

Appeal Instructions

If you are reading this, you probably went to eviction court and lost your case. That means that, right now, there is an eviction “judgment” on your record, which could eventually lead to the constable coming to your home and removing you and the things you own by force. It could also make it harder for you to find a place to live in the future. Neither of those things is a great outcome. However, there may be a way to get rid of that judgment: an appeal. Please read these instructions carefully to see if that is an option for you.

Can I appeal my case?

To appeal, you must believe you should have won your trial. If you do believe that, you can appeal, but you will have to swear under oath that you think that if you go before another judge, you think the JP got something wrong and you should win on appeal. That doesn’t mean you’re in trouble if you lose; just that you must have a had a good faith belief you should have won. That being said, lying about your belief is just as wrong, and just as illegal, as lying on the witness stand. If you swear that you believe you should have won, that must be true.

When is the deadline to appeal?

The law says you have five days from the day you lost your trial to appeal. However, there are some things that might give you more time. The basic rule is this: when you count those five days, it includes weekends and holidays, but your deadline can’t be a day the court is closed for all or part of the day. You also do not count the day of your eviction trial. So, the last day to appeal is either (i) the fifth day after your eviction trial, if the court is open all day that day, or (ii) the first day the court is open after your five days are over. Here are some examples:

Trial on Thursday (maybe make this a nice graphic)

Thursday	Friday	Saturday	Sunday	Monday	Tuesday	Wednesday
Trial	Day 1	Day 2	Day 3	Day 4	Deadline	X

Trial on Monday

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Monday
Trial	Day 1	Day 2	Day 3	Day 4	Closed	Closed	Deadline

How do I appeal?

If you lose your trial, the court will set an “appeal bond,” which is usually either one or two month’s rent. If you can afford to pay that without sacrificing other bills, you will need to pay the court that amount to appeal. You may get the money back later, and if not, it should count

against what you owe your landlord. You should assume, however, that the landlord likely will end up getting that money.

Most people being evicted cannot afford to pay the amount of the bond and still pay all their other bills. If that applies to you, you can file what's called a "Statement of Inability to Pay the Appeal Bond." It is a form you fill out with how much you make and how much you spend each month. You should be able to get a copy of the form and fill it out at the court where your trial was. If you fill out that form and give it to the clerk at the court window, that will count as your appeal. You may also be required to sign an affirmation that you have a good faith reason for filing an appeal.

What happens next?

Once you appeal, you have to choose whether you want to move out relatively quickly or try to stay in your home during the appeal. If you want to stay, you will need to pay some money to the court as rent. If you are planning to leave in the next week, you probably don't have to do anything else except tell your landlord you're moving. But if you don't leave quickly, and you don't timely pay rent to the court, the landlord will be able to get an order from the court to evict you, even though you have appealed your case.

Your first payment, equal to one month's rent, is due within five days of the day you appeal. You calculate those five days the same way you did your appeal time. You will then have to pay rent to the court on the first day of every rental period between then and your appeal trial. These payments should be made the court, not to the landlord directly.

It is important to be honest with yourself about whether you can pay the court what you owe. If you don't pay the amount you owe to the court, the landlord can ask the constable to come to your home and remove you.