of Eviction Immediately.** MCL 600.5744(2)
Landlord's Duties	**You have a right to an attorney;** you may ask for time to retain one. Generally, the judge will adjourn for 7 days. **You have a right to a jury trial;** however, you must demand it in the Complaint and pay the jury fee. (The fee starts at $40 and goes up depending on the amount in controversy.) Provide testimony, documents, and other evidence to show that you are lawfully entitled to recover possession of your rental property.	**If judgment is for you,** the landlord, it may include an award for any money due and for costs. You may begin collections on the money judgment if tenant does not otherwise pay or appeal. You will have to wait to regain possession by requesting a Writ of Eviction. MCL 600.5741 **If judgment is for the tenant,** he or she may remain in possession of your rental property.	Decide quickly whether to appeal.	Once the sheriff executes the Writ, you regain possession of your rental property.
Tenant's Duties	**You must appear** and answer the Complaint. **You have a right to an attorney;** you may ask for time to retain one. Generally, the judge will adjourn for 7 days. **You have a right to a jury trial;** however, you must demand it in your first response—written or oral—and pay the jury fee. (The fee starts at $40 and goes up depending on the amount in controversy.) Defending landlord's claim may require you to testify and provide documents and other evidence of why you should be entitled to remain in possession of the rental property.	**If judgment is for you,** the tenant, you may remain in possession of the rental property. MCL 600.5747 **If judgment is for the landlord,** you must either: a) Make *full* payment (if the eviction can be cured by payment), OR b) Settle the dispute, OR c) Move out, OR d) Appeal the judge's decision.	Decide quickly whether to appeal.	**If the reason for the eviction was nonpayment of rent,** full payment of the rent, plus fees and costs awarded, may stop the issuance of the Writ of Eviction. Partial payment will not stop the issuance of the Writ. **WARNING:** Other reasons for eviction may not be cured by payment and you must **move out before the sheriff executes the Writ and moves things out for you.**

FROM START TO FINISH—
IT CAN TAKE AS FEW AS 27 DAYS OR AS MANY AS 57 DAYS TO EVICT A TENANT!

Mediation

Parties in a dispute can choose to mediate before or after a lawsuit is filed. Mediation is an alternative dispute resolution technique that is voluntary, empowering, confidential, convenient, effective, and provided at little or no cost. There are mediation centers throughout Michigan that can be called for assistance.

Mediation is:

- A process that helps people to resolve disputes. Trained mediators facilitate a communication process that assists people in reaching mutually satisfactory agreements.
- An alternative to destructive confrontation, ineffective avoidance, costly litigation, and violence.
- An opportunity for people in conflict to use their own problem-solving skills, to take responsibility, and to find solutions that best meet their needs.
- Designed to preserve individual interests while strengthening relationships between individuals and groups.
- An opportunity to learn a successful method for resolving conflicts that can serve as a model for constructively resolving future conflicts.

THE MEDIATION PROCESS

(1) Any person or organization may initiate mediation.

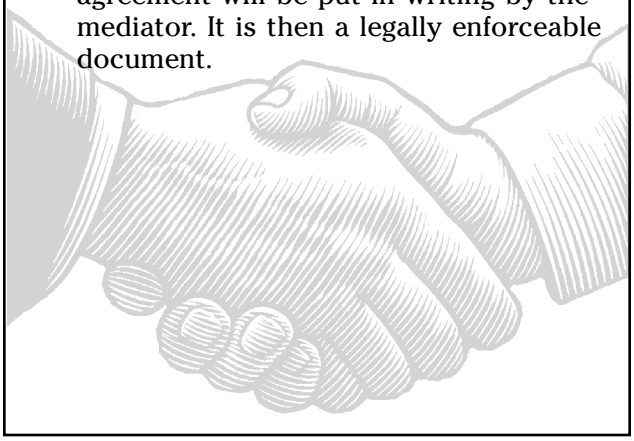
(2) A trained professional will talk with you to determine if your situation is appropriate for mediation. If it is, you will be asked for basic information about yourself and the other person(s) involved.

(3) With your permission, the mediation center will contact the other person(s) involved to encourage them to participate in a mediation session.

(4) If both parties agree, the mediation center will schedule a mediation session at a time and place convenient for all.

(5) At the mediation session, trained mediators will listen to all sides of the dispute. Each party will get a chance to explain, uninterrupted, their point of view. The mediator will encourage communication from all sides to uncover facts, identify issues, and explore possible solutions.

(6) When the parties reach a solution, their agreement will be put in writing by the mediator. It is then a legally enforceable document.



COMMUNITY MEDIATION CENTERS IN MICHIGAN

The following centers provide conciliation, mediation, and other forms of dispute resolution under Michigan's Community Dispute Resolution Act.

BERRIEN, Branch, Cass, St. Joseph, Van Buren
Citizens Mediation Service, Inc.
811 Ship Street, Suite 205
St. Joseph, MI 49085
Phone: (269) 982-7898
Fax: (269) 982-7899
Website: www.citizensmediation.org

CHARLEVOIX, Emmet
Citizen Dispute Resolution Service, Inc.
Northern Community Mediation
415 State Street
Petoskey, MI 49770
Phone: (231) 487-1771
Fax: (231) 487-1770
Website: www.thedisputeresolutioncenter.org

CHIPPEWA, Luce, Mackinac
Eastern UP Dispute Resolution Center, Inc.
P.O. Box 505
Sault Saint Marie, MI 49783
Phone: (906) 253-9841
Fax: (906) 253-9844
Website: www.eupmediate.com

DELTA, Menominee, Schoolcraft
Resolution Services Program
UPCAP Services, Inc.
P.O. Box 606
Escanaba, MI 49829
Phone: (906) 789-9580
Fax: (906) 786-5853
Website: www.upcap.org

GENESEE, Arenac, Bay, Clare, Gladwin, Midland, Ogemaw, Roscommon, Saginaw
Community Resolution Center
315 East Court Street, Suite 200
Flint, MI 48502
Phone: (810) 249-2619
Fax: (810) 239-9545
Website: www.mediation-crc.org/

GOGEBIC, Baraga, Dickinson, Houghton, Iron, Keweenaw, Ontonagon
Western UP Mediators
P.O. Box 327
100 W. Cloverland Drive, Suites 2-3
Ironwood, MI 49938
Phone: (906) 932-0010
Fax: (906) 932-0033

GRAND TRAVERSE, Antrim, Benzie, Leelanau, Missaukee, Wexford
Conflict Resolution Services, Inc.
852 South Garfield Avenue, Suite B
Traverse City, MI 49686
Phone: (231) 941-5835
Fax: (231) 941-4530
Website: www.CRSmediationTC.org

INGHAM, Clinton, Eaton, Gratiot, Ionia, Shiawassee
Resolution Services Center of Central Michigan
229 North Pine Street
Lansing, MI 48933
Phone: (517) 485-2274
Fax: (517) 485-1183
Website: www.rsccm.org

JACKSON, Hillsdale, Lenawee, Monroe
Southeastern Dispute Resolution Services
United Way of Jackson County
536 N. Jackson Street
P.O. Box 1345
Jackson, MI 49204
Phone: (517) 990-0279
Fax: (517) 784-2340
Website: www.uwjackson.org

KALAMAZOO, Barry, Calhoun
Dispute Resolution Services
Gryphon Place
1104 South Westnedge Avenue
Kalamazoo, MI 49008
Phone: (269) 552-3434
Fax: (269) 381-0935
Website: www.gryphon.org

KENT, Isabella, Lake, Mecosta, Montcalm, Newaygo, Osceola
Dispute Resolution Center of West Michigan
Community Reconciliation Center
678 Front Avenue, NW, Suite 250
Grand Rapids, MI 49504-5368
Phone: (616) 774-0121
Fax: (616) 774-0323
Website: www.drcwm.org

MACOMB, St. Clair
The Resolution Center
176 S. Main Street, Suite 2
Mt. Clemens, MI 48043
Phone: (586) 469-4714
Fax: (586) 469-0078
Website: www.theresolutioncenter.com

MARQUETTE, Alger
Marquette-Alger Resolution Service
715 W. Washington Street, Suite A
Marquette, MI 49855
Phone: (906) 226-8600
Fax: (906) 226-5399
Website: www.marsmediation.org

MUSKEGON, Manistee, Mason, Oceana
Westshore Dispute Resolution Center
27 East Clay Avenue
Muskegon, MI 49442
Phone: (231) 727-6001
Fax: (231) 727-6011
Website: www.mediatewestmichigan.com

OAKLAND
Oakland Mediation Center, Inc.
550 Hulet Drive, Suite 102
Bloomfield Hills, MI 48302
Phone: (248) 338-4280
Fax: (248) 338-0480
Website: www.mediation-omc.org

OTSEGO, Alcona, Alpena, Cheboygan, Crawford, Iosco, Kalkaska, Montmorency, Oscoda, Presque Isle
Community Mediation Services
Otsego County
United Way Building
116 5th Street
Gaylord, MI 49735
Phone: (989) 732-1576, (989) 705-1227
Fax: (989) 705-1337
Website: www.otsego.org/cms

OTTAWA, Allegan
Mediation Services
Center for Dispute Resolution
Courthouse Square
68 West 8th Street, Suite 140
Holland, MI 49423
Phone: (616) 399-1600
Fax: (616) 399-1090
Website: www.mediationsolvesconflicts.org

TUSCOLA, Huron, Lapeer, Sanilac
Center for Dispute Resolution
Human Development Commission
429 Montague Avenue
Caro, MI 48723-1997
Phone: (989) 672-4044
Fax: (989) 673-2031
Website: http://hdc-caro.org/

WASHTENAW, Livingston
Dispute Resolution Centers of Michigan, Inc.
The Dispute Resolution Center
110 N. Fourth Avenue, Suite 100
P.O. Box 8645
Ann Arbor, MI 48107-8645
Phone: (734) 222-3745
Fax: (734) 222-3760
Website: www.thedisputeresolutioncenter.org

WAYNE
Wayne Mediation Center
Garrison Place
19855 W. Outer Drive, Suite 206 - East Bldg.
Dearborn, MI 48124
Phone: (313) 561-3500
Fax: (313) 561-3600
Website: www.mediation-wayne.org

Small Claims Court

If you feel an individual or a business has treated you unfairly and you believe they owe you money, there is something you can do about it. If your community has a mediation program, you and the person with whom you are having a dispute can try to work the problem out with the help of a neutral mediator. If you cannot resolve your problem informally through mediation, you can file a lawsuit in small claims court for up to $3,000. This information tells you how to file a small claims case.

Q1 What is a small claims lawsuit?

In the small claims division of the district court, you can bring a lawsuit against anyone who owes you money. You can sue a person who or business that has caused damage to your property or possessions. The maximum you can collect through a judgment in small claims court is $3,000. Small claims courts are designed to operate informally and without attorneys present. If you feel you need an attorney to represent you, the matter must be filed in district court. In small claims court you represent yourself, speak directly to the judge or attorney magistrate, provide your own evidence, and have any witnesses you wish speak for you. You do not need to know the law before you appear for a hearing.

You simply tell the judge why you feel that someone owes you money and the person or business you are suing has the opportunity to tell their side of the case. After hearing both sides, the judge will decide whether money is owed to any party and, if so, how much.

When deciding whether to file a claim, consider whether the person you are suing has any income. Even if the judge grants you a judgment, if the person you sued has no income, it will be difficult for you to collect any money. You might want to check this out before you invest your time and money in filing a claim. Also consider whether mediation would better resolve your problem.

Q2 Why not try mediation before starting a lawsuit?

Filing a lawsuit in court should be used as a last resort. Make sure you have discussed your problem with the person or business you are thinking about suing. In many cases, people and businesses do not know that someone has a dispute with them until they receive court papers. If talking the problem over does not work, consider using mediation instead of going to court.

Mediation is a process in which two or more people involved in a dispute meet in a private, confidential setting and, with the help of a trained neutral person, work out a solution to their problem. Mediation is fast, either free or low cost, and effective in resolving many disputes including landlord/tenant, consumer/merchant, and neighborhood disputes. In most cases, a mediation meeting can be set up within 10 days, and 90 percent of all cases in which both parties to a dispute agree to use a mediation service result in agreements acceptable to all sides. If you can work out your dispute in mediation, you may not need to go to court. Ask the clerk of your local district court if a mediation program is available in your area.

Q3 How does a lawsuit begin?

If you cannot resolve your dispute through mediation, you can file a claim against the person or business in the small claims division of district court. Your case must be filed in the city or county where the transaction in dispute took place, or where the person or business you are suing is located. If you are suing more than one person or business, the suit may be filed in the district court in which any of the persons live or where any of the businesses do business.

At court, tell the clerk you want to file a small claims case. You will be given an affidavit and claim form to fill out. On the form, you name the person or business you are suing and list reasons why you are suing and the amount for which you are suing.

There is a cost for filing a small claim, which includes postage or service fees; you will need to contact the court for this information. Be sure to bring this amount with you when you file your claim. The amount can be made a part of the judgment if the judge decides in your favor.

After you have filed your claim, the court will notify the other party that you have filed a claim against them and the date they are to be in court. The defendant may respond before the hearing.

The defendant may offer to settle out of court after learning you have filed a suit. If you settle the matter out of court, you can either voluntarily dismiss your lawsuit or obtain a judgment. If you want an enforceable judgment, the terms of your agreement must be spelled out in writing and signed by both you and the defendant. A copy of the agreement must be filed with the court.

Q4 What happens when you are sued in Small Claims Court?

If you are served with court papers from the small claims court, you are called the defendant. You have several ways to respond to the affidavit and claim you have received.

If you want to deny the claim, you must either answer the complaint before the hearing date or appear in court on the hearing date, bringing with you any evidence you have to support your denial. If you want an attorney to represent you, you must tell the court at or before the hearing; the case will be transferred from small claims court to the regular district court.

If you have a claim against the person who is suing you, you can also file a counterclaim. Your written counterclaim should be filed with the court and served by first-class mail to the person suing you.

If you fail to appear for the hearing, the court may enter a default judgment against you. This means the judge may grant a judgment for the plaintiff without hearing your statement.

The entry of a judgment may appear on your credit report.

Q5 Is it necessary to prepare for the hearing?

On the hearing date, any of the following may happen:

1. If both the person filing the lawsuit and the defendant appear, the judge may recommend that the parties go to mediation and the case may be adjourned. If either party does not want to try mediation, the hearing may proceed.

2. If the party filing the lawsuit does **not** appear, and the defendant does appear, the case will be dismissed.

3. If the defendant does **not** appear, the person filing the lawsuit may ask for a "default" judgment. This means that, if the judge decides you have a good claim, you can obtain a judgment without a hearing since the person or business you are suing did not appear to challenge your claim.

When you go to court for a hearing, take with you all the evidence you believe proves your claim. This might include a sales receipt, guarantee, lease, contract, or accident report. If a damaged article is too big to bring with you, photographs can be presented as evidence. Any witnesses you would like to speak on your behalf should appear in court as well.

Remember, a judge or attorney magistrate will hear a small claims case; you have no right to a jury trial, and the hearing will not be recorded.

Either party has the right to ask that the case be heard in the general district court. The court will notify the person filing the lawsuit if the defendant makes such a request. In the district court, both you and the defendant have the right to be represented by an attorney. Whoever loses the case may be asked to pay for court costs and attorney fees. Unless defendants are prepared for the extra expense, they usually agree to have the hearing in the small claims division.

Q6 What happens at the hearing?

The hearing will usually take place at the court where you filed your claim. It is important to be there on time; if you filed the lawsuit and are not in court when your case is called, the case may be dismissed. If you are the defendant and are not in court when your case is called, a default judgment may be entered against you. Bring all of your relevant papers or other evidence and make sure your witnesses will be on time.

The court clerk will call your case and you and the defendant will appear before the judge or magistrate. The judge will ask you to state your claim. Take your time and tell what happened in your own words and why you think the person or business you are suing owes you money. Show the judge your evidence and introduce any witnesses you have. The witnesses will be allowed to tell the judge what they know about the case.

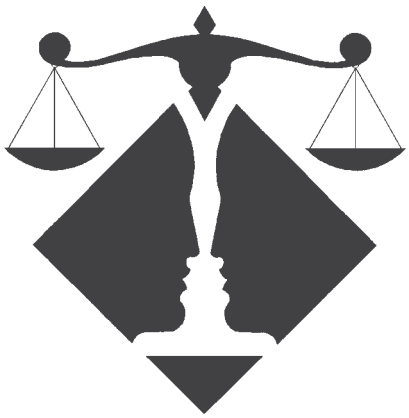
When you have finished, the person or business you are suing will have an opportunity to explain their side of the case. Listen carefully. If you think the defendant is leaving something out or is misstating facts, be sure to tell the judge.

A judge's decision is final. Neither you nor the defendant can appeal to a higher court once the judge has made a decision in the small claims division; although, on petition by either party, the same judge may reopen the case in the small claims division. Either party may appeal a magistrate's decision. The case would be rescheduled before a judge and both parties would explain their case again.

Q7 If you win, how do you collect your money?

If you obtain a judgment against the defendant, the court will provide instructions regarding post-judgment collections. The defendant may pay the judgment plus court costs immediately after the hearing, but if he or she does not have the money to pay right away, the judge may allow a reasonable time to pay and may set up a payment schedule. If the defendant fails to pay the judgment when ordered, you must go back to the court and file additional papers to collect on the judgment by having their wages or bank account garnished or property seized. This cannot occur until 21 days after the judgment is entered. As part of the judgment, the defendant must provide information to the court that can be used in post-judgment collection efforts.

The Small Claims Court section was supplied by the State Court Administrative Office under a grant from the State Justice Institute and in cooperation with the State Bar of Michigan. Points of view expressed are those of the Michigan State Court Administrative Office and do not necessarily reflect the official position or policies of the State Bar or the State Justice Institute. TP-2 (12/99)

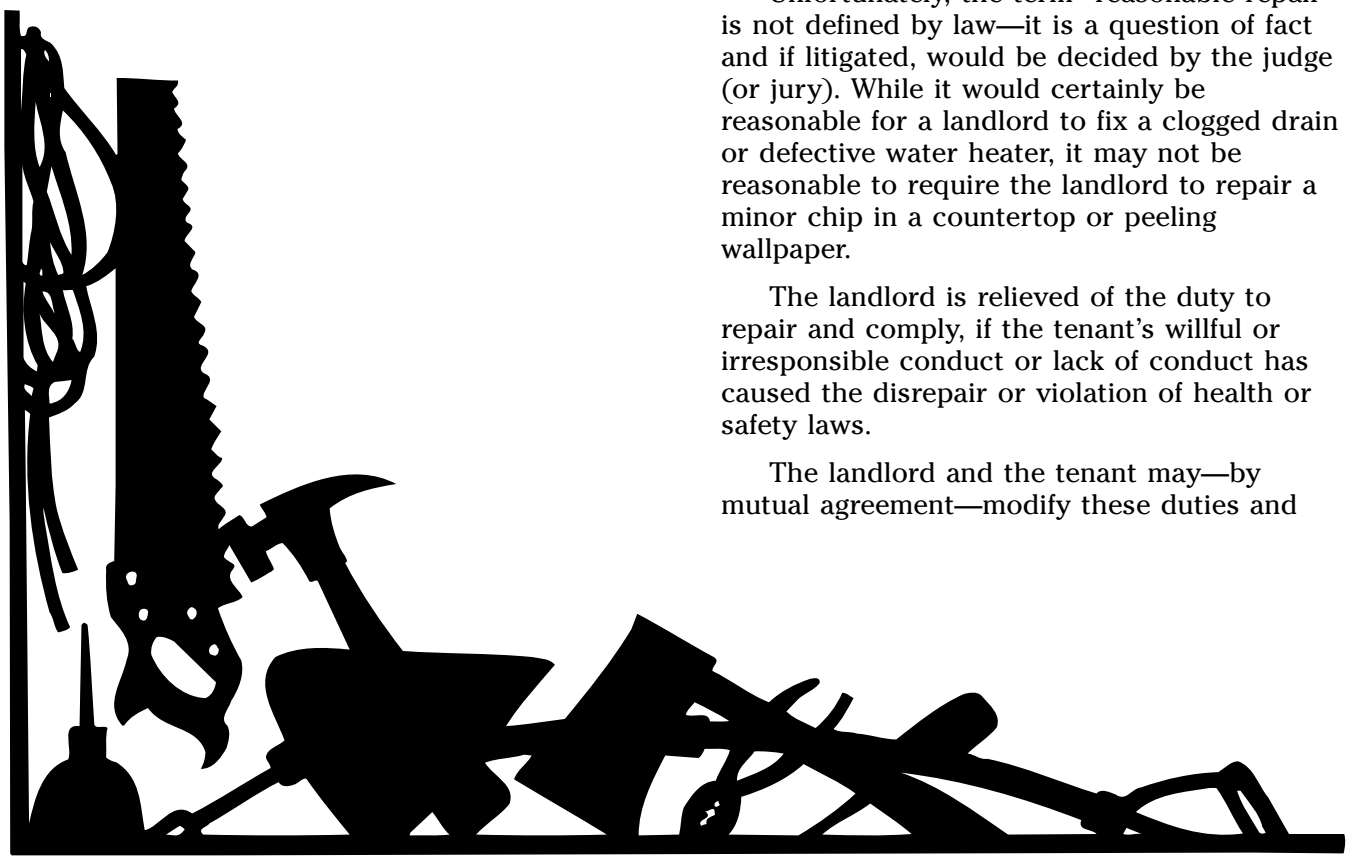


Repair and Maintenance

Repair and maintenance problems range from things that are merely annoying to things that pose an immediate threat to health and safety. Both the landlord and the tenant have some responsibility for maintenance.

There are three types of maintenance problems:

1. **Emergencies** require action within 24 hours and pose an immediate threat to the health and safety of the occupant(s)—gas leak, flooding, defective furnace, or major roof damage;
2. **Major problems** affect the quality of the residential environment, but not to the degree that the life of the occupant(s) is immediately endangered—defective water heater, clogged drain, heating problem in part of a house; and
3. **Minor problems** fall into the nuisance category—defective lighting, locks; dripping faucets; household pests; peeling paint and wallpaper.



A. RESPONSIBILITIES ARE SHARED WHEN MAINTAINING A RENTAL PROPERTY

Q1 What are the landlord's responsibilities?

Under Michigan statute, the landlord has a duty to keep the rental property and all common areas:

a) Fit for the use intended by the parties; and
b) In *reasonable repair* during the term of the lease; and
c) In compliance with the health and safety laws (MCL 554.139).

Whether the landlord is required to repair a problem depends on two factors: the nature of the problem itself and whether the landlord's duty to repair has been modified—either by the tenant's conduct or by mutual agreement.

Unfortunately, the term "reasonable repair" is not defined by law—it is a question of fact and if litigated, would be decided by the judge (or jury). While it would certainly be reasonable for a landlord to fix a clogged drain or defective water heater, it may not be reasonable to require the landlord to repair a minor chip in a countertop or peeling wallpaper.

The landlord is relieved of the duty to repair and comply, if the tenant's willful or irresponsible conduct or lack of conduct has caused the disrepair or violation of health or safety laws.

The landlord and the tenant may—by mutual agreement—modify these duties and

make the tenant responsible for repairs, but only if the lease agreement has a current term of at least one year. In other words, if the lease term is less than one year, the landlord's duty cannot be modified.

Additionally, almost all courts recognize that implied in a residential lease agreement is the understanding that the rental property must be fit for habitation by humans. This means that the rental property must meet some minimum level of standard so as not to expose the occupants to unreasonable health risks. This implied duty cannot be modified or waived.

In addition to state law requirements, counties and municipalities are free to enact ordinances that require landlords to maintain rental property above minimum habitability standards. Most municipalities have a housing code protecting the health, safety, and welfare of their citizens. Some require that the rental property be inspected on a regular basis. Some even require licensing before a tenant can move in. Check with the local city or county government code enforcement office for additional standards imposed on landlords in maintaining their rental property.

Q2 What are the tenant's responsibilities?

Although responsibilities can be modified in certain instances—by mutual agreement between the landlord and tenant—a tenant is generally expected to:

1. Pay rent on time;
2. Keep the rental property in a safe and sanitary condition;
3. Promptly notify the landlord of maintenance problems;
4. Exterminate insects that appear if they were not there when the tenant moved in; and
5. Leave the rental property in good condition—reasonable wear and tear excepted.

B. IMPORTANT STEPS TO TAKE IN SOLVING THE PROBLEM(S)

Depending on the problem, requesting that a repair be made could be as simple as a quick phone call or as complicated as filing a lawsuit. Outlined next are the recommended steps to take to solve a repair and maintenance problem:

STEP 1: Notify the landlord and provide reasonable time for repair.

Keep it simple. The tenant must notify the landlord and explain the situation, the importance of the repair, and when he or she would like it done. A phone call usually works. Sometimes, however, the landlord requires that a specific form or repair order be filled out before proceeding. Read the lease and talk to whoever is in charge and figure out the best course to take. Keep copies of communications and keep notes of discussions. Municipalities have enacted housing codes—establishing minimum standards—to protect the rights of both the landlord and the tenant. Contact the local city hall for information.

> ***Note:*** The landlord must be given reasonable time to make repairs.

STEP 2: Contact the building inspector and schedule an inspection.

In some municipalities, if the rental property is up to municipal code standards, the tenant will be responsible for paying the inspector's fee. If it is not up to code, the landlord pays the fee (and may also have to pay a re-inspection fee once the repair is made). Call the local inspector's office to find out how much the fee will be.

STEP 3: If the landlord has failed to make necessary repairs, either withhold the rent and deposit it into an escrow account OR pay for the repair and deduct the cost from the rent.

> ***Note:*** The landlord must have been provided with notice of the problem, and must have been given a reasonable amount of time to fix the problem.

■ ***Escrow Account:*** A bank account or other account held by a third party, generally established in the name of the tenant, into which whole or partial rent payments are deposited to show that the tenant was ready, willing, and able to pay the rent, but is withholding the rent until a certain problem is fixed that the landlord is legally responsible for fixing. Once the problem is taken care of, the escrowed rent amount will be released to the landlord.

- **If the rent, or a portion of it, will be withheld** for the purpose of addressing the maintenance or repair issue(s), the tenant should send a letter—certified mail, return receipt requested—stating why the rent will be withheld, where it will be deposited (name of financial institution), and that payment will be released when the maintenance or repair problem(s) has been corrected.
- **If the repair cost will be deducted from the rent,** call for three repair estimates. If it is a do-it-yourself job, shop and compare the cost of parts. Reputable repair companies will come to the house and provide a free written estimate. Send copies of the estimates to the landlord and state that the problem will be fixed unless the landlord agrees to do it by a certain date, and that the cost of repair will be paid from the rent withheld. Keep all receipts and note the dates of repair; send copies to the landlord, along with the remaining portion of the rent.

> ***Note:*** While the repair-and-deduct method may work well for small repairs, it may not work for large repairs.

Q1 How much rent should be withheld?

The amount of rent withheld must reasonably relate to the cost of fixing the problem or to the amount of damage the tenant has incurred because of the landlord's failure to fix the problem. Withhold less for a clogged drain. Withhold more for an unusable toilet or shower. Only the most catastrophic problems will warrant withholding all of the rent. In any event, the amount withheld must be deposited into an escrow account.

Q2 What if the tenant lawfully withholds rent and the landlord starts the eviction process?

If the landlord has a run-in with the municipal code enforcement office OR if the landlord does not receive the rent, he or she may well decide to start the process for evicting the tenant. Nevertheless, Michigan law provides the tenant—who was acting lawfully—with certain defenses. The tenant, however, must be able to prove the facts giving rise to the defense:

1. *A claim of retaliatory eviction.* There exists a presumption of retaliation if the landlord started the eviction proceedings within 90 days of the tenant trying to enforce his or her rights under law (*e.g.,* reporting health and safety code violations, exercising rights under the lease, filing a complaint against the landlord for a violation of the law).
2. *The landlord's breach of the warranty of habitability and duty to repair.* The tenant must show that the landlord was provided with notice of the problem and given a reasonable amount of time to fix the problem. The tenant must show that the landlord failed to make the necessary repairs.
3. *Rent was properly withheld and escrowed.* The tenant must be able to show that "but for the repair and maintenance required, he or she was ready, willing, and able to pay the rent."

The eviction process takes time—from start to finish, it takes as few as 27 days or as many as 57 days to evict a tenant. In the meantime, the landlord has mortgages, taxes, and bills to pay. Financial pressure may cause the landlord to negotiate. If the landlord will not negotiate, and if the tenant has carefully documented all communications about the needed repair and maintenance, the tenant may well succeed in the lawsuit for eviction.

Both the landlord and the tenant should remember that, in many disputes, the basic issues become obscured by personal disagreements that develop and continue to grow and fester. If an agreement cannot be reached, try mediation—either before a lawsuit is filed or after. Mediation might help to empower the parties to use their own problem-solving skills, to take responsibility, and to find solutions that best meet their needs, while strengthening the landlord-tenant relationship.

Additional Considerations

Civil Rights

Federal, state, and local laws prohibit discrimination in housing based on a number of factors, including race, color, sex, age, disability, and family status. For further information regarding the classes of persons protected by federal, state or local laws and the exceptions to the general laws, contact the Michigan Department of Civil Rights or the U.S. Department of Housing and Urban Development.

Housing Codes, Smoke Detectors

Some communities have adopted housing codes or other specific requirements that may affect the condition or equipment requirements of residential rental property. These include the requirement that smoke detectors be installed in housing or that residents comply with recycling ordinances. Be sure to check with the local unit of government to see if the rental property is affected.

Pet Restrictions

Landlords can include a provision in the lease that restricts tenants from maintaining pets in a rental unit or impose a pet fee. A landlord cannot discriminate against a person who maintains a guide, hearing, service and/or companion animals. Additionally, service and companion animals are not considered to be pets, and should not be subject to pet fees or overly restrictive animal policies.

The courts have permitted the eviction of tenants who violate a lease provision prohibiting tenants from maintaining pets in a rental unit.

Smoking

A landlord can restrict tenants who smoke to certain apartments or buildings or can refuse to rent to smokers. In Michigan Attorney General Opinion No. 6719, released May 4, 1992, the Attorney General stated "neither state nor federal law prohibits a privately-owned apartment complex from renting only to non-smokers or, in the alternative, restricting smokers to certain buildings within an apartment complex."

Lead-Based Paint

Since the latter part of 1996, landlords must provide tenants who are renting units built before 1978 with certain information concerning lead-based paints. This information includes a federal government ***pamphlet*** entitled:

- ***Protect Your Family From Lead in Your Home***

and a ***form*** entitled:

- ***Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards (Rentals)***

There are exceptions to this federal requirement, including commercial rentals, zero-bedroom efficiency apartments, and rental units certified as lead-free by a qualified lead abatement inspector.

For further information, contact the National Lead Information Center at 1-800-424-LEAD[5323] or at www.epa.gov/lead/pubs/nlic.htm.

See Appendices for sample disclosure form.

Appendices

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RESIDENTIAL-LEASE AGREEMENT

NOTICE:

Michigan law establishes rights and obligations for parties to rental agreements. This agreement is required to comply with the Truth in Renting Act. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from an attorney or other qualified person.

We Agree That

_____,
(Landlord's Name(s))

Leases To

(1)_____
(Tenant's Name)

(2)_____
(Tenant's Name)

(3)_____
(Tenant's Name)

(4)_____
(Tenant's Name)

The Following Premises To Be Used For Private Residential Purposes Only

_____
(Street Address, City, State, and Zip Code)

For A Term	**Month-To-Month**
Beginning _____ ____, 20____, and Ending _____ ____, 20____.	Beginning _____ ____, 20____.

(a) **JOINT AND SEVERAL TENANCY:** If more than one person signs this lease as a Tenant, their obligations are joint and several. **This means that each person is responsible not only for his or her individual obligations, but also for the obligations of all other Tenants**. This includes paying rent and performing all other terms of this lease. A judgment entered against one or more Tenant(s) does not bar an action against the others. Each Tenant must initial this paragraph: (1) ____, (2) ____, (3) ____, (4) ____.

(b) **RENT:** Tenant must pay Landlord, as rent for the entire term, a total of $_____, being $_____ each month, beginning _____ ____, 20____, and the same amount on or before the 1st business day of each succeeding month. Rent must be paid to the Landlord at the following address:

_____
(Street Address, Apartment, City, State, and Zip Code)

(1) _____ (2) _____ (3) _____ (4) _____ (Each tenant must initial.)

(c) **DISCOUNTED RENT:** If Landlord receives the rent on time, Tenant will be granted a $_____discount. The discount is meant to encourage prompt payment of rent. Late rent may subject the Tenant to eviction proceedings and liability for damages.

(d) **SECURITY DEPOSIT:** Tenant must pay Landlord $_____ on _____ ____, 20____, which Landlord holds as a security deposit for Tenant's performance of all the terms of this lease. The security deposit must be deposited at the following financial institution and may be mingled with the security deposits of Landlord's other tenants:

_____

(Name of Financial Institution, Street Address, City, State, and Zip Code)

NOTICE:
You must notify your landlord in writing within 4 days after you move of a forwarding address where you can be reached and where you will receive mail; otherwise your landlord shall be relieved of sending you an itemized list of damages and the penalties adherent to that failure.

(e) **NONREFUNDABLE CLEANING FEE:** Tenant must pay a nonrefundable cleaning fee of $_____ at the beginning of the lease term.

(f) **OCCUPANCY:** Only the persons who sign this lease may reside at the premises. If more than _____ persons occupy the premises, the Landlord may terminate this tenancy or assess additional rent of $_____ each month for each additional person. **Occupancy must not exceed the number mandated by local ordinance. This premises is licensed for ____ persons.** Tenant may accommodate guests for reasonable periods (up to 2 weeks); other arrangements require Landlord's consent.

Note: If the premises is located in the city of East Lansing, the occupancy limit must be displayed on the license and posted in the premises. The city may fine violators $500 a day for over-occupancy.

(g) **SLEEPING ROOMS:** Basements, attics, and other rooms must not be used as sleeping rooms if they do not comply with the local ordinance for windows, minimum square footage, exits, and ventilation. This is meant to protect Tenant's health and safety. **The following areas may not be used as sleeping rooms**:

_____, _____, _____, _____.

Note: The city of East Lansing may fine violators $500 or they may be sentenced up to 90 days in jail..

(h) **KEYS/LOCKS:** Tenant will receive ____ keys from the Landlord. On or before the termination of this lease, Tenant must return all keys or Tenant will be charged $_____ for changing the locks. If Tenant loses the keys or gets locked out of the premises, Landlord will provide an extra key to Tenant and may charge Tenant $_____. Tenant must never gain entrance to the premises by force through a window or door, or otherwise without a key. Tenant must not change or add locks without Landlord's written consent.

(i) **UNAUTHORIZED USE OF MAILING ADDRESS:** Only a Tenant may use the mailing address of the premises. Allowing someone else to use the mailing address will increase the monthly rent $_____.

(j) **CONDITION OF PREMISES AT THE BEGINNING OF TENANT'S OCCUPANCY:** Tenant acknowledges receipt of two blank copies of an inventory checklist. **Tenant must complete both checklists and return one to the Landlord within 7 days after Tenant takes possession** of the premises. Except for those items specifically noted by the Tenant in detail on the inventory checklist, Tenant accepts the premises, and the appliances and furnishings, in good condition. The inventory checklist is used only to assess damages and is not a warranty or promise by Landlord that any item listed on the checklist, but not present on the premises, will be provided.

(k) **APPLIANCES AND OTHER FURNISHINGS PROVIDED:** Tenant must not remove or loan any item provided with the premises. Landlord will provide the following checked items:

☐ Stove ☐ _____ ☐ _____

(1) _____ (2) _____ (3) _____ (4) _____ (Each tenant must initial.)

☐ Refrigerator ☐ _____ ☐ _____
☐ Dishwasher ☐ _____ ☐ _____
☐ Washer and Dryer ☐ _____ ☐ _____

(l) SMOKE DETECTORS: Landlord must install smoke-detection devices as required by law. The premises contain _____ smoke-detection devices, all working satisfactorily. Once the tenancy begins, Tenant must regularly test the detectors to ensure that they are working. Tenant must never remove the battery from the smoke-detection device except when necessary to replace it. Tenant must inform the Landlord immediately, in writing, of any defect or malfunction in its operation.

(m) ALTERATIONS: Tenant must not alter the premises without the Landlord's written consent (e.g., painting, wallpapering, installing locks). Landlord will discuss with Tenant a preferred method of hanging pictures and posters. Tenant is responsible for damage to the walls beyond reasonable wear and tear.

(n) REPAIRS AND MAINTENANCE: Landlord must provide and maintain the premises in a safe, habitable, and fit condition. **Tenant must notify Landlord IMMEDIATELY, BY PHONE at _____ of any gas leaks, electrical problems, water damage, broken appliances, or serious structural damage.** Tenant must notify Landlord, in writing, of all other problems needing repair. Landlord must make all repairs to the premises that, in Landlord's sole judgment, are required by law. Landlord must make every effort to do so within a reasonable time. Whenever repairs are delayed for reasons beyond the Landlord's control, the Tenant's obligations are not affected, nor does any claim accrue to Tenant against the Landlord. Landlord must maintain those things requiring periodic maintenance (e.g., heating, air conditioning, cracked windows).

(o) PIPE-FREEZE PREVENTION: If Tenant plans to be away from the premises for any length of time, **the heat must be left on during the cold season and the windows closed** to avoid broken pipes and water damage.

(p) REPAIRS DUE TO TENANT'S NEGLIGENCE: Damage to the premises caused by Tenant's negligence, or their guest's or invitee's negligence, whether by act or omission, will be repaired by Landlord and charged to the Tenant. Whenever repairs are delayed for reasons beyond Landlord's control, Tenant's obligations are not affected, nor does any claim accrue to the Tenant against Landlord. Tenant must immediately pay the repair costs as additional rent. If Tenant fails to do so, Landlord may take legal action to recover any unpaid rent.

(q) LANDLORD'S RIGHT OF ENTRY: Landlord, or Landlord's agent, may enter the premises at reasonable times, with ____-hours notice to the Tenant, to examine, protect, make repairs or alterations, or show prospective renters and purchasers. In emergency situations, Landlord is not required to give Tenant notice. If emergency entry occurs, Landlord must, within 2 days, notify Tenant of the date, time, and reason for the entry.

(r) USE OF THE PREMISES: Tenant must use the premises for private residential purposes only. Tenant must not do any of the following, or allow someone else to do any of the following:

- ✓ Harass, annoy, or endanger any other tenant or neighbor, or their guests, or create any excessive noise or public nuisance,
- ✓ Do anything to the structure or its surroundings that may be hazardous or that will cause Landlord's insurance to be cancelled or premiums to increase,
- ✓ Keep any flammable or explosive materials or any dangerous, hazardous, or toxic substance in or around the premises,
- ✓ Deface or damage, or allow another to deface or damage, any part of the premises,
- ✓ Change the locks or install any additional locks or bolts without Landlord's written consent,
- ✓ Place a waterbed or other heavy article on the premises without Landlord's written consent,
- ✓ Pour any commercial anti-clogging agent into the sink or drain that may harm the water pipes, or
- ✓ Install any antenna or satellite without Landlord's written consent.

(s) ILLEGAL DRUG USE: Tenant must not violate, or knowingly allow another to violate, federal, state, or local laws regarding the use of controlled substances or the use of alcohol by minors in or around the premises. When aware of a violation of this provision, Landlord will file a formal police report. Landlord may recover possession of the premises by summary proceedings when Tenant holds over the premises for 24 hours after service of a written demand for possession for termination of this Lease under this provision.

(1) _____ (2) _____ (3) _____ (4) _____ (Each tenant must initial.)

(t) **PETS:** Dogs, cats, or other pets are not allowed on the premises without Landlord's written consent. If Landlord's written consent is given, Tenant agrees to pay a nonrefundable pet fee of $_____.

(u) **PARKING:** Landlord will provide parking for Tenant's automobiles. Tenant must keep the parking area free of all debris. Automobiles must be parked only in assigned areas as follows:

CAR #1_____ (year, make, model, and plate number),

belonging to _____ must be parked _____.

CAR #2_____ (year, make, model, and plate number),

belonging to _____ must be parked _____.

CAR #3_____ (year, make, model, and plate number),

belonging to _____ must be parked _____.

CAR #4_____ (year, make, model, and plate number),

belonging to _____ must be parked _____.

(v) **MISCELLANEOUS COSTS AND OBLIGATIONS:** Check the appropriate boxes below:

☐Tenant ☐Landlord ☐Not Applicable pays for **electricity**.

☐Tenant ☐Landlord ☐Not Applicable pays for **gas or fuel oil**.

☐Tenant ☐Landlord ☐Not Applicable pays for **water and sewage**.

☐Tenant ☐Landlord ☐Not Applicable pays for **trash removal**.

☐Tenant ☐Landlord ☐Not Applicable must **dispose of all trash by placing in a designated container**.

☐Tenant ☐Landlord ☐Not Applicable must **mow the lawn**.

☐Tenant ☐Landlord ☐Not Applicable must **water the lawn**.

☐Tenant ☐Landlord ☐Not Applicable must **rake the leaves**.

☐Tenant ☐Landlord ☐Not Applicable must **remove snow and ice from the driveway, parking area, walkway, and steps**.

☐Tenant ☐Landlord ☐Not Applicable must **change the screens and storm doors as weather dictates**.

☐Tenant ☐Landlord ☐Not Applicable must _____.

☐Tenant ☐Landlord ☐Not Applicable must _____.

☐Tenant ☐Landlord ☐Not Applicable must _____.

☐Tenant ☐Landlord ☐Not Applicable must _____.

(w) **PEACEFUL AND QUIET USE OF PREMISES:** In exchange for Tenant's timely payment of rent and performance of all the terms of this lease, Landlord must provide peaceful and quiet use of the premises throughout the tenancy.

(x) **SUBLET AND ASSIGNMENT:** Tenant must not sublet the premises or assign any interest in this lease without Landlord's written consent (not to be unreasonably withheld). If Landlord gives written consent, Landlord must also provide Tenant with an appropriate sublease form.

(y) **RENTER'S INSURANCE:** Tenant is strongly advised to carry renter's insurance on his or her personal property (e.g., clothing, furniture, household items). Landlord is not responsible for damage to Tenant's personal property, unless Landlord's negligence or intentional act or omission causes the damage.

(z) **LEASE ADDENDUM, RULES, AND REGULATIONS:** If the premises is located in the City of East Lansing, the *East Lansing Lease Addendum* must be attached. Additional pages or rules and regulations, **signed by all parties,** are incorporated as part of this Lease, and Landlord must provide copies to the Tenant.

(aa) BREACH OF LEASE AND RIGHT TO RE-ENTER AND REGAIN POSSESSION: If Tenant fails to pay rent or violates any other term of this lease, Landlord may terminate the tenancy, re-enter the premises, and regain possession in accordance with the law. If Landlord violates any term of this lease, Tenant may terminate the tenancy.

(bb) CONDITION OF THE PREMISES AT THE END OF TENANT'S OCCUPANCY: At the end of Tenant's occupancy, Landlord must complete a termination inventory checklist to assess damages that Landlord claims were caused by the Tenant. This includes unpaid rent, unpaid utilities, and damages beyond reasonable wear and tear. Tenant may ask to be present when the termination inventory checklist is to be completed. Landlord must mail to the Tenant, within 30 days of Tenant's termination of occupancy, an itemized list of damages claimed for which the security deposit may be used—provided, of course, that the Tenant has given a forwarding address.

(cc) END OF LEASE TERM: When the lease term ends, Tenant must promptly **vacate the premises, remove all personal property, and return all keys**. Tenant must **dispose of all trash** and leave the premises clean.

(dd) CHANGES TO THIS LEASE: This lease, and any additional pages or rules and regulations incorporated, contains the entire agreement between Landlord and Tenant; no oral agreement is valid. Changes to the terms of this Lease **must be in writing, signed by all parties**.

(ee) ENFORCEMENT OF LEASE PROVISIONS: Failure to strictly enforce any provision of this lease, by either the Landlord or the Tenant, does not constitute acceptance of a change in its terms. Landlord and Tenant are still obligated to perform as indicated in this lease.

(ff) ADDITIONAL PROVISIONS: _____
_____
_____
_____
_____
_____
_____.

This RESIDENTIAL-LEASE AGREEMENT is signed on _____ ____, 20____.

Each person who signs it acknowledges, by their signature, that they have read it, understand it, and voluntarily agree to it. Further, each person is mentally competent and 18 years or older.

Landlord's Signature(s): _____ _____

Tenant's Signature(s): _____ _____

_____ _____

This document was drafted as a community-service project
by student residents
under the supervision of clinical faculty at the

MSU COLLEGE OF LAW, RENTAL HOUSING CLINIC
541 E. Grand River Avenue, P.O. Box 310
East Lansing, MI 48826
Phone (517) 336-8088, Fax (517) 336-8089

We provide legal services to low-income persons for nominal fees.

(1) _____ (2) _____ (3) _____ (4) _____ (Each tenant must initial.)

RESIDENTIAL SUBLEASE AGREEMENT

!!!NOTICE!!!

Michigan law establishes rights and obligations for parties to rental agreements. This agreement is required to comply with the Truth in Renting Act. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from an attorney or other qualified person.

This Sublease Agreement is made between

_____, the "Sublessor," and _____, the "Sublessee," together referred to as the "Parties."

The Parties agree that the Sublessee will lease from the Sublessor a portion of the Sublessor's interest in the premises located at _____, Michigan on the following terms:

1. ***Lease Term.*** The lease term is for a period of _____, beginning on _____ and ending on _____.
2. ***Rent.*** Sublessee will pay a total monthly rent of $_____. Rent shall be payable on the first day of each month directly to the Sublessor at the following address _____.
3. ***Master Lease.*** In addition to the terms and conditions of this Sublease Agreement, the Sublessee agrees to be bound by all the terms and conditions of the Master Lease between Sublessor and the Landlord, _____. A copy of the Master Lease is attached and incorporated into this Sublease Agreement by reference. Other representations, not included here or in the Master Lease, are not binding on the Parties.
4. ***Security Deposit.*** Sublessee will pay $_____ to Sublessor as a security deposit. At the end of the lease term, only amounts allowed by law may be retained from the security deposit, and the remainder, if any, shall be returned to Sublessee in accordance with Michigan law. The security deposit may not be used as the last month's rent.
5. ***Inventory Checklist.*** At the time Sublessee takes possession of the premises, the Sublessor will provide him or her with an inventory checklist. Sublessee will complete and return the checklist to the Sublessor within 7 days.
6. ***Utility and Telephone Charges.*** The Sublessee will pay _____% of all utility charges (water, gas, electric, and cable). Sublessee will pay all telephone charges for calls they, themselves, or their guests, made, and Sublessee will pay _____% of the monthly telephone service charges.
7. ***Condition of the Apartment.*** Sublessee acknowledges that he or she has examined the premises and will complete and return the inventory checklist. Upon the termination of this Sublease Agreement, Sublessee will restore the premises to their original condition, except for reasonable wear and tear. Sublessee is responsible for the repair of any damage resulting from his or her act or neglect of that of their guests.
8. ***Holdover.*** Sublessee will promptly vacate the premises at the end of the lease term. Holding over is not allowed.
9. ***Subleasing and Assignment.*** Sublessee may not sublease or assign their interest in the premises to another without Sublessor's written consent.
10. ***Parental Consent and Guarantee.*** If the Sublessee is under eighteen (18) years of age, his or her legal guardian or parent, by their signature, guarantees and agrees to perform all the terms and conditions of this Sublease Agreement.
11. ***This Agreement is Complete and Binding.*** All preliminary negotiations between the Parties are merged into, and superseded by, the terms of this Sublease Agreement. This Sublease Agreement becomes enforceable when signed by both Parties. Any modification to this Sublease Agreement must be in writing, signed by both Parties.
12. ***Other Terms and Conditions*** _____

    _____

    _____
13. ***Landlord's Consent.*** This Sublease Agreement is not binding on either Party unless the Landlord gives consent by signing below. The Master Lease requires this approval.
14. ***Mediation Agreement.*** If a dispute arises out of or relates to this contract, or its breach, and if the dispute cannot be settled through negotiation, the Parties agree first to try in good faith to settle the dispute by mediation under the Mediation Rules of the American Arbitration Association before resorting to some other dispute resolution procedure.

The Parties having read, having understood, and having agreed to the above terms, sign their names as follows:

_____		_____		_____	
Sublessor	Date	Sublessee	Date	Landlord	Date

This document was drafted as a community-service project by student residents under the supervision of clinical faculty at the MICHIGAN STATE UNIVERSITY-DETROIT COLLEGE OF LAW, RENTAL HOUSING CLINIC

541 E. Grand River Avenue, P.O. Box 310, East Lansing, MI 48826, Phone (517) 336-8088, Fax (517) 336-8089

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Attach copy of lease or rental agreement and landlord's house rules.

Roommate Agreement

(Each roommate should receive a copy of this agreement)

We have signed a lease/rental agreement for _____(address) on _____(date). We hope to make certain that responsibilities of renting will be shared equally by all roommates. It is for this reason that we are signing this agreement.

ROOMMATES

The roommates of the above address are:

_____ _____

_____ _____

_____ _____

TERMS

This agreement shall remain in effect from_____to _____.
Under a month-to-month tenancy, each roommate must give the other roommate(s) and landlord thirty days ☐written and/or ☐oral notice in advance, if the roommate will be moving out before date shown above. The roommate may leave if a substitute roommate is found and is acceptable to the remaining roommate(s) and the landlord. Each roommate will be primarily responsible for finding his/her own replacement tenant.

Under a lease agreement, the departing roommate will be responsible for upholding the lease agreement until, and possibly after, a replacement or sublessee is found.

The landlord should be notified of any pending roommate switch, so that proper arrangements can be made. The departing roommate will be responsible for his/her original portion of the rent, unless other arrangements are made in a written agreement with the roommate(s) and landlord.

DEPOSIT

The roommate(s) have paid a security deposit of_____. List amount each roommate has paid:

_____

Each roommate is responsible for charges associated with the damages he/she or his/her guest(s) cause. If the cause cannot be determined, then the roommates will split the cost of damages equally.

RENT

Each roommate shall pay the following amount of rent: _____.
Amounts may not be equal. The rent shall be paid on the_____day of each month. Rent will be paid in the following manner (list all rental rates)_____.

PETS

If pets are permitted under the lease, each pet owner shall be responsible for all damages caused by his/her pet. This includes damage to furniture, carpeting, blinds, doors, lawn, and garden.

HOUSEHOLD SUPPLIES

A single ledger will be kept of all supplies purchased by each roommate. The supplies include such things as paper towels, toilet paper, cleaning fluids, dish detergent, foil, plastic trash bags, scrub brushes, and any other goods needed for the home which will be shared by all roommates.

KITCHEN USE AND CLEAN-UP

☐Food expenses shall be shared by all roommates. Preparation of meals shall be determined by an attached schedule which can be flexible.

OR

☐Food is to be bought by each roommate. There is to be no borrowing of food without prior approval. A separate space will be provided for each person's groceries. Shared meal preparation and clean-up is optional.

This form was prepared by the Housing Information Office, University Housing, University of Michigan, 1011 Student Activities Building, 734-763-3205. Website: www.housing.umich.edu

© University of Michigan *Rev. 6/02*

PERSONAL PROPERTY

All roommates agree to refrain from borrowing roommates' personal items without prior approval. Exceptions to this should be clearly stated, with the roommates reserving the right to change their minds about the sharing of their items. Property that is borrowed will be used respectfully and returned in the same condition. If damage is done to personal property, the roommate responsible for damage will be held liable.

CLEANING AND YARDWORK

All roommates agree to share the responsibilities of cleaning and maintenance of the premises. This includes dusting, vacuuming, emptying trash, mopping/waxing floors, cleaning bathrooms, and yardwork.

☐ The roommates have decided to develop a schedule which is attached. It states when each roommate will complete the cleaning and maintenance jobs.

OR

☐ The roommates will work together at a designated time to complete the above jobs.

MEDIATION

Roommates agree to discuss unresolved roommate problems with an advisor at the University Housing Information Office. Any roommate may initiate this process, which includes consultation and mediation. All roommates agree to make a good faith effort to discuss /obtain a resolution prior to taking any action.

ADDITIONAL TERMS OF AGREEMENTS

In addition to the items mentioned above, the following items have been known to cause conflict between roommates. If you foresee any of these as a problem, write out any needed additional agreements and attach. Space is provided at right for adding other issues needing specific agreements.

____Smoking/alcohol/drugs ____Parking ____Overnight guests _____

____Cleanup after parties/guests ____Use of sound system ____Behavior of guests _____

____Food/groceries/household supplies ____Phone messages ____Keys _____

____Quiet hours for studying and sleeping ____Compliance with landlord's rules ____Shared areas (bathroom) _____

Each roommate agrees to do his/her own dishes as needed. A schedule of kitchen cleanup may be attached. It will include cleaning the refrigerator and oven, mopping the floors, and emptying the trash.

UTILITIES

The following services have been arranged and paid for as follows:

Item	*Account in Name of*	*Amount of Deposit*	*Deposit Paid By*	*How Bill Shared*	*Name Roommate Responsible for Payment*
Gas					
Water					
Electricity					
Newspaper					
Garbage					
Cable TV					
Phone					

*Charges for unclaimed telephone calls shall be allocated equally among the roommates.

☐ Each roommate has been assigned the responsibility for payment of a specific bill. This includes determining the amount owed by each roommate, collecting that amount, and seeing that payment is made before the due date.

OR

☐ The attached schedule has been developed to assign each roommate the month in which he/she will be responsible for the collecting and payment of all bills.

SIGNATURES OF ROOMMATES

_____ _____

_____ _____

_____ _____

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Every tenant of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The landlord of any interest in residential real property is required to provide the tenant with any information on lead-based paint hazards from risk assessments or inspections in the landlord's possession and notify the tenant of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended before taking occupancy.

Landlord's Disclosure (Landlord must initial here: _____)

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) _____ known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

_____

(ii)_____ Landlord has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the tenant (check (i) or (ii) below):

(i) _____ Landlord has provided the tenant with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

_____

(ii)_____ Landlord has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Tenant's Acknowledgment.....*Protect Your Family from Lead in Your Home.*

(e) Tenant has (check (i) or (ii) below):

(i) _____ received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

(ii)_____ waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (Agent must initial here: _____)

(f)_____ Agent has informed the landlord of the landlord's obligations under federal law and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Landlord	Date	Tenant	Date
Tenant	Date	Tenant	Date
Agent	Date	Tenant	Date

INVENTORY CHECKLIST*

COMMENCEMENT AND TERMINATION INVENTORY CHECKLIST FORM

"YOU MUST COMPLETE THIS CHECKLIST NOTING THE CONDITION OF THE RENTAL PROPERTY AND RETURN IT TO THE LANDLORD WITHIN 7 DAYS AFTER OBTAINING POSSESSION OF THE RENTAL UNIT. YOU ARE ALSO ENTITLED TO REQUEST AND RECEIVE A COPY OF THE LAST TERMINATION INVENTORY CHECKLIST WHICH SHOWS WHAT CLAIMS WERE CHARGEABLE TO THE LAST PRIOR TENANTS."

	BEGINNING CONDITION	ENDING CONDITION
LIVING ROOM		
DOOR (INCLUDING LOCKS):		
WINDOWS:		
CARPET OR FLOOR:		
WALLS:		
CEILING:		
LIGHTS & SWITCHES:		
OTHER:		
DINING ROOM		
WINDOWS:		
CARPET OR FLOOR:		
WALLS:		
CEILING:		
LIGHTS & SWITCHES:		
OTHER:		
HALLWAY		
FLOOR:		
WALLS:		
CEILING:		
OTHER:		
KITCHEN		
WINDOWS:		
FLOOR:		
WALLS:		
CEILING:		
LIGHTS & SWITCHES:		
STOVE:		
REFRIGERATOR:		
SINK:		
CABINETS & COUNTER:		
OTHER:		

** Remember! Be specific. Describe any conditions in detailed terms rather than saying "fine" or "acceptable."*

	BEGINNING CONDITION	ENDING CONDITION
BEDROOM		
DOOR:		
WINDOWS:		
CARPET OR FLOOR:		
WALLS:		
CEILING:		
LIGHTS & SWITCHES:		
CLOSET:		
OTHER:		
BATHROOM		
DOOR:		
WINDOW:		
FLOOR:		
WALLS:		
CEILING:		
SINK:		
TUB AND/OR SHOWER:		
TOILET:		
CABINET, SHELVES, CLOSET:		
TOWEL BARS:		
LIGHTS & SWITCHES:		
OTHER:		
BASEMENT		
GARAGE		
FURNITURE INVENTORY	Use this if rental unit is furnished; check **condition** of items and **number** present.	
KITCHEN CHAIRS:		
TABLES:		
END TABLES:		
LOUNGE CHAIRS:		
SOFAS:		
LAMPS:		
DESKS:		
DESK CHAIRS:		
BOOKCASES:		
MATTRESSES:		
DRESSERS:		
SIGNATURE OF TENANT(S)		
ADDRESS OF UNIT		
SIGNATURE OF LANDLORD		
LANDLORD'S ADDRESS		
PHONE NUMBER (LANDLORD)		
DATE		

The following are sample letters which may be used in dealing with various landlord-tenant problems. It should be noted that most problems are handled amicably and effectively in conversations or correspondence between landlords and tenants. When this is not the case, and no agreement can be reached, it is best that subsequent communications between the two parties be in writing, with copies being kept as the record. The sample letters which follow serve as a guide; these specific samples cannot, and do not, cover every type of landlord-tenant problem which may arise.

Samples of Tenant's Letters to Landlord

Tenant's Request for Repair(s)

TO: _____
_____
_____

FROM: _____
_____
_____

Please make, within a reasonable time, the following NECESSARY REPAIRS to the rental property I am occupying. I have tried my best to explain precisely what is wrong.

1. _____
_____
_____
2. _____
_____
_____
3. _____
_____
_____
4. _____
_____
_____

Please notify me when the repairperson will be at the rental property to make the necessary repairs so that I can be there. My home phone number is _____ and my work phone number is _____. For now, it is easiest to reach me: _____.
(time of day)

Thank you for your prompt attention to this matter.

Sincerely,

_____ _____
Tenant Date

Notice of Tenant's Intent to Repair and Deduct

TO: _____
_____
_____

FROM: _____
_____
_____

I requested that repairs be made to my rental property in a letter dated _____. It has been _____ days since I wrote the letter, and the needed repairs have not yet been made.

I have contacted three service providers to make the repairs. Enclosed are copies of three estimates for the repairs listed in my previous letter. If I do not hear from you within _____ day(s), I will be hiring the lowest bidder to perform the repairs.

☐ I will pay the company myself from rent previously withheld and escrowed.
OR
☐ I will pay the company myself and deduct the amount from my next rent payment.

Copies of the receipts for the repairs, once they are made, will be forwarded to you.

Please take note of the relevant Michigan case law:

> Where the landlord has covenanted to make repairs and fails to do so, the tenant, after giving reasonable notice to the landlord, may make the repairs and recover the cost of such repairs from the landlord or he [or she] may deduct the cost from the rent. . . . Unless the landlord's duty to repair is expressly made conditional upon receipt of notice from the tenant, such duty may arise from the landlord's actual knowledge of the need for repair. . . . The landlord's duty to maintain in good repair . . . extends to reimbursing the tenant for monies expended . . .. *Anchor Inn* v *Knopman*, 71 Mich App 64, 67 (1976).

Sincerely,

_____ _____
Tenant Date

Notice of Tenant's Implementation to Repair and Deduct

TO: _____
_____
_____

FROM: _____
_____
_____

As stated in my previous letter, dated _____, I have taken action to perform necessary repairs that you have failed to correct. I had the repairs made and paid for them myself, as I said I would do.

You are required by Michigan law to keep the premises and all common areas fit for the use intended, and to keep the premises in reasonable repair during the term of the lease, and to comply with the applicable health and safety laws of the state and local governments.

I spoke to you about the problems and the need for repair. I wrote you letter(s) dated _____ about the need for corrective action. You failed to act within a reasonable amount of time. Therefore, I found it necessary to take action myself.

Enclosed are the receipts for all expenditures I have made:

☐ I paid for the repair from previously withheld and escrowed rent.
OR
☐ I will deduct the amount from my next rent payment.

Sincerely,

_____ _____
Tenant Date

Notice of Tenant's Intent to Withhold Rent Due to Needed Repair

TO: _____
_____
_____

FROM: _____
_____
_____

I previously informed you, in a letter dated _____, of several problems and the need for repairs at the rental property I am occupying. Since you have not taken any steps to correct the problems, it is necessary for me to take further action.

I have opened an escrow account at the following financial institution:

Name: _____
Address: _____
City, State, and Zip Code: _____

I have deposited $_____ from my rent into the escrow account. This shows that I was ready, willing, and able to pay the rent on time—but for certain problems that you, the landlord, are legally responsible for fixing. Once the problems are taken care of, the escrowed rent amount will be released.

If you wish to discuss this matter further, contact me at _____.

Sincerely,

_____ _____
Tenant Date

Termination of Occupancy Before End of Lease

TO: _____
_____
_____

FROM: _____
_____
_____

It has been _____ months since we first brought to your attention the need for several repairs on our apartment. Since you have not responded to our letters or phone calls, and have not begun to work to repair the problems at our apartment, we feel that you have broken our lease. You have also violated the "statutory covenant to repair" provided for by Michigan law. Since you have broken our contract, and show no sign of accepting your legal responsibility to maintain the premises, we intend to terminate the occupancy of our apartment on or before _____.

We understand your responsibility to inspect the apartment and inform us of any damages—and return the undisputed portion of our security deposit to us—within 30 days of the end of our occupancy of the apartment. We also understand that if you do not submit the above information to us within that time period—or go to court to retain our deposit (should we dispute your claim) within 45 days of the end of our occupancy—we may legally file suit for twice the amount of our security deposit. Since YOU are responsible for breaking the lease, we will not accept a list of damages which includes charges for rent lost for the remainder of our lease.

If you wish to discuss this matter further, contact us at _____.

Sincerely,

_____ _____
Tenant Date

Notice of Tenant's Intent to Vacate and Forwarding Address

TO: _____
_____
_____

FROM: _____
_____
_____

In accordance with the terms of my lease requiring a _____-day written notice, you are hereby advised of my intent to vacate the rental property located at _____ on or before _____.

I will turn in my keys to you on _____.

Please send my security deposit to me at my FORWARDING ADDRESS:

_____
_____
_____

If you have any questions, please contact me at _____.

Sincerely,

_____ _____
Tenant Date

Tenant Defense Against Eviction Attempt

TO: _____
_____
_____

FROM: _____
_____
_____

I received your letter demanding that I be out of my apartment within 7 days. Discussion of this with my lawyer reveals that you cannot carry out an eviction without due process of law, which means taking me to court.

My defense against eviction will be that I have been withholding rent due to your nonperformance of repairs. I would like to point out to you that I have copies of several letters sent to inform you of the need for repairs, and of the steps I took to obtain repairs. I also have return receipts which prove that you received these letters. In addition, I have proof that I have been maintaining an escrow account into which the full amount of rent money due, or a portion of it, was deposited each month. Also, I have receipts for all repair work and all bills which were paid out of my escrow account.

During my tenancy, you have neglected to fulfill your statutory covenant to repair. I do not feel that you have adequate cause to demand my eviction.

Please contact my lawyer if you wish to discuss this matter. His or her name is _____.

Sincerely,

_____ _____
Tenant Date

Tenant's Response to Damages Assessed Against Security Deposit

TO: _____
_____
_____

FROM: _____
_____
_____

In reponse to the list of damages you sent dated _____, which I didn't receive until this date, _____, I am writing to dispute the following charges against my security deposit.

As required by Michigan law, I am responding to you by ordinary mail, within 7 days of when I received the list, indicating in detail my disagreement relative to the charges listed.

Description of Landlord's Claim of Damage	Amount to be Refunded	Reason for the Dispute of Charges

A total of all disputed charges amounts to $_____. Please refund this amount of my security deposit promptly: $_____.

Please note that under Michigan law, the security deposit is considered the lawful property of the tenant until the landlord establishes a right to the deposit or portions thereof. Within 45 days after termination of occupancy and not thereafter the landlord may commence an action in a court of competent jurisdiction for a money judgment for damages which he [or she] has claimed or in lieu thereof return the balance of the security deposit held by him [or her] to the tenant or any amount mutually agreed upon in writing by the parties.

If you wish to discuss this matter with me, please contact me at _____.

Sincerely,

_____ _____
Tenant Date

(Commencement of Tenancy)

Security Deposit Notice to Tenant

TO: _____
_____
_____

FROM: _____
_____
_____

YOU ARE HEREBY NOTIFIED THAT:

The security deposit required of you will be deposited in the following regulated financial institution:

_____

SURETY BOND (If the landlord has deposited a surety bond to secure deposits, complete the following):

The surety on the bond deposited with the Secretary of State is:

_____

Show name and address of surety company, NOT the insurance agent who signs bond for surety company.

"YOU MUST NOTIFY YOUR LANDLORD IN WRITING WITHIN FOUR (4) DAYS AFTER YOU MOVE OF A FORWARDING ADDRESS WHERE YOU CAN BE REACHED AND WHERE YOU WILL RECEIVE MAIL; OTHERWISE YOUR LANDLORD SHALL BE RELIEVED OF SENDING YOU AN ITEMIZED LIST OF DAMAGES AND THE PENALTIES ADHERENT TO THAT FAILURE."

Sincerely,

_____ _____
Landlord Date

Landlord's Response to Tenant's Request for Repair(s)

TO: _____
_____
_____

FROM: _____
_____
_____

In response to your letter dated _____ requesting repair of the rental property you are occupying, please be advised that I have contacted a service representative, _____, who should be calling you within the next few days to set up an appointment to accomplish the following repairs:

1. _____
_____
_____
2. _____
_____
_____
3. _____
_____
_____

If you do not hear from the service representative within one week, will you please let me know so that I can make other arrangements?

If you have any questions, please contact me at _____.

Sincerely,

_____ _____
Landlord Date

Insufficient Notice Letter

TO: _____
_____
_____

FROM: _____
_____
_____

We acknowledge with regret your letter of _____ advising us of your intention to vacate the rental premises on or before _____.

Your lease agreement requires a 30-day written notice.

Under the circumstances, we will hold you responsible for the payment of rent through _____, or until such time in the interim as the apartment is re-occupied by another acceptable tenant.

Sincerely,

_____ _____
Landlord Date

(Termination of Tenancy)
Landlord's Notice to Tenant of Damages Assessed Against Security Deposit

TO: _____
_____
_____

FROM: _____
_____
_____

YOU MUST RESPOND TO THIS NOTICE BY MAIL WITHIN 7 DAYS AFTER RECEIPT OF SAME, OTHERWISE YOU WILL FORFEIT THE AMOUNT CLAIMED FOR DAMAGES.

On this date, _____, your occupancy of the rental property located at _____ terminated. As required under Michigan law, this notice is provided to you to advise you of charges against your security deposit:

Description of Damage or Other Obligation Charged Against Security Deposit	Estimated Cost of Repair(s)	Amount Charged Against Security Deposit	Reason for Charge Against Security Deposit

Under Michigan law, a security deposit may be used only for the following purposes: (1) actual damages to the rental unit that are a direct result of conduct not reasonably expected in the normal course of habitation of a dwelling; (2) all rent in arrearage under the lease agreement and rent due for premature termination of the lease agreement; and (3) unpaid utility bills. None of these charges were claimed on a previous termination inventory checklist. After totaling all charges lawfully assessed against your security deposit, a deduction of $_____, a balance remains in the amount of $_____. A check or money order for the remaining balance is enclosed.

Sincerely,

_____ _____
Landlord Date

Approved Court Forms

The forms on pages 51-64 are prepared and approved by the Michigan State Court Administrator's Office. They are also available (fees may apply) from local district courts and various landlord or tenant associations. For additional forms and information visit the Michigan State Court Administrative Office on the web at http://courts.michigan.gov/scao/courtforms/landlord-tenantlandcontract/itindex.htm.

AFFIDAVIT AND CLAIM, Small Claims
Form DC 84 51-52

NOTICE TO QUIT, TERMINATION OF TENANCY, Landlord-Tenant
Form DC 100c 53-54

COMPLAINT, TERMINATION OF TENANCY, Landlord-Tenant
Form DC 102c 55

DEMAND FOR POSSESSION, NONPAYMENT OF RENT, Landlord-Tenant
Form DC 100a 56-57

COMPLAINT, NONPAYMENT OF RENT, Landlord-Tenant
Form DC 102a 58

SUMMONS, LANDLORD-TENANT / LAND CONTRACT
Form DC 104 59-61

JUDGMENT, LANDLORD-TENANT
Form DC 105 62

APPLICATION AND ORDER OF EVICTION, Landlord-Tenant / Land Contract
Form DC 107 63-64

Approved, SCAO

Original - Court
1st copy - Defendant

2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT	AFFIDAVIT AND CLAIM Small Claims	CASE NO.

Court address

Court telephone no.

See instructions on the back of plaintiff and defendant copies.

1. _____
Plaintiff

_____
Address

_____
City, state, zip Telephone no.

2. _____
Defendant

_____
Address

_____
City, state, zip Telephone no.

NOTICE OF HEARING

For Court Use Only

15. The plaintiff and the defendant must be in court on

_____ _____
Day Date

at _____ at ☐ the court address above
Time

☐ _____
Location

_____ Fee paid: $ _____
Process server's name

3. I have knowledge or belief about all the facts stated in this affidavit and I am (check one) ☐ the plaintiff. ☐ a partner. ☐ a full-time employee of the plaintiff.

4. The plaintiff is (check one) ☐ an individual. ☐ a partnership. ☐ a corporation. ☐ a sole proprietor.

5. The defendant is (check one) ☐ an individual. ☐ a partnership. ☐ a corporation. ☐ a sole proprietor.

6. The date(s) the claim arose are _____ .

7. Amount of money claimed is $ _____ . (NOTE: Plaintiff's costs are determined by the court and awarded as appropriate. They are not part of the amount claimed.)

☐ 8. A civil action between these parties or other parties arising out of the transaction or occurrence alleged in this complaint has been previously filed in _____ Court. The case number, if known, is _____ . The action ☐ remains ☐ is no longer pending.

9. The reasons for the claim are _____

_____

10. The plaintiff understands and accepts that the claim is limited to $3,000.00 by law and that the plaintiff gives up the rights to (a) recover more than this limit, (b) an attorney, (c) a jury trial, and (d) appeal the judge's decision.

11. I believe the defendant ☐ is ☐ is not mentally competent. I believe the defendant ☐ is ☐ is not 18 years or older.

12. ☐ I do not know whether the defendant is in the military service. ☐ The defendant is not in the military service. ☐ The defendant is in the military service.

13. This affidavit is made on my personal knowledge and, if sworn as a witness, I can testify competently to the facts in this affidavit.

_____
Applicant signature

Subscribed and sworn to before me on _____ , _____ County, Michigan.

My commission expires: _____ Signature: _____
Date Deputy clerk/Notary public

Notary public, State of Michigan, County of _____

14. **Expiration date:** _____

AFFIDAVIT AND CLAIM
Small Claims
Case No.

PROOF OF SERVICE

TO PROCESS SERVER: You are to serve this affidavit and claim no later than 7 days before the hearing date. You must make and file your return with the court clerk. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

☐ **OFFICER CERTIFICATE**
I certify that I am a sheriff, deputy sheriff, bailiff, or appointed court officer (MCR 2.104[A][2]), and that: (notarization not required)

OR

☐ **AFFIDAVIT OF PROCESS SERVER**
Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

☐ I served personally a copy of the affidavit and claim,
☐ I served by registered or certified mail (copy of return receipt attached) a copy of the affidavit and claim,

☐ together with _____ (Attachment), on the defendant(s):

Defendant name	Complete address of service	Day, date, time
Defendant name	Complete address of service	Day, date, time
Defendant name	Complete address of service	Day, date, time

☐ I have personally attempted to serve the affidavit and claim, together with any attachments on the following defendant(s) and have been unable to complete service.

Defendant name	Complete address of service	Day, date, time
Defendant name	Complete address of service	Day, date, time
Defendant name	Complete address of service	Day, date, time

I declare that that statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
$		$	
Incorrect address fee	Miles traveled	Fee	**TOTAL FEE**
$		$	$

Signature _____

Name (type or print) _____

Title _____

Subscribed and sworn to before me on _____ (Date), _____ County, Michigan.

My commission expires: _____ (Date) Signature: _____ (Deputy court clerk/Notary public)

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the affidavit and claim, together with _____ (Attachment)

_____ on _____ (Day, date, time)

_____ (Signature) on behalf of _____ .

MCR 2.105

Approved, SCAO

STATE OF MICHIGAN	NOTICE TO QUIT TERMINATION OF TENANCY Landlord-Tenant	

TO:

1. Your landlord/landlady, _____ , is terminating your tenancy and wants to
   Name (type or print)

   evict you from:

   Address or description of premises rented (if different from mailing address):

   because ☐ your tenancy has ended. ☐ other: _____

2. You must move by _____ or your landlord/landlady may take you to court to evict you.
   Date (*see note)
3. If your landlord/landlady takes you to court to evict you, you will have the opportunity to present reasons why you believe you should not be evicted.
4. If you believe you have a good reason why you should not be evicted, you may have a lawyer advise you. Call him or her soon.

_____
Date

_____
Signature of owner of premises or agent

_____
Address

_____
City, state, zip Telephone no.

*NOTE: Except for a 7-day notice given under the authority of MCL 600.5714(1)(a), a 24-hour notice given under the authority of MCL 600.5714(1)(b), or a 90-day notice given under the authority of Public Law No. 111-22, § 702, 123 Stat 1660 after foreclosure of the premises, if the lease agreement does not state otherwise, the landlord/landlady must give notice equal in time to at least one rental period.

CERTIFICATE OF SERVICE

I certify that on _____ I served this notice on _____
Date Name

by ☐ delivering it personally to the person in possession.
☐ delivering it on the premises to a member of his/her family or household or an employee of suitable age and discretion with a request that it be delivered to the person in possession.
☐ first-class mail addressed to the person in possession.

_____
Signature

Court copy (to be copied, if necessary, to attach to the complaint)

Approved, SCAO

STATE OF MICHIGAN	NOTICE TO QUIT TERMINATION OF TENANCY Landlord-Tenant	

TO:

1. Your landlord/landlady, _____ , is terminating your tenancy and wants to evict you from:
   Name (type or print)

   Address or description of premises rented (if different from mailing address):

   because ☐ your tenancy has ended. ☐ other: _____

2. You must move by _____ or your landlord/landlady may take you to court to evict you.
   Date (*see note)
3. If your landlord/landlady takes you to court to evict you, you will have the opportunity to present reasons why you believe you should not be evicted.
4. If you believe you have a good reason why you should not be evicted, you may have a lawyer advise you. Call him or her soon.

_____
Date

_____
Signature of owner of premises or agent

_____
Address

_____
City, state, zip Telephone no.

*NOTE: Except for a 7-day notice given under the authority of MCL 600.5714(1)(a), a 24-hour notice given under the authority of MCL 600.5714(1)(b), or a 90-day notice given under the authority of Public Law No. 111-22, § 702, 123 Stat 1660 after foreclosure of the premises, if the lease agreement does not state otherwise, the landlord/landlady must give notice equal in time to at least one rental period.

HOW TO GET LEGAL HELP

1. Call your own lawyer.
2. If you do not have an attorney but have money to retain one, you may locate an attorney through the State Bar of Michigan Lawyer Referral Service at 1-800-968-0738 or through a local lawyer referral service. Lawyer referral services should be listed in the yellow pages of your telephone directory or you can find a local lawyer referral service at www.michbar.org.
3. If you do not have an attorney and cannot pay for legal help, you may qualify for assistance through a local legal aid office. Legal aid offices should be listed in the yellow pages of your telephone directory or you can find a local legal aid office at www.michiganlegalaid.org. If you do not have Internet access at home, you can access the Internet at your local library.

Tenant's copy

Approved, SCAO

Original - Court
1st copy - Tenant
2nd copy - Mailing
3rd copy - Landlord

STATE OF MICHIGAN JUDICIAL DISTRICT	COMPLAINT TERMINATION OF TENANCY Landlord - Tenant	CASE NO.

Court address

Court telephone no.

Plaintiff name(s), address(es), and telephone no(s).	v	Defendant name(s) and address(es)
Plaintiff's attorney, bar no., address, and telephone no.		

The plaintiff states:

1. Attached to this complaint is a copy of the lease or occupancy agreement, if any, under which possession is claimed, and a copy of any notice to quit or demand for possession showing when and how it was served.

2. The owner of the property described in the attached notice to quit is: _____ .
   Name (type or print)

3. The defendant is in possession of the following portion of the property: _____
   _____

4. The plaintiff has **terminated tenancy** and has a right to possession of the property because:
   ☐ a. lease expired on _____ . ☐ b. tenancy terminated by notice to quit.
   ☐ c. lease terminated per provision in lease (para no. _____). ☐ d. defendant is a trespasser. See instructions on other side.
   ☐ e. forcible entry was made or possession was held by force after a peaceful entry.
   ☐ f. other: Explain.

☐ 5. (If applicable.) The tenancy involves regulated housing operated by or under rules of a governmental unit. The rule or law under which the tenancy is ended is _____

☐ 6. (If applicable.) The plaintiff declares that this residential property was kept fit for the use intended and has been kept in reasonable repair during the term of the lease.

7. The defendant has not complied with the demands made and has not moved.

8. The plaintiff asks for a judgment of possession and costs and asks the court to issue an order to evict the occupants.

☐ 9. The plaintiff demands a jury trial.

☐ 10. There is no other pending or resolved civil action arising out of the same transaction or occurrence alleged in this complaint.

☐ 11. A civil action between these parties or other parties arising out of the transaction or occurrence alleged in this complaint has been previously filed in _____ Court. The docket number and assigned judge are:
_____
The action ☐ remains ☐ is no longer pending.

SUPPLEMENTAL COMPLAINT

☐ 12. (If applicable.) Complaint is made and judgment is sought for money damages against the defendant as follows:

_____
Date

_____
Plaintiff/Attorney signature

Approved, SCAO

STATE OF MICHIGAN	DEMAND FOR POSSESSION NONPAYMENT OF RENT Landlord-Tenant	

TO:

Notice to mobile home owners who rent land in a mobile home park:

If you have been late on payments on three or more occasions during any 12-month period and the park owner has given you a written demand for possession for nonpayment of rent on each occasion, the park owner may have just cause to evict you.

1. Your landlord/landlady, _____ , says that you owe $ _____ rent:
   Name (type or print)

   Address or description of premises rented (if different from mailing address):

2. If you owe this rent, you must do one of the following within 7 days from the date this notice was served.
   a. Pay the rent owed. **or** b. Move out or vacate the premises.
   If you do not do one of the above, your landlord/landlady may take you to court to evict you. If you move out or vacate, you may still owe rent.
3. If you have paid the rent, or if you believe there is good reason why you do not owe the rent, you will have the opportunity to present reasons why you believe you should not be evicted.
4. If you believe there is a good reason why you do not owe the rent claimed by your landlord/landlady, you may have a lawyer advise you. Call him or her soon.

_____
Date

_____
Signature of owner of premises or agent

_____
Address

_____
City, state, zip Telephone no.

CERTIFICATE OF SERVICE

I certify that on _____ I served this notice on _____
Date Name

by ☐ delivering it personally to the person in possession.
☐ delivering it on the premises to a member of his/her family or household or an employee of suitable age and discretion with a request that it be delivered to the person in possession.
☐ first-class mail addressed to the person in possession.

_____
Signature

Court copy (to be copied, if necessary, to attach to the complaint)

MCL 600.5714(1)(a), MCL 600.5716, MCL 600.5718, MCL 600.5775(2)(f)

DC 100a (3/10) **DEMAND FOR POSSESSION, NONPAYMENT OF RENT, Landlord-Tenant**

Approved, SCAO

STATE OF MICHIGAN	DEMAND FOR POSSESSION NONPAYMENT OF RENT Landlord-Tenant	

TO:

Notice to mobile home owners who rent land in a mobile home park:

If you have been late on payments on three or more occasions during any 12-month period and the park owner has given you a written demand for possession for nonpayment of rent on each occasion, the park owner may have just cause to evict you.

1. Your landlord/landlady, _____ , says that you owe $ _____ rent:
   Name (type or print)

   Address or description of premises rented (if different from mailing address):

2. If you owe this rent, you must do one of the following within 7 days from the date this notice was served.
   a. Pay the rent owed. **or** b. Move out or vacate the premises.
   If you do not do one of the above, your landlord/landlady may take you to court to evict you. If you move out or vacate, you may still owe rent.
3. If you have paid the rent, or if you believe there is good reason why you do not owe the rent, you will have the opportunity to present reasons why you believe you should not be evicted.
4. If you believe there is a good reason why you do not owe the rent claimed by your landlord/landlady, you may have a lawyer advise you. Call him or her soon.

_____
Date

_____
Signature of owner of premises or agent

_____
Address

_____
City, state, zip Telephone no.

HOW TO GET LEGAL HELP

1. Call your own lawyer.
2. If you do not have an attorney but have money to retain one, you may locate an attorney through the State Bar of Michigan Lawyer Referral Service at 1-800-968-0738 or through a local lawyer referral service. Lawyer referral services should be listed in the yellow pages of your telephone directory or you can find a local lawyer referral service at www.michbar.org.
3. If you do not have an attorney and cannot pay for legal help, you may qualify for assistance through a local legal aid office. Legal aid offices should be listed in the yellow pages of your telephone directory or you can find a local legal aid office at www.michiganlegalaid.org. If you do not have Internet access at home, you can access the Internet at your local library.

Tenant's copy

MCL 600.5714(1)(a), MCL 600.5716, MCL 600.5718, MCL 600.5775(2)(f)

Original - Court
1st copy - Tenant
2nd copy - Mailing
3rd copy - Landlord

Approved, SCAO

STATE OF MICHIGAN JUDICIAL DISTRICT	COMPLAINT NONPAYMENT OF RENT Landlord - Tenant	CASE NO.

Court address **Court telephone no.**

Plaintiff name(s), address(es), and telephone no(s).	v	Defendant name(s) and address(es)
Plaintiff's attorney, bar no., address, and telephone no.		

The plaintiff states:

1. Attached to this complaint is a copy of the lease or occupancy agreement, if any, under which possession is claimed, and a copy of the notice to quit or demand for possession showing when and how it was served.

2. The owner of the property described in the attached demand for possession is: _____
   Name (type or print)
3. The defendant is in possession of the following portion of the property:

   _____

4. The plaintiff has a right to possession of the property for **nonpayment of rent:**
   a. Rental rate: $ _____ per _____ b. Payable on: _____
   Day or date
   c. Rent is paid through _____ d. Total rent due now is $ _____
   Date
   e. Other money is due: $ _____ for _____ and due by _____
☐ 5. (If applicable.) The tenancy involves housing operated by or under rules of a governmental unit. The rule or law under which the tenancy is ended is _____ .
☐ 6. (Must be checked unless modified by lease.) The plaintiff declares that this residential property was kept fit for the use intended, and has been kept in reasonable repair during the term of the lease.
7. The defendant has not complied with the demands made.
8. The plaintiff asks for a judgment of possession and costs and asks the court to issue an order to evict the occupants.
☐ 9. A jury trial is demanded.
☐ 10. There is no other pending or resolved civil action arising out of the same transaction or occurrence alleged in this complaint.
☐ 11. A civil action between these parties or other parties arising out of the transaction or occurrence alleged in this complaint has been previously filed in _____ Court. The docket number and assigned judge are:

   _____

   The action ☐ remains ☐ is no longer pending.

SUPPLEMENTAL COMPLAINT

☐ 12. (If applicable.) Complaint is made and judgment is sought for **money damages** against the defendant as follows:
   ☐ Rent owing as set out in paragraph 4 above, plus additional rent at the rate of $ _____ per _____ until judgment, plus costs.
   ☐ Damages claimed: _____

   _____

   _____

_____ _____
Date Plaintiff/Attorney signature

Approved, SCAO

Original - Court
1st copy - Tenant
2nd copy - Mailing
3rd copy - Landlord/Landlady
4th copy - Proof of service

STATE OF MICHIGAN JUDICIAL DISTRICT	SUMMONS Landlord-Tenant / Land Contract	CASE NO.

Court address **Court telephone no.**

Plaintiff's name, address, and telephone no.

Plaintiff's attorney, bar no., address, and telephone no.

v

Defendant's name, address, and telephone no.

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

☐ Rental unit eviction

☐ Land contract forfeiture

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. The plaintiff has filed a complaint against you and wants
   ☐ to recover possession, after land contract forfeiture, of
   ☐ a money judgment for
   ☐ to evict you from

Address or description of premises

2. You are summoned to be in the district court on _____ (Day and date) at _____ (Time)

   ☐ at the address above, ☐ _____ (Location), courtroom _____.

3. You have the right to a jury trial. If you do not demand a jury trial and pay the required jury fee in your first defense response, you will lose this right.
4. If you are in district court on time, you will have an opportunity to give the reasons why you feel you should not be evicted. Bring witnesses, receipts, and other necessary papers with you.
5. If you are not in district court on time, you may be evicted without a trial and a money judgment may be entered against you.

Date issued _____ Court clerk _____

***The certificate of mailing applies to landlord-tenant cases only.**

This document must be sealed by the seal of the court.

CERTIFICATE OF MAILING BY COURT*

I certify that on this date I served a copy of this summons and the complaint and required attachments on the defendants by first-class mail addressed to their last-known addresses as defined in MCR 2.107(C)(3).

Date _____ Court clerk/officer _____

CERTIFICATE OF MAILING BY PLAINTIFF*

I certify that on this date I served a copy of this summons and the complaint and required attachments on the defendants by first-class mail addressed to their last-known addresses as defined in MCR 2.107(C)(3). I have attached a receipt of mailing from the post office.

Date _____ Plaintiff signature _____

Original - Court
1st copy - Tenant
2nd copy - Mailing
3rd copy - Landlord/Landlady
4th copy - Proof of service

Approved, SCAO

STATE OF MICHIGAN JUDICIAL DISTRICT	SUMMONS Landlord-Tenant / Land Contract	CASE NO.

Court address

Court telephone no.

Plaintiff's name, address, and telephone no.

Plaintiff's attorney, bar no., address, and telephone no.

v

Defendant's name, address, and telephone no.

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

☐ Rental unit eviction

☐ Land contract forfeiture

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

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Address or description of premises

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   ☐ at the address above, ☐ _____ (Location), courtroom _____.

3. You have the right to a jury trial. If you do not demand a jury trial and pay the required jury fee in your first defense response, you will lose this right.
4. If you are in district court on time, you will have an opportunity to give the reasons why you feel you should not be evicted. Bring witnesses, receipts, and other necessary papers with you.
5. If you are not in district court on time, you may be evicted without a trial and a money judgment may be entered against you.

Date issued

Court clerk

This document must be sealed by the seal of the court.

HOW TO GET LEGAL HELP

1. You have the right to an attorney to assist you in answering the complaint filed in this case and in preparing defenses.
2. If you do not have an attorney but have money to retain one, you may locate an attorney through the State Bar of Michigan Lawyer Referral Service at 1-800-968-0738 or through a local lawyer referral service. Lawyer referral services should be listed in the yellow pages of your telephone directory or you can find a local lawyer referral service at www.michbar.org.
3. If you do not have an attorney and cannot pay for legal help, you may qualify for assistance through a local legal aid office. Legal aid offices should be listed in the yellow pages of your telephone directory or you can find a local legal aid office at www.michiganlegalaid.org. If you do not have Internet access at home, you can access the Internet at your local library.
4. If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Tenant's copy

SUMMONS
Landlord-Tenant / Land Contract
Case No.

PROOF OF SERVICE

TO PROCESS SERVER: You are to serve the summons and complaint and attachments as instructed. You must make and file your proof of service with the court clerk. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

☐ **OFFICER CERTIFICATE**
I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)

OR

☐ **AFFIDAVIT OF PROCESS SERVER**
Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

☐ **PERSONAL SERVICE** I have personally served a copy of the summons, complaint, and attachments on the defendant(s):

Defendant's name	Complete address of service	Day, date, time
Defendant's name	Complete address of service	Day, date, time

☐ **SUBSTITUTED SERVICE** (As to residential premises only.) Not being able to find the following named defendant(s),

_____ ,
Name(s)

on _____ at _____ at _____
Date Time Place of service

_____ , I left the summons, complaint, and attachments at the current residence of defendant(s) with

_____ , the _____ of defendant(s), who is of
Name State relationship

suitable age. I explained the contents and requested delivery of the pleadings to the defendant(s).

☐ **NONSERVICE RETURN** After diligent search and inquiry, I have been unable to find and serve the defendant(s). I have made the following efforts at personal /substituted service: _____

_____

☐ **SERVICE BY ATTACHMENT** (Landlord-Tenant cases only.) I attached the pleadings on _____
Date

to the main entrance of the tenant's dwelling unit in a secure manner.

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Mileage	Mileage fee	Total fee
$		$	$

_____
Signature

_____
Name (type or print)

_____
Title

Subscribed and sworn to before me on _____ , _____ County, Michigan.
Date

My commission expires: _____ Signature: _____
Date Deputy clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons, complaint, and attachment on _____ .
Date

Signature: _____ On behalf of: _____

Approved, SCAO

Original - Court
1st copy - Defendant
2nd copy - Defendant
3rd copy - Plaintiff

STATE OF MICHIGAN JUDICIAL DISTRICT	JUDGMENT LANDLORD-TENANT	CASE NO.

Court address | Court telephone no.

Plaintiff

v

Defendant

Plaintiff/Attorney ☐ Personal service

Defendant/Attorney ☐ Personal service

THE COURT FINDS:

by ☐ hearing ☐ default* ☐ consent**

*For a defendant on active military duty, default judgment shall not be entered except as provided by the Servicemembers Civil Relief Act.

POSSESSION JUDGMENT

☐ 1. The plaintiff has a right to possession.

☐ 2. There is now due to plaintiff:
a. Rent to retain possession $ _____
b. Costs ..... $ _____
c. Total ..... $ _____

☐ 3. The defendant has a right to possession.

TO THE DEFENDANT:

4. ☐ a. An order evicting you will be issued unless you pay the plaintiff or court the amount due in item 2c above or unless you move out on or before _____ (Date).

OR

☐ b. An order evicting you will be issued on or after _____ (Date) unless you move.

☐ 5. You may be liable for money damages after you move if additional rent is owed or if there is damage to the property.

☐ 6. Acceptance of partial payment of the total amount due in item 2c above ☐ will ☐ will not prevent an order evicting you from being issued.

☐ 7. No money judgment is entered at this time.

MONEY JUDGMENT

☐ 8. A possession judgment was previously entered.

☐ 9. A money judgment is entered as follows:
a. Damages $ _____
b. Costs $ _____
c. Total $ _____

This judgment will earn interest at statutory rates.

10. **FURTHER ORDERS:** _____

11. **YOU ARE ADVISED** that you may file a motion for a new trial, a motion to set aside a default judgment, or an appeal and appeal bond. This must comply with all court rules and must be filed in court by _____ (Date). You may want legal help.

☐ 12. MCR 4.201(I) was explained to parties.

Date | Judge | Bar no.

CERTIFICATE OF MAILING: I certify that on this date I served a copy of this judgment on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 2.107(C)(3).

Date | Deputy clerk

**Approved:

Date | Plaintiff/Attorney

Date | Defendant/Attorney

Approved, SCAO

Original - Officer return
1st copy - Court
2nd copy - Defendant
3rd copy - Plaintiff

STATE OF MICHIGAN JUDICIAL DISTRICT	APPLICATION AND ORDER OF EVICTION Landlord-Tenant / Land Contract	CASE NO.

Court address **Court telephone no.**

Plaintiff name, address, and telephone no.		Defendant name(s) and address(es)
Plaintiff's attorney, bar no., address, and telephone no.	v	

APPLICATION

1. On _____ judgment was entered against the defendant(s) and the plaintiff was awarded
   Date
   possession of the following described property: _____

   _____

   _____

2. No payment has been made on the judgment or no rent has been received since the date of judgment, except the sum of

   $ _____ received under the following conditions: _____

   _____

   _____

3. The plaintiff has complied with the terms of the judgment.

4. The time stated in the judgment before an order of eviction can be issued has elapsed.

I declare that the statements above are true to the best of my information, knowledge, and belief.

_____ Date

_____ Plaintiff/Attorney signature

ORDER OF EVICTION

IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN:

To the Court Officer: You are ordered to restore the plaintiff to, and put the plaintiff in, full possession of the premises.

_____ Date issued

SEAL

_____ Judge

Bar no.

NOTE: In tenancy cases, this order must be served within 56 days of the issuance date.

MCL 600.5744, MCR 4.201(L), MCR 4.202(K)

RETURN

I certify and return that on _____ I executed the order of eviction on the reverse side of this form
Date

by evicting _____
Name(s)

from the property, and I have restored the plaintiff to peaceful possession as ordered.

_____ _____
Date (Deputy) sheriff/Court officer/Bailiff

Service fee	Miles traveled	Fee	
$		$	
Incorrect address fee	Miles traveled	Fee	**TOTAL FEE**
$		$	$

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