

TENANT'S COUNTERCLAIM – Use this form if:

- (1) Your landlord has filed a lawsuit against you,
- (2) That lawsuit is in General Sessions Court in Davidson County, AND
- (3) You want to ask the judge to hear your claim(s) that your landlord broke the law.

INSTRUCTIONS – TENANT'S COUNTERCLAIM

Who should use this form? Tenants without lawyers who are facing an active eviction and think their landlords broke the law. ONLY use this form if an eviction case has been filed against you in General Sessions Court of Davidson County, Tennessee, and you think your landlord broke the law or violated your lease. This form notifies the judge that you have legal claims against your landlord that you want to be heard with the eviction case against you.

FOR QUESTIONS:

- **General Sessions Clerk's Office:** Second floor of the General Sessions court building at 408 Second Ave. N., Nashville, TN 37201. Call (615) 862-5195. **This is where you will file the form.** This office is on the second floor of the same building where your eviction case is located.
- **Court Resource Center:** Room 303 of the Circuit Court building across the street from General Sessions. 1 Public Sq #303, Nashville, TN 37201. Call 615-862-5207.
- **Legal Aid Society Eviction Right to Counsel:** (833) 837-4663
- **Nashville Hispanic Bar Association Eviction Right to Counsel:** (615) 701-7957

READ ALL THE INSTRUCTIONS CAREFULLY BEFORE YOU FILE. The packet includes:

1. **Sample counterclaim form.** The sample explains what to write and which box to check on the blank form. If a box in the sample is blank, you should also leave it blank on your form. The clerk's office will help you fill out some form sections. For more specific examples of common counterclaims, keep reading these instructions.
2. **Blank counterclaim form.** Follow the sample to fill it out. You will file this with the court, which will be your counterclaim, so be careful and specific when filling it out! If you make a mistake and need another copy, go to the clerk's office on the Second floor of the General Sessions court building at 408 Second Ave. N., Nashville, TN 37201.
3. **Application to waive fees ("Affidavit of Indigency").** Only fill this out if you are low-income and cannot afford to pay \$42 to file your form. **Sign it in front of a notary.** If you CAN afford your fees, you can disregard this form.

File your forms at the General Sessions Clerk's Office on the second floor of the General Sessions court building at 408 Second Ave. N., Nashville, TN 37201. The clerk will talk to you about "serving" your counterclaim. "Serving" your counterclaim is how you get it to your landlord and/or your landlord's attorney. Usually, they will suggest that you use Sheriff service. There is a cost to using the Sheriff's service. The clerk can provide you information on these costs. If you are not able to cover these costs, you should fill out the Affidavit of Indigency described above. **The clerk's office phone number is (615) 862-5195.**

This information is only for Davidson County. The information provided here does not and is not intended to constitute legal advice. If you have a legal problem, please call a private attorney or call your local Legal Aid Society of Middle Tennessee and the Cumberlands office at 1-800-238-1443 or the Nashville Hispanic Bar Association at 1-615-701-7957. Revised 5/24.

COMMON TENANT COUNTERCLAIMS AND EXAMPLES. Citations of the laws that cover Davidson County renters for specific counterclaims are included with each example. You may copy the citations that apply to your case onto your counterclaim form.

Failure to make repairs. T.C.A. § 66-28-304 and T. C. A. § 66-28-501. Landlords must make repairs unless the lease says otherwise. If you want the judge to reduce the rent because of repairs or to order that repairs get made, write that down.

Example: My window hasn't closed properly for a year. When it rains, water comes in, damaging my couch and T.V. I've submitted requests through the online portal, but they never fixed it. The kitchen has bugs because they don't spray for pests. I had to throw away groceries that got infested. Please order my landlord to pay me back for those, reduce my rent, fix the window, and spray for bugs.

Charging incorrect, unreasonable, or illegal fees. T.C.A. § 66-28-201. Fees must be listed in the lease. Late fees can't be more than 10% of the rent, and landlords have to give a 5-day grace period (usually, until the 5th of the month). Tenants only have to pay attorney's fees if they agreed to in the lease or if the landlord wins in court. The fee itself must be reasonable.

Example: My rent is \$1,500, but my landlord charges a late fee of \$10 per day. For several months, I paid about \$300 in late fees. That's more than 10%. Also, two months ago, they started charging a trash fee of \$15 per month. That's not in the lease. They also charged me a \$300 legal fee in July, even though I never went to court.

Illegally locking you out or getting rid of your stuff. T.C.A. § 66-28-504. A landlord who wants to evict a tenant must use the court process. They can't change the locks, turn off the electricity or water, or take your things out of the unit to make you leave before getting a court order.

Example: I fell behind on rent a month ago. My landlord changed the locks to make me leave. I called the police. The police came and told my landlord to file an eviction case. I was locked out for about 12 hours before my landlord let me back in. I couldn't take my medicine or feed my dogs.

Discriminating against you or denying a reasonable request for disability accommodation. Fair Housing Act (42 U.S.C. §§ 3601-3631) and the Tennessee Human Rights Act (T.C.A. §§ 4-21-101 to 4-21-905): Landlords can't discriminate against tenants because of race, color, creed, religion, national origin, sex, sexual orientation, gender identity, or familial status (for example, because they have kids under 18 in the home). Landlords also can't discriminate against tenants because of disabilities. It's disability discrimination if you ask for a "reasonable accommodation" (a change in the rules that's not too expensive or hard to administer), and your landlord denies it without a good reason.

[Example - Religious discrimination] I'm Muslim and wear a hijab. Last week, the property manager told me I should take it off because it makes the other tenants uncomfortable, and they think I might be a terrorist.

[Example - Disability accommodation] My disability check comes in every month around the 10th. I explained to my property manager that that's why my rent is always late and asked if I could change the rent due date to the 15th. They said no, so I always have to pay a late fee.

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FREQUENTLY ASKED QUESTIONS:

If I file a counterclaim, can I still be evicted? YES. For eviction cases in Tennessee, there are always two issues: whether you get to stay in the unit (“possession”) and who owes who money (“damages”). Most tenant counterclaims (like not making repairs or charging extra fees) are about money, not whether you can stay.

For example, if you’re behind \$3,000 on rent, and your landlord owes you \$1,000 because of not making repairs, the judge may reduce what you owe to \$2,000 but still make you move out.

How should I fill out the part of the form that says my landlord broke the law? Explain what your landlord did and how it hurt you. The examples above can help. **Tell the truth.** You don’t need to include every detail on your form.

If possible, talk to a lawyer before you fill out this form. A lawyer can help you understand whether your landlord did something illegal and how much you can reasonably expect to be awarded in court.

How much money can I ask for with this form? Up to \$25,000 total. Talk to a lawyer if your landlord owes you more than \$25,000. You may want to file your case in a different court.

When should I file this form? After your landlord files a lawsuit against you, but before the judge decides that case. This form adds your claims to the landlord’s current lawsuit. You can’t use this form without an open case against you. If there is no open case against you, you may need to file a new lawsuit instead.

What do I do after I file? Get ready for your next court date. Start gathering evidence (like photos, emails, or text messages). If you want other people to testify (like neighbors), ask them to come to court on the next court date. You may need to file a subpoena to get your witnesses to come. You can talk to the clerk’s office about subpoenas.

On the day of court, be at least 15 minutes early. Bring your evidence and make two extra copies if you can. If you want to show the court documents or photos, you have to bring the person who filled out the document or took the pictures with you to court. You may have a chance to negotiate with your landlord or their lawyer. If you reach an agreement that you’re okay with, sign. If you don’t like the deal, don’t sign it. Ask to go in front of the judge.

Explain your side of the story to the judge at the hearing and show the judge your proof. Your landlord will also have a chance to explain their side of the story. Tell the judge exactly what you want (like an amount of money or a specific order). The judge will decide your case. Get a copy of the final decision from the Clerk’s Office.

STATE OF TENNESSEE, COUNTY OF DAVIDSON

To Any Lawful Officer to Execute and Return:

Summon

to appear before the Metropolitan General Sessions Court of Davidson County, Tennessee, to be held in

Courtroom 1A, Justice A. A. Birch Building, 408 Second Avenue North, Nashville, Tennessee,

on _____, 20_____ at **9:00 A.M.**, then and there to answer in a civil

action brought by the Plaintiff(s) for:

under \$ _____ Dollars

Judgment for _____

against _____ for _____

\$ _____ Dollars and cost of suit for _____

which execution may issue. Entered: SAVILE, 20

JUDGMENT



To request an ADA accommodation, please contact Trey Collier at (615) 880-3309.

Judge, Division _____, Metropolitan General Sessions Court

PRO SE
COURTROOM 1A

Alias

☐ Amended

No. _____ ☐ **Counter-Claim**

Plaintiff(s)

Address

Telephone vs.

Defendant

Address

Defendant

Address

CIVIL WARRANT
Metropolitan General Sessions Court

Issued _____, 20____

JOSEPH P. DAY, Clerk

By: _____ Deputy Clerk

Do not set on Friday

Set for 9:00 A.M. on _____, 20____

Courtroom 1A
Justice A. A. Birch Building
408 Second Avenue North
P.O. Box 196304
Nashville, TN 37219-6304
(615) 862-5195

Service by: ☐ Private Process

D.C. Sheriff

☐ O.C. Sheriff

☐ Other

Reset for: _____

Came to hand same day issued and executed as commanded on:

Served: _____, 20__

Sheriff/Process Server

____ Attorney for Plaintiff

Telephone

Attorney for Defendant

NOTICE

TO THE DEFENDANT(S):

Failure to appear and answer this Summons will result in judgment by default being rendered against you for the relief requested. Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. This list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these items include items of necessary wearing apparel (clothing) for yourself and your family and trunks and other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to execute it, you may wish to seek the counsel of a lawyer.

AFFIDAVIT

To the best of my information and belief, after investigation of Defendant's employment, I hereby make affidavit that the Defendant is/is not a member of a military service.

Plaintiff or Attorney for Plaintiff

Notary Public

My Commission Expires _____

ORDER

Entered: _____, 20____

Judge, Division _____, Metropolitan General Sessions Court

ORDER

Entered: _____, 20____

Judge, Division _____, Metropolitan General Sessions Court

ORDER

Entered: _____, 20____

Judge, Division _____, Metropolitan General Sessions Court

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_____ under \$ _____ Dollars

Judgment for _____

against _____ for

\$ _____ Dollars and cost of suit for

which execution may issue. Entered: _____, 20____

JUDGMENT



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Judge, Division _____, Metropolitan General Sessions Court

COURTROOM 1A

No. _____

☐ Alias

☐ Amended

☐ Counter-Claim

Plaintiff(s)

Address

Telephone

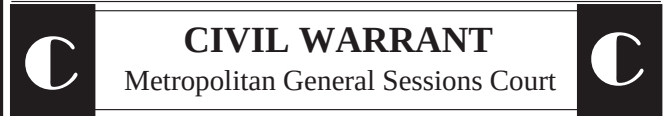
vs.

Defendant

Address

Defendant

Address



Issued _____, 20____

JOSEPH P. DAY, Clerk

By: _____ Deputy Clerk

Day of week _____

Set for 9:00 A.M. on _____, 20____
Courtroom 1A,

Justice A. A. Birch Building
408 Second Avenue North
P.O. Box 196304
Nashville, Tennessee 37219-6304

Reset for: _____

Came to hand same day issued and executed as commanded on:

Served: _____, 20____

Sheriff/Process Server

Attorney for Plaintiff

Telephone

Attorney for Defendant

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AFFIDAVIT

To the best of my information and belief, after investigation of Defendant's employment, I hereby make affidavit that the Defendant is/is not a member of a military service.

Plaintiff or Attorney for Plaintiff

Notary Public

My Commission Expires _____

ORDER

Entered: _____ 20 ____

Judge, Division _____, Metropolitan General Sessions Court

ORDER

Entered: _____ 20 ____

Judge, Division _____, Metropolitan General Sessions Court

ORDER

Entered: _____ 20 ____

Judge, Division _____, Metropolitan General Sessions Court

In the General Sessions Court of Davidson County, Tennessee

Plaintiff/Petitioner

VS.

Case No. _____

Defendant/Respondent

UNIFORM CIVIL AFFIDAVIT OF INDIGENCY

[See [Pauper's Oath Guidelines](#)]

I, _____, having been duly sworn according to law, make oath that because of my poverty, I am unable to bear the expenses of this case and that I am justly entitled to the relief sought to the best of my belief. The following facts support my poverty:

1. Full Name: _____

2. Address: _____

3. Telephone Number: _____

4. Date of Birth: _____

5. Names and Ages of All Dependents:

_____ Relationship _____

_____ Relationship _____

_____ Relationship _____

_____ Relationship _____

6. I am employed by: _____

My employer's address is: _____

My employer's telephone number is: _____

7. My present income, after federal income and social security taxes, are deducted, is:

\$ _____

8. I receive or expect to receive money from the following sources:

AFDC \$ _____ per month beginning _____

SSI \$ _____ per month beginning _____

Retirement \$ _____ per month beginning _____

Disability \$ _____ per month beginning _____

Unemployment \$ _____ per month beginning _____

Worker's Compensation \$_____ per month beginning _____

Other \$_____ per month beginning _____

9. My expenses are:

Rent/House Payment \$_____ per month

Groceries \$_____ per month

Electricity \$_____ per month

Water \$_____ per month

Gas \$_____ per month

Transportation \$_____ per month

Medical/Dental \$_____ per month

Telephone \$_____ per month

School Supplies \$_____ per month

Clothing \$_____ per month

Child Care or Court Ordered Child Support \$_____ per month

Other \$_____ per month

10. Assets:

Automobile \$_____ (Fair Market Value)_____

Checking/Savings Account \$_____

House \$_____ (Fair Market Value)_____

Other \$_____

11. My debts are:

Amount Owed

To Whom

I hereby declare under the penalty of perjury that the foregoing answers are true, correct, and complete and that I am financially unable to pay the costs of this action.

PLAINTIFF/PETITIONER

Sworn and subscribed before me this _____ day of _____, 20_____.

Notary Public or Deputy Clerk

Effective 5/3/21