

# Instructions for Eviction Forms

## **Important! Read Before Using this Packet of Forms.**

**ND Legal Self Help staff and court employees can't help you fill out the form(s).** If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

**ND Legal Self Help Center forms aren't official court forms.** Judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted. Use at your own risk.

**If you need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.** Go to [ndcourts.gov/legal-self-help/finding-a-lawyer](https://ndcourts.gov/legal-self-help/finding-a-lawyer) for information about finding a lawyer to represent you.

**When you represent yourself, you're expected to know and follow the law, including:**

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
  - North Dakota Rules of Civil Procedure;
  - North Dakota Rules of Court;
  - North Dakota Rules of Evidence;
  - North Dakota Administrative Rules and Orders; and
  - Any local court rules.

Links to the state laws, case law, and court rules can be found at [ndcourts.gov](https://ndcourts.gov).

A glossary with definitions of legal terms is available at [ndcourts.gov/legal-self-help](https://ndcourts.gov/legal-self-help).

**When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.**

***These instructions and forms aren't a complete statement of the law.** They cover the basic procedure for eviction in a North Dakota state district court. There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.*

***Use these forms and instructions at your own risk.***

**Important!** If the property is part of a legal entity, such as a business, a corporation or a limited liability company, **Stop! You Can't Use These Forms!**

**Only a lawyer** licensed to practice in North Dakota can represent a legal entity in an eviction. Non-lawyers aren't allowed to represent legal entities in evictions. Legal documents signed by non-lawyer agents of a legal entity are considered void.

(See [Wetzel v. Schlenvogt](#), 2005 ND 190; and [State ex rel. Department of Labor v. Riemers](#), 2008 ND 191.)

### Who May Use This Packet Of Eviction Forms:

An individual who owns the property that was leased or rented to another **and**:

- The leased property is owned by an individual who is a **natural** person; in other words, a human being owns the leased property;
- The leased property **isn't** owned by an **artificial person**; in other words, a legal entity, such as a business, a corporation or a limited liability company; **and**
- The circumstances meet the requirements for eviction in North Dakota.

### Who Can't Use This Packet of Eviction Forms:

**A non-lawyer when:**

- The leased property is owned by an **artificial person**; in other words, a legal entity, such as a business, a corporation or a limited liability company.

**Only a lawyer licensed to practice in North Dakota can represent a legal entity in an eviction.**

- Contact the State Bar Association of North Dakota Lawyer Referral Service at (866) 450-9579.
- A list of all lawyers licensed to practice in North Dakota is available at [ndcourts.gov/lawyers](http://ndcourts.gov/lawyers).

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## An Overview Of The Eviction Process:

- Step One: Service of 3 Day Notice of Intention to Evict.**  
Required for some grounds (reasons). **Not** an eviction order.
- Step Two: Prepare Eviction Documents to Start District Court Action.**  
If tenant doesn't comply with the 3 day Notice of Intention to Evict.
- Step Three: Obtain an Eviction Hearing Date & Time.**  
File eviction documents and schedule a hearing date.
- Step Four: Service of Eviction Summons and Complaint.**  
Proof of service of the eviction Summons and Complaint is required.
- Step Five: Attend the Eviction Hearing.**  
Appear in person, unless the Court says otherwise.
- Step Six: If the Court Grants the Eviction.**  
The tenant must move out by the date in the eviction Order.

## North Dakota Laws & Rules Related To Eviction:

[Chapter 47-16 of the North Dakota Century Code](#) governs leases in North Dakota.

[Chapter 47-32 of the North Dakota Century Code](#) governs evictions in North Dakota. The most common reason to evict a tenant is failure to pay their rent. However, a tenant can be evicted for other material violations of a lease or rental agreement. Examples of a material violation are: unreasonable peace disturbances, illegal activity on the premises, unreported pets, too many occupants, or damage to the premises.

[Rule 4 of the North Dakota Rules of Civil Procedure](#) includes requirements for serving legal documents on defendants in a civil action.

[Rule 13 of the North Dakota Supreme Court Administrative Rules](#) allows eviction cases to be heard and decided by a Judicial Referee.

**Laws constantly change through legislation, administrative rules and rulings and court decisions.** To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and court decisions. Notes of court decisions related to North Dakota law can be found in the print editions of the North Dakota Century Code. Print editions of the North Dakota Century Code are found in many North Dakota public and academic libraries.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws apply to your situation.

## The Eight Grounds (Reasons) For Eviction in North Dakota:

A landlord may evict a tenant for one or more of the eight grounds (reasons) for eviction.

1. A party, by force, intimidation, fraud, or stealth, has entered upon the prior actual possession of real property of another and detains the same.
2. A party, after peaceably entering upon real property, turns out by force, threats, or menacing conduct the party in possession.
3. A party, by force or by menaces and threats of violence, unlawfully holds and keeps the possession of any real property, whether the possession was acquired peaceably or otherwise.
4. A lessee, in person or by subtenant, holds over after the termination of the lease or expiration of the lessee's term, or fails to pay rent for three days after the rent is due.
5. A party continues in possession after a sale of the real property under mortgage, execution, order, or any judicial process and after the expiration of the time fixed by law for redemption, or after the execution and delivery of a deed, or after the cancellation and termination of any contract for deed, bond for deed, or other instrument for the future conveyance of real estate or equity in the real estate.
6. A party continues wrongfully in possession after a judgment in partition or after a sale under an order or decree of a district court.
7. A lessee or a person on the premises with the lessee's consent acts in a manner that unreasonably disturbs other tenants' peaceful enjoyment of the premises.
8. The lessee violates a material term of the written lease agreement between the lessor and lessee.

## Parties In An Eviction:

**Plaintiff** – the individual who owns property that was leased or rented to another; a landlord.

**Defendant** – the person, or persons, who rents or holds the lease to a property; a tenant.

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## Definitions Of Some Commonly Used Terms In An Eviction:

***\*\*\*The following definitions are intended to be helpful, but they aren't intended to constitute legal advice OR address every possible meaning of the terms in this section.\*\*\****

**Artificial Person** – a person created by law, such as a business, corporation, or limited liability company. (See Natural Person).

**Costs** – generally refers to expenses and fees for going to court. For example, costs may include filing fees, charges for serving legal documents, and making copies of papers and exhibits. If the court orders the eviction, the Plaintiff may be awarded costs.

**Damages** – money paid by Defendants to successful Plaintiffs in civil cases to compensate the Plaintiffs for their injuries. In an eviction, damages are limited to rents or profits that are past due, and damages caused by the tenant's possession of the leased property. Landlords **can't** request an award of future rent when bringing an eviction.

**Forcible Detainer** – a civil, legal process that's used to evict a tenant in North Dakota. It's an accelerated, or sped up, civil legal action to determine the right to possess the property.

**Judicial Referee** – A judicial officer, appointed by the presiding District Court Judge, who has the authority to preside in eviction cases. The Findings and Order of the Judicial Referee have the effect of the Findings and Order of a District Court Judge until superseded by a written Order of a District Court Judge.

**Lease Agreement** – a contract by which one gives to another the temporary possession and use of real property for reward and the latter agrees to return such possession to the former at a future time. A lease agreement may be in writing or may be an oral, or verbal, agreement.

**Lessor** – the person who leases a property to another; a landlord.

**Lessee** – the person who rents or holds the lease to a property; a tenant.

**Natural Person** – a human being. (See Artificial Person).

**Personal Property** – anything that isn't real property.

**Pro Se** – a party in a lawsuit that represents himself or herself without a lawyer. In other words, a self-represented individual.

**Real Property** – real or immovable land including anything that's affixed to the land that's incidental or immovable by law.

**Writ of Execution** – an Order from the Judge or Judicial Referee needed to give possession of the property back to the landlord. (The writ may also be referred to as a Writ of Execution for Possession, a Writ of Restitution, or a Writ of Eviction.) A writ of execution can't be issued until after the Judge or Judicial Referee orders an eviction.

### **A Judicial Referee May Hear And Decide The Eviction:**

[Rule 13 of the North Dakota Supreme Court Administrative Rules](#) allows eviction cases to be heard and decided by a Judicial Referee, rather than a District Court Judge.

If a Judicial Referee is assigned to the eviction case, any party to the eviction case may request that a District Court Judge hear and decide the case instead. **The party must file a written request with the Clerk of Court within seven days after service of the notice of hearing.**

If the eviction case is heard and decided by a Judicial Referee, the Judicial Referee issues Findings of Fact and an Order. The Judicial Referee's Findings of Fact and Order have the same effect as the Findings of Fact and Order of a District Court Judge until superseded by a written Order of a District Court Judge.

If any party to the eviction case wants a review of the Judicial Referee's Findings of Fact and Order, **the party must file a written request for a review, stating the specific reasons for the review, with the Clerk of Court within seven days after service of notice of the right to review.**

The party requesting review **must** give notice of their request to all other parties. Any party who wishes to respond to the request for review **must** file their written response within fourteen days after service of the notice of the request for review.

### **Eviction Forms In The Packet:**

- 1a. Notice of Intention to Evict: Demand for Rent or Possession of the Premises
- 1b. Notice of Intention to Evict
2. Summons
3. Complaint for Eviction
4. (Proposed) Findings of Fact, Conclusions of Law and Order
5. (Proposed) Judgment
6. (Proposed) Writ of Eviction Clerk of Court Signature  
(Proposed) Writ of Eviction Judicial Signature
7. Affidavit of Identification
8. Statement of Costs & Disbursements

If you have a written lease agreement, make a copy to refer to during the eviction process.

## STEPS IN THE EVICTION PROCESS

### Step One:

#### Prepare And Arrange For Service Of The Notice Of Intention To Evict

Serving the Notice of Intention to Evict is the required first step in the eviction process in North Dakota.

The tenant must be given Notice of the intention to evict. A copy of the Notice to Evict and proof that the Notice to Evict was properly served must be filed with the court in Step Three.

(Review [Chapter 47-32](#) for when the Notice of Intention to Evict may not be required.)

#### Determine the Grounds (Reasons) for Eviction:

You may evict a tenant for one or more of the eight grounds (reasons) for eviction. Determine which ground or grounds apply to your situation. You're required to prove your ground(s).

#### Prepare the Notice of Intention to Evict:

The Notice of Intention to Evict gives the tenant notice of the ground(s) for eviction and tells them they must move out of the leased property **within 3 days**.

- **However**, if the only ground for eviction is non-payment or late payment of rent, the notice gives the tenant 3 days to pay the full amount due **or** move out of the property.

There are two Notice of Intention to Evict forms in this packet of eviction forms.

1. If the only ground for eviction is non-payment or late payment of rent, use the "Notice of Intention to Evict: Demand for Rent or Possession of the Premises" form.
2. Otherwise, use the "Notice of Intention to Evict" form.

#### Fill out and sign the Notice of Intention to Evict:

- Fill in the first line with the name of the person renting from you (tenant).
- Fill in the street address, city and zip code of the property.
- Fill in the date the lease was signed or the date of the rental agreement.
- Check the boxes that apply and fill in the blanks, if applicable. *(There are no check boxes for the Notice of Intention to Evict: Demand for Rent or Possession of the Premises form.)*
  - If you select "Other material violation of the lease, specifically:" explain the material violation.

- Date and sign the document.
- Include your (Landlord’s) address and phone number.
- Make at least one copy for the court and one copy for your records.

### **Arrange for Service of the Completed Notice of Intention to Evict on the Tenant(s):**

The Notice of Intention to Evict must be served on the tenant. Review the service requirements of the Notice of Intention to Evict in [North Dakota Century Code Section 47-32-02](#). See also [Rule 4 of the North Dakota Rules of Civil Procedure](#) for service requirements that also apply.

General service information and blank proof of service forms are available at [ndcourts.gov/legal-self-help/service-in-a-civil-action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action) in the “Service to Start a Civil Action” section.

There are **two ways** to arrange for service of the Notice of Intention to Evict.

1. You may give the Notice of Intention to Evict to the Sheriff of the North Dakota county for personal service. (You’ll be charged a fee.)
  - a. The Sheriff will provide a certificate of service.
  - b. The completed certificate of service is your proof of service.
2. You may have another person who is at least 18 years of age and not a party to or interested in the eviction action serve the Notice of Intention to Evict. The person must serve the documents as required by Rule 4(d) of the North Dakota Rules of Civil Procedure.
  - a. The person who served the Notice of Intention to Evict must fill out, date and sign a Declaration of Service by Personal Delivery.
  - b. The completed Declaration of Service by Personal Delivery is your proof of service.

**At least one attempt** must be made to serve the Notice of Intention to Evict on the tenant using either of the two methods above. An attempt **must** be made between the hours of six p.m. and ten p.m.

**After at least one attempt**, when the tenant(s) **can’t** be found, there is **one way** to arrange for service of the Notice of Intention to Evict.

1. The Sheriff of the North Dakota county or a process server posts the Notice of Intention to Evict conspicuously upon the premises.
  - a. A certificate of service by the Sheriff or process server is your proof of service.



If the tenant is served the Notice of Intention to Evict by posting the Notice to Evict conspicuously upon the premises, proof is required that the sheriff or process server attempted service, **and** that service was attempted at least once between six p.m. and ten p.m.

## Step Two:

### Prepare The Summons And Complaint, Proposed Findings of Fact, Conclusions Of Law And Order, Proposed Judgment, Proposed Writ Of Execution, And Statement Of Costs And Disbursements

#### Calculating the deadline of a 3 day Notice of Intention to Evict:

Review [Rule 6 of the North Dakota Rules of Civil Procedure](#) carefully! When a law doesn't specifically say how to calculate time, Rule 6 applies.

When calculating days:

- Don't include the day the 3 day Notice of Intention to Evict was served on the Defendant;
- Count by calendar days, including Saturdays, Sundays, and North Dakota state holidays;
- Include the last day of the period, **but** if the last day is a Saturday, Sunday, or North Dakota state holiday, the period continues to run until the end of the next day that isn't a Saturday, Sunday, or North Dakota state holiday.

If the tenant doesn't comply with the Notice of Intention to Evict **within 3 days**, you may file the original Summons and Complaint with the District Court and arrange for service of a copy of the Summons and Complaint on the tenant(s).

#### Prepare the Summons:

The Summons and Complaint give notice to the tenant(s) of the date and time of the eviction hearing, and the reason(s) for the eviction action.

Make at least **two copies** of each completed form. One copy of the Summons and Complaint must be served on each tenant. Keep one copy of each completed form for your records.

- Fill out the heading:
  - Name of County – this is the county in North Dakota where you'll file the case.
  - Plaintiff – you're the Plaintiff. Fill in your full name.
    - If you're the Plaintiff for a leased property that's owned by an **artificial person, you can't use these forms.**
  - Defendant – The tenant is the Defendant. Fill in the tenant's full name.

- Case Number – Leave blank. You get a case number from the Clerk of Court when you file the case and pay the \$80.00 filing fee. You fill in the case number at that time.
- Paragraph #1 – Leave blank. You get the hearing information from the Clerk of Court after you file the case and pay the \$80.00 filing fee. You fill in the day, month, year, time and location of the hearing at that time.
  - The hearing should be set no less than three (3) days and no more than fifteen (15) days from the date the Summons was signed.
  - However, the time for the hearing may be later depending on how long it takes to serve the tenant.
- Paragraph #2 – Fill in the street address, city and zip code of the property.
- Paragraph #3 – Tells the Defendant(s) that a default judgment may be entered against them if they don't come to the hearing.
- Paragraphs #4 & 5 – Provides information about Judicial Referees and how to request a District Court Judge if the eviction is assigned to a Judicial Referee.
- Date and signature:
  - **Don't date or sign the Summons.**
    - You date and sign the Summons when you get the hearing date from the Clerk of District Court when you file your completed eviction forms.
  - Print your name and fill in your address and telephone number.
  - If your mailing address is different than your street (physical) address, write your mailing address in the space next to the physical address.

### **Prepare the Complaint for Eviction:**

- Fill in the heading the same as you did for the Summons.
- First Sentence – Fill in your full, legal name.
- Paragraph #1 – Fill in your street address, city and zip code.
- Paragraph #2 – Fill in the street address, city and zip code of the property.
- Paragraph #3 – If this paragraph **isn't** accurate for your circumstances, you **can't** use these forms.
- Paragraph #4 – Fill in the date of the lease agreement with the tenant(s). Checkmark (✓) if the lease agreement is written or oral.
  - If the lease agreement is written, make a copy of the written lease and write "Exhibit A" on the first page of the copy. Checkmark (✓) the box and type or write "A" in the space provided.
  - You file the copy of the written lease agreement marked "Exhibit A" with the clerk of court in Step Three.

- Paragraph #5 – Fill in the amount of the rent per month, the date the rent is due each month, the amount of the late fee, if any, and the circumstances when the late fee is charged.
- Paragraph #6 – Checkmark (✓) the ground or grounds for the eviction.
  - If one of the grounds is unpaid or delinquent rent, fill the amount owed and the timeframe of the unpaid or delinquent rent.
  - There are blanks to fill in other reasons the Defendant is in violation.
  - **You're required to prove every ground for eviction you checkmark (✓) at the eviction hearing.**
- Paragraph #7 - Checkmark (✓) the box for your circumstances.
  - If you choose the second checkbox, fill in the amount of the damages. Fill in the Exhibit letter, either "A" or "B," in the space provided.
  - If you **don't** have an Exhibit A (see instructions for Paragraph #3), type or write "A" in the space provided.
  - If you have an Exhibit A, type or write "B" in the space provided.
  - Make a copy of your documentation. Write either "Exhibit A" or Exhibit B" on the first page.
  - You file the copy of your documentation marked either "Exhibit A" or "Exhibit B" with the clerk of court in Step Three.
  - If you choose the third checkbox, you're telling the court that at this time you don't know the extent of the damages. At the hearing, you need to find out from the court if you can submit this information and/or exhibits once you're allowed access to the property.
- Paragraph #8 – Fill in the date of service of the Notice of Intention to Evict on the tenant(s). Fill in the Exhibit letter, either "A", "B," or "C," in the space provided.
  - If you **don't** have an Exhibit A (see instructions for Paragraph #3), type or write "A" in the space provided.
  - If you have an Exhibit A, type or write "B" in the space provided.
  - If you have an Exhibit A and an Exhibit B, type or write "C" in the space provided.
  - Make a copy of the Notice of Intention to Evict and the proof of service of the Notice of Intention to Evict. Write either "Exhibit A," Exhibit B," or "Exhibit C" on the first page.
  - You file the copy of Notice of Intention to Evict and the proof of service of the Notice of Intention to Evict marked either "Exhibit A," Exhibit B," or "Exhibit C" with the clerk of court in Step Three.
- Paragraph #9 – This statement must be accurate for your circumstances.
- Paragraph #10 – This statement must be accurate for your circumstances.

- Paragraph #11 – Checkmark (✓) and complete all that apply to your circumstances.
  - If you checkmarked the second checkbox of Paragraph 7, you **must** checkmark (✓) 11b.
- Paragraphs #12, #13, and #14 – Read these statements carefully.
- Sign and print your name, address and phone number.
  - If your mailing address is different than your street (physical) address, write your mailing address in the space next to the physical address.

#### **Make a Copy of the Written Lease Agreement:**

If you have a written lease agreement, make a copy. You file the copy of the lease agreement with the District Court when you file the completed eviction forms.

#### **If You're Requesting Damages, Make a Copy of Your Documentation of the Costs:**

In an eviction, a landlord can only ask for costs related to damages caused by the tenant's possession of the property.

If you're planning to request the cost of damages caused by the tenant, make copies of your documentation showing how you arrived at the dollar amount you claim.

**Before preparing the following** Findings of Fact, Conclusions of Law and Order, Judgment, Writ of Eviction, and Statement of Costs and Disbursements, check with the Clerk of Court's office to determine whether you're required to:

- (1) Fill out **only** the heading only for these forms, **or**
- (2) Fill out **all** information except for the signature line.

#### **Prepare Findings of Fact, Conclusions of Law and Order:**

- These are your **proposed** Findings of Fact, Conclusions of Law and Order.
- The District Court Judge or Judicial Referee decides whether to use these forms.
- An eviction **can't** proceed until a District Court Judge or Judicial Referee completes, then signs and dates a Findings of Fact, Conclusions of Law and Order.

#### **Prepare the Judgment:**

- This is your **proposed** Judgment.
- If the District Court Judge or Judicial Referee completes, then signs and dates a Findings of Fact, Conclusions of Law and Order, the Clerk of Court will complete and sign a Judgment.

- If the District Court Judge or Judicial Referee decides to use your **proposed** Findings of Fact, Conclusions of Law and Order, the Clerk of Court may decide to use your **proposed** Judgment form.

#### **Prepare the Writ of Eviction:**

There are **two** Writ of Eviction forms in this packet. Ask the [Clerk of District Court](#) who signs the Writ of Eviction so you know which one to file with the court.

- If the Clerk of District Court of the county where you'll file the eviction action signs the Writ of Eviction, use the "Writ of Eviction: Clerk of Court Signature" form.
- If the Judge or Judicial Referee of District Court of the county where you'll file the eviction action signs the Writ of Eviction, use the "Writ of Eviction: Judicial Signature" form.
- This is your **proposed** Writ of Eviction.
- The Clerk of District Court, the District Court Judge or District Court Judicial Referee decides whether to use this form.

#### **Prepare the Statement of Costs and Disbursements:**

- Follow the instructions included with the form.

### **Step Three:**

**File The Original, Completed Forms With The Clerk Of Court, Pay The \$80.00 Filing Fee, And Schedule A Date For The Eviction Hearing**

#### **File the Following With the Clerk of Court:**

1. Summons
2. Complaint
3. Copy of the Written Lease Agreement, if applicable
4. Copy of documentation of costs of damages, if applicable
5. Notice of Intention to Evict
6. Proof of Service of the Notice to Evict (If the Notice to Evict was posted conspicuously upon the premises, include proof of the required attempt(s) to serve)
7. (Proposed) Findings of Fact, Conclusions of Law and Order
8. (Proposed) Judgment
9. (Proposed) Writ of Eviction
10. Statement of Costs & Disbursements

You're required to **pay a filing fee of \$80.00**. If you're unable to pay the \$80.00 filing fee, you may make a written request to the court to waive the filing fee.

- **The Filing Fee Waiver Request** – District Court/Small Claims Court form set is available at [ndcourts.gov/legal-self-help/fee-waiver](https://ndcourts.gov/legal-self-help/fee-waiver).

At the time of filing and fee payment, the Clerk of Court schedules a hearing date.

- The hearing should be set no less than three (3) days and no more than fifteen (15) days from the date the Summons was signed.
- However, the time for the hearing may be later depending on how long it takes to serve the tenant.

**Date and sign the Summons form.**

#### **Step Four:**

#### **Arrange For Service Of Copies Of The Completed Summons and Complaint On The Tenant(s)**

Review [Section 47-32-02 of the North Dakota Century Code](#) for service requirements.

There are two ways to arrange for service of a copy of the Summons and Complaint on the tenant(s). The timeline for service depends on the way the copy of the Summons and Complaint are served.

You're required to file proof of service with the court of a copy of the Summons and Complaint on each tenant.

General service information and blank proof of service forms are available at [ndcourts.gov/legal-self-help/service-in-a-civil-action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action) in the "Service to Start a Civil Action" section.

**In person service on the tenant(s).** Arrange for service in one of the following two ways:

1. You may give the copy of the Summons and Complaint to the Sheriff of the North Dakota county for personal service. (You'll be charged a fee.) The Sheriff will provide a Certificate of Service. The completed Certificate of Service is your proof of service.
2. You may have another person who is at least 18 years of age and not a party to or interested in the eviction action serve the copy of the Summons and Complaint. The person must serve the documents as required by Rule 4(d) of the North Dakota Rules of Civil Procedure. The person who served the Summons and Complaint must fill out, date

and sign a Declaration of Service by Personal Delivery. The completed Declaration of Service by Personal Delivery is your proof of service.

**If the tenant(s) can't be found in the North Dakota county**, the following conditions apply to service:

- Proof that the sheriff or process server attempted to serve the tenant in person, and that personal service was attempted at least once between six p.m. and ten p.m.
- An affidavit or declaration must be filed by the plaintiff that states:
  - The defendant can't be found, **or** the defendant isn't in this state.
  - A copy of the Summons and Complaint has been mailed to the tenant at the tenant's last-known address, if any is known to the plaintiff.
- Then, service of the Summons may be made upon the defendant by the sheriff or process server posting the Summons upon the door of the residential unit.

#### **Timelines for service of the completed summons and complaint of the tenant(s)**

- **If the tenant is personally served a copy of the Summons and Complaint within the county:**
  - Service must be completed at least three days before the time set for the eviction hearing.
- **Otherwise**, service must be completed at least seven days before the time set for the eviction hearing.

**Before the hearing**, file proof of service with the court of a copy of the Summons and Complaint on each tenant.

### **Step Five: Attend the Eviction Hearing**

The eviction hearing is an examination of the facts and law, presided over by the Judge or Judicial Referee.

The landlord and tenant each have an opportunity to tell their side of the facts of the eviction and argue how the eviction laws apply to the situation. The Judge or Judicial Referee weighs the facts and arguments presented by the landlord and tenant and either grants or dismisses the eviction.

### **If you need special assistance at the hearing:**

If you have a disability, don't read or understand English well, or require special accommodations in the courtroom, contact the Clerk of District Court's office as soon as possible.

### **You may ask to attend the hearing remotely:**

If the eviction hearing is scheduled to be held at the courthouse, you may ask the Judge or Judicial Referee for permission to attend the hearing remotely.

The Judge or Judicial referee **isn't** required to give you permission, so be prepared to attend the hearing in persons.

Forms to ask for permission to attend a hearing remotely are available at [ndcourts.gov/legal-self-help](https://ndcourts.gov/legal-self-help). Scroll to the "Miscellaneous" section.

### **Don't be late!**

Don't be late for your eviction hearing. If you have a serious, unavoidable reason why you can't go to the eviction hearing on the scheduled day or will be late, call the Clerk of District Court's office as soon as possible.

Be aware that even if you contact the Clerk of District Court's office, the Judge or Judicial Referee may decide to hold the eviction hearing without you or may decide to dismiss the eviction case entirely.

### **Bring the information, documents, etc. you prepared for the hearing:**

Bring all of the files, paperwork, etc. that you gathered and organized while preparing for the eviction hearing. This may include copies of the lease, ledgers showing payments, photos, witnesses, etc.

Bring an outline of what you want to say.

### **Conduct of the hearing:**

In general, an eviction hearing proceeds in the following order:

#### **Before the hearing officially begins:**

- Organize your files and paperwork so you can easily locate information as needed.
- The tenant or the tenant's lawyer may give you copies of their documents before the hearing starts.



**The eviction hearing officially begins when all are asked to rise when the Judge or Judicial Referee comes into the courtroom:**

- The Judge or Judicial Referee begins the eviction hearing by identifying any documents that were submitted to the court clerk and identifying the names of the parties.
- The tenant or the tenant’s lawyer may give you copies of their documents, if copies weren’t given to you before the hearing began.

**Opening statements:**

- Often, each side gives an opening statement. An opening statement describes the issues in the eviction and states what the party expects to prove during the hearing.
- Usually, you, the Plaintiff, go first and the tenant, the Defendant, goes last.

**You present your case first:**

- Usually, you, the Plaintiff, present your case first.
- Individuals with first-hand knowledge of the facts of the eviction, such as the landlord, property manager, managing agent, or site manager, are called to testify as a witness. Each witness sits in the stand and is sworn in.
- You ask each witness questions to present evidence of the facts of the eviction to the Judge or Judicial Referee.

For example:

- Who the tenant is and how they know the tenant;
  - The location of the property;
  - Identification of the documents you want the Judge or Judicial Referee to allow as evidence, such as: the lease and payment ledger;
  - Rent amount, amount of rent owed; and
  - Anything else that relates to why the eviction action was brought.
- If the tenant objects to the questions or evidence being presented, the tenant may object when the question is asked, or when evidence is presented. The North Dakota Rules of Evidence govern how the tenant objects to evidence.

**The Defendant has the option to cross-examine your witnesses:**

- After you finish direct questioning of a witness, the tenant has a chance to ask the witness questions. This is called cross-examination.

- The tenant can only ask questions about the topics covered during your direct questioning of your witness.
- If the tenant doesn't have any questions, the Judge or Judicial Referee allows the witness to go back to their seat.

**The Defendant presents their case:**

- After you finish presenting your case, the tenant presents the evidence of their side of the facts of the eviction. The tenant may testify on their own behalf.
- The tenant may call individuals with first-hand knowledge of their side of the facts of the eviction, to testify as their witness. Each witness sits in the stand and is sworn in.
- The tenant asks each witness questions to present evidence of the facts of the eviction to the court. The North Dakota Rules of Evidence govern how they present evidence.
- If you object to the questions or evidence the tenant presents, you may object when the question is asked, or when evidence is presented.

**You have the option to cross-examine the Defendant's witnesses:**

- After the tenant finishes direct questioning of their witness, you have the chance to ask their witness questions. This is called cross-examination.
- You can only ask questions about the topics covered during the tenant's direct questioning of their witness.
- If you don't have any questions, the Judge or Judicial Referee allows the witness to go back to their seat.

**Closing arguments:**

- Often, each side gives a closing argument. A closing argument is a summary of the evidence presented at the hearing and an argument to the Judge or Judicial Referee on how the case should be decided.
- Usually, you, the Plaintiff, go first and the Defendant goes last.

**The Judge or Judicial Referee will then either order the eviction or dismiss the case:**

- The Judge or Judicial Referee gives a summary of the documents entered into evidence and the testimony from everyone who testified.

- If the Judge or Judicial Referee orders the eviction, you're given a date of eviction. The tenant and all of their belongings must be moved out on that date.
  - If the case is complicated, a Judge or Judicial Referee may decide to reserve judgment. This means that the Judge or Judicial Referee will mail their decision about the case.
- You can ask for a money judgment, which may include: outstanding rent, fees associated with the service of notice of eviction and service of Summons and Complaint, late charges, and lawyer's fees.

#### **Before you leave the hearing:**

Before you leave the hearing, make sure you understand what happens next. Ask if you're not sure.

### **Step Six: If The Eviction Is Granted By The Court**

If required, you'll be asked to file a completed and signed Affidavit of Identification with the Clerk of Court.

#### **Prepare the Affidavit of Identification:**

1. Read the full statement. By filling out the form and dating and signing it, you state, under penalty of perjury, that the statement and the information you include about the Defendant(s) is accurate.
2. Fill out the heading.
3. Fill in your full name.
4. Fill in each Defendant's full name, address and occupation.
5. Date and sign the form.
6. Complete the lines below your signature.

#### **If you're awarded money as part of the eviction judgment:**

**If you're awarded money as part of the eviction judgment, you may collect the money until the deadline runs out in the judgment.**

For information about judgment collection options for the winning party, go to [ndcourts.gov/legal-self-help](https://ndcourts.gov/legal-self-help) and scroll to the "Miscellaneous" section of the webpage.

**Money awarded as part of an eviction judgment may be collected using North Dakota’s judgment collection options.**

- Eviction judgments entered on or after August 1, 2023 may be collected for 20 years.
- Eviction judgments entered between August 1, 2021 and July 31, 2023 may be collected for 10 years.
  - North Dakota judgment collection laws are unclear if these judgments may be renewed once for an additional 10 years. [Consult a lawyer](#) for legal advice.
- Eviction judgments entered on or before July 31, 2021 may be collected for 10 years and renewed once for an additional 10 years.
  - 90 days before the eviction order expires, if the money awarded **hasn’t** been collected, you may renew the judgment for another 10 years.

**OTHER RESOURCES**

**The North Dakota Apartment Association publishes a Landlord Tenant Law handbook.** The handbook is found online at [ndaa.net](http://ndaa.net) by clicking on the “Landlord/Tenant Rights” link.

**North Dakota Apartment Association:** 1-800-990-6322; [ndaa.net](http://ndaa.net)

An organization for owners and managers providing educational opportunities.

**Bismarck-Mandan Apartment Association:** 701-226-9237; [bismarckmandanapartments.com](http://bismarckmandanapartments.com); email – [BismanAptAssc@gmail.com](mailto:BismanAptAssc@gmail.com)

Serves Bismarck, Mandan and surrounding areas.

**Greater Red River Apartment Association:** 218-233-6245; [grraa.com](http://grraa.com)

Serves Fargo, Moorhead and surrounding areas.

**Greater Grand Forks Apartment Association:** 701-775-4231; [ggfaa.com](http://ggfaa.com)

Serves Grand Forks and surrounding areas.

**Magic City Apartment Association – Minot:** 1-877-403-6222

Serves Minot and surrounding areas.