

# Court Service Center

## New Hampshire Circuit Court

### LANDLORD AND TENANT CHECKLIST

#### General information:

- To start this case type you must present the court with an expired Eviction Notice and Demand for Rent (if applicable). Expired means you cannot start a case until the day after you gave on the eviction notice. NOTE: if a basis for the eviction is non-payment of rent and the rented property is a “covered property” as defined by the CARES Act, the notice period may be longer than is typically required by New Hampshire law.
- If you are filing a case after March 27, 2020 and a basis for eviction is non-payment of rent, you must also present the court with an Affidavit of Compliance with CARES Act.
- The court will not sell blank writs to anyone except attorneys. Court staff will entitle the writ for you. It is your responsibility to fill out the rest of the writ, with the exception of the return day.
- The writ may be filed in the court with jurisdiction over the town where the plaintiff or the defendant resides or the property is located.
- You may request up to \$1,500 back rent on a landlord-tenant writ. Amounts owed in excess of this may be dealt with in a small claims action.
- Refer to RSA 540 and District Court Rules 5.1- 5.12 for more information on this process. In addition, if a basis for eviction is non-payment of rent, you should refer to the federal CARES Act.

#### Forms listed below are needed to start this action:

- Eviction Notice (**NHJB-3041-D**) and Demand for Rent (**NHJB-3040-D**): you may draft your own so long as the language complies with the law, or use the blank forms available in the Clerk’s Office or online.
- Landlord and Tenant Writ (**NHJB-2333-DP**): Available in Clerk’s Office.
- Affidavit of Compliance with CARES Act (**NHJB-2515-D**): Available in Clerk’s Office and online.
- Affidavit of Damages and Statement of Claim (**NHJB-2770-DP**): must be filed if seeking back rent.
- Affidavit as to Military Service (**NHJB 2200-DFPS**): Although it does not have to be filed at case entry, it must be filed prior to the issuance of any Writ of Possession.

#### Other items that may be needed:

- Photo identification is required if you want court staff to take your oath on the Affidavit of Damages or Military Affidavit.

#### Information needed to fill out the writ:

- Mailing addresses for yourself and the defendant. Court name and address, information regarding eviction notice and property address.

#### How much will this cost?

- The landlord and tenant writ costs **\$1.00** and the filing fee is **\$125.00**.
- You will be responsible for sheriff’s service fees as well. This fee varies. If you win the case, the defendant can be ordered to pay this cost, but you must pay it up front.

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### What happens next?

- Court staff will assign the case a docket number and return the original writ to you for service along with copies for yourself and the defendant. You must bring the original and defendant copy to the sheriff's department where the defendant resides for service.
- The sheriff's department will instruct you what return day to enter on the writ.
- After service, you must return the original writ and return of service to the court. The court has no way of knowing the return day until this is done.
- The defendant has until the end of the return day to ask the court for a hearing by filling out an appearance form. The return day is NOT a hearing date. If the defendant requests a hearing, one will be scheduled for a date within approximately 10 days.
- If the basis for the eviction is any other reason than non-payment of rent, the tenant has the right to have the case heard in the court for the town where the tenant lives. If the basis is non-payment of rent, the tenant may request a transfer, but it is not automatic.
- If the defendant fails to file an appearance or appear for the hearing, a notice of default may issue. A writ of possession may issue in due course, on the date indicated on the notice.
- The writ of possession is the document you take to the sheriff to have served to remove the tenant from the property and change the locks.
- If the plaintiff fails to appear for the hearing, the case can be dismissed.
- Parties reserve the right to work out an agreement prior to the hearing date.
- If the case proceeds to trial, the judge will make an order for judgment for the plaintiff or the defendant. Any notice of intent to appeal the Court's decision must be received within 7 days after the notice of the decision. The appeal must be filed with the Supreme Court within 30 days from the date of the notice of decision. If the defendant appeals a decision on a non-payment of rent eviction, all rent will be paid weekly to the court while the appeal is pending.

**Forms and Instructions are available at any NH Circuit Court**

**Additional information can be found at:**

**[www.courts.state.nh.us/district](http://www.courts.state.nh.us/district)**