

FILING AN APPEAL OF AN EVICTION FROM DISTRICT COURT TO SUPERIOR COURT

FOR USE ONLY IN PROVIDENCE COUNTY

This handbook has been prepared for you by

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FILING AN APPEAL OF AN EVICTION FROM DISTRICT COURT TO SUPERIOR COURT (FOR USE IN PROVIDENCE COUNTY ONLY)

This packet contains the forms to file an appeal of an eviction from the District Court to the Superior Court, along with instructions on how to complete the forms. The packet includes the following forms:

- **Notice of Appeal**
- **Verified Motion To Proceed In Forma Pauperis**
- **Superior Court Civil Case Cover Sheet**

You must fill out these forms yourself, and follow these instructions exactly. **If you do not file all the forms and follow these instructions you will probably be put out of your apartment in the next few days, and your belongings will be placed into storage.**

1. You have **five (5) days from the date the judge evicted you** to file your appeal, **not five business days**. For example, if your case was heard on a Wednesday, you must file your appeal by the following Monday. If the fifth day falls on a day when the Court is closed (such as a weekend or a holiday), you will have until the following business day to file your appeal. If you fail to file the appeal on time, the landlord will have the right to get an execution. An execution is a paper that allows a sheriff or constable to remove you and your possessions from the premises and place them in storage. The law says you will have to pay both the moving and the storage costs in order to retrieve your possessions.
2. You need to file your appeal at the District Court Clerk's office where the eviction case was heard. You must file your appeal in person. The Clerk's Office is open weekdays from 8:30 AM to 1:00 PM and from 2:00 PM to 3:30 PM. The Clerk's Office will not accept your appeal after it has closed, even if it is the last day for you to appeal. The telephone number for the District Court Clerk in Providence is 458-5400.
3. The appeals packet you have been given contains three forms: a **Notice of Appeal**, a **Superior Court Civil Case Cover Sheet**, and a request to have the filing fee waived ("**Verified Motion to Proceed in Forma Pauperis.**") You will have to fill out these forms yourself. Sample forms have been included in this packet. **The Clerk will not accept your appeal if the forms are not filled out completely.** Make sure you sign each form where indicated. On all the forms you should list the parties names (plaintiff-landlord, defendant-tenant) just as they appear on the court papers you received. Also, make sure you have the correct case number or your appeal might get lost.
4. Follow these instructions for the individual forms. On the **Notice of Appeal** form you must fill in the date that the court evicted you. Check with the clerk's office if you are unsure of the day. The boxes on the **Superior Court Civil Case Cover Sheet** have been already checked off, except the box regarding a jury trial. Most eviction cases are heard without a jury. If you want a jury trial, check "jury"; otherwise, check "non-jury." If you do not want to ask the court to waive the appeal fee skip to step 6.

5. If you want to ask the court to have the filing fee waived, you must fill out the **Verified Motion to Proceed In Forma Pauperis** form. On the form you must list all of your income and expenses, and tell the court what defense(s) you are raising on appeal. **Just needing more time to find an apartment is not a defense to an eviction.** To indicate your defense check off the box that most closely fits your situation. Before going to court to have the fee waived you must first notify your landlord's attorney (or just your landlord if no attorney is involved) that you are making such a request. Be absolutely certain that you have signed each page of the packet and that your signature on the "Verified Motion to Proceed in Forma Pauperis" has been properly notarized. You should be able to have the documents notarized at the Clerk's office.
6. Take the completed appeals forms to the District Court Clerk's Office where your trial was conducted. If the trial took place in Providence, the Clerk's Office is located on the second floor of the Garrahy Judicial Complex. This building is located at One Dorrance Plaza in Providence.
7. Inform the clerk that you wish to file an appeal. If you want the filing fee waived tell the clerk, and the clerk will direct you to see a judge to hear your request. **If the judge approves your request for a fee waiver, you MUST return the completed appeals forms to the Clerk's Office so that the appeal may be properly filed.** If the judge denies your request you can still appeal, but you will have to pay an appeal fee. You pay the fee at the clerk's office. The amount of the fee will depend on if your landlord had an attorney, and how much it cost your landlord to serve you the eviction.
8. After you pay the appeal fee (or have the fee waived) you must file with the clerk the **Notice of Appeal** document in your appeal packet. You must send a copy of the **Notice of Appeal** to your landlord's attorney, or directly to your landlord if no attorney is involved.
9. You will receive all other notices concerning your appeal from the Superior Court. **If you do not receive any notice from the Superior Court in two weeks time, you should contact the case scheduling office to find out if a court date has been scheduled.** In Providence County, the phone number of the case scheduling office is 222-3602. The Providence County Superior Court is located at 250 Benefit Street, Providence. The Clerk's office is on the 5th Floor. You **MUST** appear in the Superior Court on the dates and at the times specified, or you will lose your appeal by default.
10. After you file your appeal, you **MUST** pay your rent to your landlord on or before the day it normally becomes due. Also, you must continue to pay your rent on or before the due date until your appeal is heard. For example, if you file an appeal on the 15th of the month and your rent is due on the first of the month, you must pay your rent by the first day of every month after you file your appeal. Similarly, if you pay your rent weekly, you must pay by the day of the week you normally pay every week until your appeal is heard. **If you pay the rent even one day late, your landlord will have the right to ask the Superior Court to dismiss your appeal.**
11. If you lose your appeal or if your appeal is dismissed, the landlord must wait 20 days to get an execution. The 20 day period starts from the date the Superior Court orders you evicted. An execution permits the sheriff to remove you and your possessions from your premises and place the possessions in storage. The law says that **YOU** will have to pay the moving and storage fees before you will be able to recover your possessions.

STATE OF RHODE ISLAND
PROVIDENCE, SC

DISTRICT COURT
SIXTH DIVISION

_____)
Plaintiff(s))
V.)
_____)
Defendant(s))

C.A. No. ____ - _____

NOTICE OF APPEAL

I / We , _____, hereby appeal from the judgment of the District Court entered on _____, 20__.

CERTIFICATE OF SERVICE

I / We hereby certify that on this _____ day of _____, 20__ I / we sent a copy of this Notice of Appeal by first-class mail, postage prepaid to _____ at _____.

STATE OF RHODE ISLAND
PROVIDENCE, SC

DISTRICT COURT
SIXTH DIVISION

_____)
Plaintiff(s))
)
V.)
)
Defendant(s))

C.A. No. ____-_____

VERIFIED MOTION TO PROCEED IN FORMA PAUPERIS

Defendant(s) (hereafter referred to as Defendant and throughout in the singular) hereby move this Court to waive the appeal fee in this action on the ground that Defendant is indigent and has no funds out of which to pay said fee.

Defendant states that there are ____ people in the family, and Defendant's sole source of income is _____ in the amount of \$ _____ per month.

Defendant states that this income is used on basic necessities for the family as follows:

Rent:	\$
Utilities:	\$
Food:	\$
Clothing:	\$
Medical:	\$
Transportation:	\$
Diapers:	\$
Household supplies:	\$
Other*:	\$

*Explain: _____

TOTAL MONTHLY EXPENSES: \$_____

Defendant states that no one in the family has savings or cash reserves with which to pay the appeal fee.

Defendant states that the family has a meritorious defense or counterclaim to assert on appeal as follows:

- The complaint against me is untrue or fails to state the following facts:
- I offered rent but my landlord refused it. I am still able and willing to pay the rent.
- I have a defense for nonpayment because my landlord has failed to maintain the premises in a fit and habitable condition.
- My rent has not been paid, but I have a legally justifiable defense for not paying: _____
_____.
- I have a written lease which does not expire until: _____.
- I have not received the required notice from the landlord before this complaint was served on me.
- The landlord is trying to evict me because I have exercised my legal rights by calling code enforcement officials or by taking the following protected action: _____
_____.
- I have other defenses as follows: _____
_____.
- I have a counterclaim against my landlord because: _____
_____.

On _____, 20____, Defendant contacted/attempted to contact Plaintiff at _____ to inform him/her that this motion to proceed *in forma pauperis* would be heard on the ___ day of _____, 20___ at _____ AM / PM at the Sixth Division District Court, One Dorrance Plaza, Providence, RI.

WHEREFORE, Defendant requests that the Court order that Defendant may file the appeal without payment of the appeal fee.

Defendant

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

Notary Public

ORDER

It is hereby ORDERED that the Defendant(s) may file the appeal without payment of the appeal fee.

ENTER:

PER ORDER:

District Court Judge

Clerk

Date



STATE OF RHODE ISLAND SUPERIOR COURT

CIVIL CASE COVER SHEET

Case # (Filled in by Clerk's Office)

This form must be filed with each original document that commences a civil proceeding in the Clerk's Office (R.P.3.10). If the case is a District Court appeal, the form must be filed with the appeal in the District Court and will be transferred with other documents to the Superior Court.

PLAINTIFFS:

DEFENDANTS:

NATURE OF PROCEEDING — Check the applicable case type under the main categories listed below. (Check One Only)

District Court Appeal yes (Check type below)

CIVIL ACTIONS

- AGA Agency appeal
ALA Alienation of affection
ANT Anti-trust
ASB Assault and battery
BKA Book account
CLA Common law assignment
CLL Common law lien
CON Contract
CNV Conversion
CRC Criminal conversation
CIC Criminal inj compensation
DOJ Debt on judgment
DTP Deceptive trade practice
DEJ Declaratory judgment

- DPC Denial of probate claim
EXT Excessive tax
INR Injunctive relief
IPL Interpleader
LIB Libel/slander
MLE Malpractice/legal
MME Malpractice/medical
MOT Malpractice/other
WOM Mandamus, writ of
PRT Partition
PER Personal injury
IDV Personal inj/property dam-vehicle
PIV Personal injury-vehicle
PRL Product liability

- PRN Promissory note
PDM Property damage
PDV Property damage-vehicle
RLP Real property
RIC Reinstate charter
DIN Recovery of damages/insurance
ROF Recovery of funds
WOR Replevin, writ of
SPP Specific performance
TCO Title clearing (other than tax title)
TAE Trespass and ejectment
TRA Trustee/accounting
TCT Trustee appt convey title
UNM Uninsured motorist
WRD Wrongful death

Other than above (specify type):

MISCELLANEOUS PETITIONS

- ARA Arbitration award
CAR Arbitration/confirm
RTA Arbitration/referral
VAR Arbitration/vacate
AOD Assessment of damages
CND Condemnation
CFC Confirm compromise
DOC Dissolution of corp.
EDP End partnership
FRR Foreclosure of right of redemption

- TLF Foreclosure tax lien
FOC Forfeiture of charter
GJI Grand Jury Investigation
HAC Habeas corpus
MAW Material witness
MEL Mechanics lien
OSW Out of state witness
PFS Perform surgery
PFC Petition for constable
PTE Petition to expunge

- PFI Petition for immunity
PIN Pet for inventory (wire tap)
PFR Petition for review
PTD Pet to take deposition
PCR Post conviction relief
REC Receivership
RSA Rule 5A petition
TCL Title clearing (tax title)
AOT Trustee/appointment of
DOT Trustee/declination of
AOS Trustee/successor

Other than above (specify type):

PROBATE APPEALS

- WIL Will
TRS Trust
GRD Guardianship
NAC Name change

Other than above (specify type):

Is this a case that may require a trial for resolution? yes no If yes: jury or non-jury

(attorney name)

(date)

pro se

SAMPLE

STATE OF RHODE ISLAND
PROVIDENCE, SC

DISTRICT COURT
SIXTH DIVISION

Landlord's name Plaintiff(s))
V.)
Your name Defendant(s))

C.A. No. ___-_____
Get case number from Clerk

NOTICE OF APPEAL

Circle one
↓
I / We, write your name(s), hereby appeal from the judgment of the District Court
entered on month, day, 20__.

Sign your name, print name and address

CERTIFICATE OF SERVICE

Circle one
↓
I / We hereby certify that on this ___ day of month, 20__ I / we sent a
copy of this Notice of Appeal by first-class mail, postage prepaid to landlord's name or
at landlord's / landlord's attorney's address.

landlord's
attorney's
name

Sign your name

Sample

STATE OF RHODE ISLAND
PROVIDENCE, SC

DISTRICT COURT
SIXTH DIVISION

Landlord's name Plaintiff(s))
v.)
Your name Defendant(s))

C.A. No. ____ - ____
Get case number from clerk

VERIFIED MOTION TO PROCEED IN FORMA PAUPERIS

Defendant(s) (hereafter referred to as Defendant and throughout in the singular) hereby move this Court to waive the appeal fee in this action on the ground that Defendant is indigent and has no funds out of which to pay said fee.

Defendant states that there are ____ people in the family, and Defendant's sole source of income is _____ in the amount of \$ _____ per month.

↳ examples: FIP, SSI, Social Security, wages

Defendant states that this income is used on basic necessities for the family as follows:

Rent:	\$
Utilities:	\$
Food:	\$
Clothing:	\$
Medical:	\$
Transportation:	\$
Diapers:	\$
Household supplies:	\$
Other*:	\$

*Explain: _____

TOTAL MONTHLY EXPENSES: \$ _____

Defendant states that no one in the family has savings or cash reserves with which to pay the appeal fee.

SAMPLE

Defendant states that the family has a meritorious defense or counterclaim to assert on appeal as follows:

Check
at least
one
box

- The complaint against me is untrue or fails to state the following facts:
- I offered rent but my landlord refused it. I am still able and willing to pay the rent.
- I have a defense for nonpayment because my landlord has failed to maintain the premises in a fit and habitable condition.
- My rent has not been paid, but I have a legally justifiable defense for not paying: _____
- I have a written lease which does not expire until: _____
- I have not received the required notice from the landlord before this complaint was served on me.
- The landlord is trying to evict me because I have exercised my legal rights by calling code enforcement officials or by taking the following protected action: _____
- I have other defenses as follows: _____
- I have a counterclaim against my landlord because: _____

On Month day, 20____, Defendant contacted/attempted to contact Plaintiff at phone number of landlord or landlord's attorney to inform him/her that this motion to proceed *in forma pauperis* would be heard on the ____ day of month, 20__ at ____ AM / PM at the Sixth Division District Court, One Dorrance Plaza, Providence, RI.

↑
circle one

SAMPLE

WHEREFORE, Defendant requests that the Court order that Defendant may file the appeal without payment of the appeal fee. ■

Sign your name, print your
name and address

Defendant

Notary fills this out Sworn to and subscribed before me on this ____ day of _____, 20__.

Notary Public

Judge fills this out

ORDER

It is hereby ORDERED that the Defendant(s) may file the appeal without payment of the appeal fee.

ENTER:

PER ORDER:

District Court Judge

Clerk



STATE OF RHODE ISLAND SUPERIOR COURT

SAMPLE

CIVIL CASE COVER SHEET

Case # (Filled in by Clerk's Office)

This form must be filed with each original document that commences a civil proceeding in the Clerk's Office (R.P.3.10). If the case is a District Court appeal, the form must be filed with the appeal in the District Court and will be transferred with other documents to the Superior Court.

PLAINTIFFS:

Landlord's Name

DEFENDANTS:

Your Name

NATURE OF PROCEEDING — Check the applicable case type under the main categories listed below. (Check One Only)

District Court Appeal [checked] yes (Check type below)

CIVIL ACTIONS

- AG Agency appeal, ALA Alienation of affection, ANT Anti-trust, ASB Assault and battery, BKA Book account, CLA Common law assignment, CLL Common law lien, CON Contract, CNV Conversion, CRC Criminal conversation, CIC Criminal inj compensation, DOJ Debt on judgment, DTP Deceptive trade practice, DEJ Declaratory judgment, DPC Denial of probate claim, EXT Excessive tax, INR Injunctive relief, IPL Interpleader, LIB Libel/slander, MLE Malpractice/legal, MME Malpractice/medical, MOT Malpractice/other, WOM Mandamus, writ of, PRT Partition, PER Personal injury, IDV Personal inj/property dam-vehicle, PIV Personal injury-vehicle, PRL Product liability, PRN Promissory note, PDM Property damage, PDV Property damage-vehicle, RLP Real property, RIC Reinstate charter, DIN Recovery of damages/insurance, ROF Recovery of funds, WOR Replevin, writ of, SPP Specific performance, TCO Title clearing (other than tax title), TAE Trespass and ejection, TRA Trustee/accounting, TCT Trustee appt convey title, UNM Uninsured motorist, WRD Wrongful death

Other than above (specify type):

MISCELLANEOUS PETITIONS

- ARA Arbitration award, CAR Arbitration/confirm, RTA Arbitration/referral, VAR Arbitration/vacate, AOD Assessment of damages, CND Condemnation, CFC Confirm compromise, DOC Dissolution of corp., EDP End partnership, FRR Forclosure of right of redemption, TLF Foreclosure tax lien, FOC Forfeiture of charter, GJI Grand Jury Investigation, HAC Habeas corpus, MAW Material witness, MEL Mechanics lien, OSW Out of state witness, PFS Perform surgery, PFC Petition for constable, PTE Petition to expunge, PFI Petition for immunity, PIN Pet for inventory (wire tap), PFR Petition for review, PTD Pet to take deposition, PCR Post conviction relief, REC Receivership, RSA Rule 5A petition, TCL Title clearing (tax title), AOT Trustee/appointment of, DOT Trustee/declination of, AOS Trustee/successor

Other than above (specify type):

PROBATE APPEALS

- WIL Will, TRS Trust, GRD Guardianship, NAC Name change

Other than above (specify type):

Is this a case that may require a trial for resolution? [checked] yes [] no If yes: [] jury or [] non-jury

Choose only

(attorney name)

[checked] pro se Print Your Name

(date) - fill in