

GENERAL INFORMATION FOR EVICTION CASES

The relationship of landlord and tenant is based upon a contract, whether oral or written, which determines the rights and responsibilities each party has and owes to the other. Usually, the agreement between the parties takes the form of a lease. Tenancies may be for a specific term of period or may be at will. A landlord may bring an action of ejectment against a tenant in these situations: (1) when the tenant fails or refuses to pay the rent when due, (2) when the term of tenancy or occupancy ends, or (3) when the terms or conditions of the lease are violated. Even after service of process, rent continues to accrue so long as the tenant remains in possession, and the tenant is liable for the continually accruing rent. The landlord will need to make sure that proper notice has been given to the tenant prior to filing the paperwork for an eviction.

You must file your ejectment action in the Magistrate's Court that has jurisdiction over the property you are evicting the tenant from. You must submit your application packet and pay a filing fee of \$40.00 when you file the action. The Court will issue an Order to Show Cause, which will be attached to your affidavit and served upon the tenant requiring him to either vacate the premises or show cause by requesting a hearing date. If a hearing is held and the judge rules in favor of the landlord, the landlord may immediately or within five (5) working days after the hearing date request a writ of ejectment. This will cost an additional \$10.00. The landlord must notify the court if the defendant/tenant has vacated the premises or that the case should be dismissed in writing.

Either party may appeal the decision. The appeal has to be filed with the Clerk of Court within 5 days of the hearing. If the tenant does so, he must post what is called a Bond to Stay, the amount of which is determined by the magistrate. Typically, the tenant is responsible for any back rent that may be owed as well as paying any future rent as long as the case is under appeal. The tenant must post this bond within five days after the service of the notice of appeal or the appeal may be dismissed by the magistrate.

INSTRUCTIONS FOR EVICTION HEARINGS

1. Both plaintiff and defendant have the right to come to court and give his/her side of the case.
2. If either party desires a jury trial, s/he must request one in writing at least 5 business days before the date originally scheduled for the hearing.
3. Parties may come to court and speak for themselves, or they may have a lawyer represent them. If you want a lawyer, you should get one right away.
4. Parties may call the South Carolina Lawyer Referral Service at (800) 868-2284 and ask them to refer you to a lawyer if you do not have one.
5. If the defendant cannot afford a lawyer, you may call South Carolina Legal Services at (888) 346-5592 to see if you qualify for free legal assistance.
6. It is the parties' responsibility to bring any witnesses or other evidence they want the Court to consider because the Court does not accept written witness statements, even notarized ones.
7. The Court will not telephone a witness to take testimony.
8. The Court cannot reschedule a case because a witness is not present *unless* the witness is under subpoena.
9. The Court will issue subpoenas to any witnesses if you advise the Court at least 10 days before trial of the name, address, and phone number of the witness. If you wish to subpoena a witness in your county, you will have to mail or deliver a fee of \$8.00 to the magistrate's court for preparing and serving a subpoena. The party requesting the subpoena is required to pay to the subpoenaed witness a fee of \$25.00 plus mileage for each day's attendance. (See Rule 45(b)(1) of the South Carolina Rules of Civil Procedure.)
10. If an emergency arises (not a mere inconvenience or a conflict) and you cannot be in Court at your scheduled time, you must notify the Court immediately.
11. If you are an active member of the Armed Services of the United States, please advise the Court immediately upon receipt of this notice.
12. If you are a business and are going to be represented by someone who is not an attorney, a Non-Lawyer Authorization Form *must* be on file at the Magistrate's Office before trial. (See Rule 21 of the South Carolina Civil Rules of Magistrate Court, Business Representation.)

STATE OF SOUTH CAROLINA

COUNTY OF Jasper

PLAINTIFF(S)

VS.

DEFENDANT(S)

CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

APPLICATION FOR
EJECTMENT
(Eviction)

I, _____, plaintiff in this action, state that I am the landlord-lessor of premises within the jurisdiction of Jasper County Magistrate which is described as: (address and description of premises – apartment, house, etc.)

I further state that, with regard to the above-described premises, a landlord-tenant relationship exists between myself and the defendant, _____, the tenant-lessee, as evidenced by the following:(Attach lease papers or other written proof.)

Grounds for this ejectment are one or more of the following:

- The tenant fails or refuses to pay the rent when due or when demanded in the amount of \$ _____ ; or
- The term of tenancy or occupancy has ended; or
- The terms or conditions of the lease have been violated as follows:

Sworn to before me
this _____ day of _____, 20__.

Magistrate or Notary Public for South Carolina

My Commission expires _____

PLAINTIFF (or his attorney/agent)

Address

City/State/Zip

Phone Number

