

INSTRUCTION 16-12 TENANT REPAIRS

You Must Read Prior to Filing:

- When you represent yourself in a court case you are held to the same standard as an attorney.
- Your preparation, paperwork and your conduct at all hearings and/or trial must comply with court rules and orders.
- Lack of legal knowledge may cause you to make serious errors in handling your case.
- These instructions are not a substitute for legal advice.
- The laws and court rules are complex and following these instructions will not guarantee that your rights are protected or that you will be satisfied with the result.
- You should always talk to a lawyer about your legal problems before filing any legal paperwork.
- Even if you do not hire a lawyer to appear in your case, a lawyer can give you information about your rights.

If you choose not to represent yourself you can contact the Idaho State Bar Lawyer Referral Service at (208-334-4500) or online at www.idaho.gov/isb for a referral to a licensed attorney. You can get general information on landlord/tenant law on-line at <http://www3.state.id.us/cgi-bin/newidst?sctid=550200014.K>.

Important:

- This Complaint is used to file an action against your landlord asking that the landlord make necessary repairs.
- The repairs must be vital to health or safety including: reasonable water-proofing and weather protection, electrical, plumbing, heating, ventilation, cooling, sanitation facilities, installation of a smoke detector, and other hazardous conditions to health or safety at the rental property. (If you believe hazardous conditions have caused serious health effects you should contact an attorney at Idaho Legal Aid Services (208-336-8980).)
- The Plaintiff of the action must be the renter of the rental property and must sign the Complaint.
- The Defendant of the action must be the owner of the rental property.
- As the renter of the property you can represent yourself or you can be represented by an attorney.

You will be preparing the following forms:

- Affidavit of Non-Military Service (CAO 16-7A)
- Three-Day Notice for Repairs (CAO 16-10)
- Affidavit Service Notice for Repairs (CAO 16-11)

- Complaint for Specific Performance (CAO 16-12)
- Summons for Specific Performance (CAO 16-13)
- Affidavit Serve Summons Complaint (CAO 16-14)
- Order on Complaint for Specific Performance (CAO 16-16)

Note: Fill in the forms by typing or by printing neatly and legibly in black ink. **Always keep a copy of the completed forms for your records. Be sure to take your copies with you when you go to court.**

Complete the following steps in order.

Step 1.

- Three-Day Notice for Repairs (CAO 16-10)
 - Fill in the Landlord(s) Name.
 - Fill in the address the property is located at.
 - Check the box next to the repairs you request. Detail the specific repair needed (i.e. electrical wires are hanging out of walls).
 - Date and Sign (This document must be signed by the tenant or the sub-tenant of the rental property.)
 - Fill in the address of the rental property.
 - Make a copy for the landlord and one for yourself.
 - Serve the Notice for Repairs to the Landlord.

Note: When counting the 3 days do **not** count the day you deliver the notice, and do **not** count the last day if it is a holiday.

Step 2.

- Serve the Notice for Repairs on the landlord using one of the following ways:
 - Deliver the Notice for Repairs to the landlord or landlord's agent (Property Manager or Property Management Company) personally; **or**
 - If the landlord or agent cannot be found, either leave the Notice for Repairs with an employee at the landlord's regular place of business **or**,
 - If no employee can be found there, mail it to the landlord or landlord's agent.

Step 3.

- Affidavit Service Notice for Repairs (CAO 16-11)
 - After you have served the Notice for Repairs: in the first two blanks fill in the name of the county where the property is located.

- Leave the date blank.
- Fill in the name of the landlord or the landlord's agent.
- Skip down to the blank for "mailing address" and fill in the mailing address for the landlord in two places.
- Indicate on the Affidavit of Service how you served the landlord.
- Locate a Notary Public.
- Sign the Affidavit of Service in front of the Notary and have your signature Notarized.
- Make a copy of the Affidavit of Service for your Records.

Note: Complete the following steps only if the landlord (Defendant) has not repaired the rental property within the 3 day waiting period.

Step 4.

- Complaint for Specific Performance (CAO 16-12)
 - On the first page in the upper left corner, fill in your full legal name, mailing address and telephone number.
 - The Court Heading. Fill in the county and judicial district (for example, "In the District Court of the Fourth Judicial District, in and for the County of Ada").
 - The Case Caption. Fill in your full legal name (as the tenant of the property) on the line above "Plaintiff" and the landlord's full legal name on the line above "Defendant".
 - The Case Number. The case number will be assigned by court personnel when you file the Complaint; thereafter you will fill in the Case Number.

Note: The Court Heading, Case Caption and Case Number will be the same on all other documents you prepare for this case.

- In paragraph 1 write in the complete residential address of the rental property (street, house/apartment number, city, state).
- In paragraph 3 check which boxes apply and describe the specific repair to be made. If you have written documentation of the problem(s), you can make copies, label each as a specific Exhibit (C, D, E, etc.) and attach the copies to the Complaint.
- In paragraph 6, check one of the boxes to indicate Defendant's military standing.
- Locate a Notary.
- Sign and date the Complaint in front of the Notary and have your signature Notarized.
- Make a copy for the Defendant and a copy for yourself.

Step 5.

- Summons for Specific Performance (CAO 16-13)

- On the first page in the upper left corner, fill in your full legal name, mailing address and telephone number.
- Fill in the Court Heading and Caption exactly like you did in the Complaint.
- Leave the date and time blank for now.
- Fill in the county and the street address of the courthouse where you are filing the action.
- Make additional copies, one for yourself and one for each named Defendant.

Step 6.

- Affidavit of Non-Military Service (CAO 16-7A)
 - On the first page in the upper left corner, fill in your full legal name, mailing address and telephone number.
 - Fill in the Court Heading and Caption exactly like you did in the Complaint.
 - Leave the date and time blank for now.
 - Fill in the county and the street address of the courthouse where you are filing the action.
 - Make additional copies, one for yourself and one for the named Defendant.
 - Locate a Notary.
 - Sign and date the Affidavit in front of the Notary and have your signature notarized.
 - Make a copy for the landlord and a copy for yourself.

Step 7.

- Organize your documents for filing by placing the copies behind each original (include the Notice for Repairs and Affidavit of Service of the Notice for Repairs).

Step 8.

- File the Complaint and have the Summons issued.
 - Go to the window in the Court Clerk's Office.
 - Ask the Clerk to file the Complaint, issue the Summons and set a hearing date.
 - Give the Clerk the following:
 - Filing Fee (\$62 as of 7/1/2005), payable in cash or money order, not by personal check
 - Complaint and **all** copies
 - Summons and **all** copies

Note: After the court clerk gives you the date and time for hearing, be sure each copy of the Summons has the date and time of the hearing filled in.

Step 9.

- Affidavit Service Summons Complaint (CAO 16-14) (Have copies of the Complaint and Summons delivered by someone other than yourself to each Defendant.)

IMPORTANT!

- The Defendant must be served personally with a copy of the Complaint and Summons at least **five days** (not counting weekends and holidays) **before** the trial date shown on the Summons.
- Service can be done by a professional process server (such as County Sheriff) or other competent person over 18 years old who is not a party to the case.

Note: You cannot serve the Complaint and Summons on a Defendant.

Note: The person who serves a Defendant will complete the Affidavit of Service of the Complaint and Summons, which must be signed in front of a Notary.

- The original Affidavit of Service should be returned to you after service is completed.
- Make a copy for your records.
- File the original Affidavit of Service and the original Summons with the Court. (This can be done at the trial if you don't have time before the trial.)

Note: The person who serves a Defendant will complete the Affidavit of Service of the Complaint and Summons, which must be signed in front of a Notary.

Note: If service is not done at least five days prior to the trial date, you must have another Summons issued with another trial date set and serve that Summons. If the date must be changed you will need to prepare another Summons and take it to the Court Clerk's office so it can be issued.

Note: If the landlord makes the needed repairs or you reach an agreement and the trial becomes unnecessary, notify the Court Clerk so the trial can be removed from the judge's calendar.

Step 10.

- Order on Complaint for Specific Performance (CAO 16-16)
 - On the first page in the upper left corner, fill in your full legal name, mailing address and telephone number.
 - Fill in the Court Heading, Caption and Case Number.
 - Leave the date blank.

- Check the box indicating that you appeared at trial but do not check the box by Defendant (the judge's clerk or the judge will do this).
- Leave the remainder of the form blank. The judge and Court Clerk will complete the Order.
- Bring a postage paid envelope for the Defendant.

Note: Because you may not know if the Defendant will be represented by an attorney at the trial, do not address the envelope until the after of the trial.

Note: Take your completed documents to the Court Clerk at least a day before the hearing if at all possible.

Step 11.

- The Trial.
 - As the tenant of the rental property you must attend the court trial.
 - If you have not already filed them, you will need to hand the judge the Affidavit Service Summons Complaint and the original Summons.
 - You will also need to hand the judge the Order on Complaint for Specific Performance form.
 - You will need at least two copies of the Order on Complaint for Specific Performance, one for yourself and one for the Defendant.
- At the trial you must establish:
 - A Complaint and Summons were served on the Defendant.
 - You, the Plaintiff, are the tenant of the rental property described in the Complaint.
 - The Defendant is the owner of the rental property.
 - Defendant failed to repair your rental property.
 - A Notice for Repair for the rented property was served on the Defendant at least 3 days before you filed your Complaint.
 - The Defendant did not repair the property in the allotted time.

Guidelines for Courtroom Conduct

1. Be on time for your trial. Allow extra time to find parking.
2. Dress neatly.
3. No food or drinks are allowed in the courtroom.
4. It is not advisable to bring your children. Ask someone to watch them for you.
5. Report to the courtroom you are assigned to.
6. Review your paperwork before the trial. Be familiar with your papers. You may use written notes or an outline during the trial. Stick to the facts. Do not ramble when offering evidence to support your side of the story.
7. When the judge calls your case, stand up to let the judge know you are in the courtroom.

The judge will tell you to come forward. If the Defendant does not come to court, the judge may enter your Order without taking any testimony, or will ask you to call your first witness. You can be your first and only witness.

8. If the Defendant comes to court, the judge will ask you and the Defendant to make an opening statement. This should be a brief statement that tells the judge what you are asking for. You can refer to your proposed Notice for Eviction and the Complaint you filed. You go first because you filed the case, followed by the Defendant.
9. After opening statements, you call your witnesses to testify (you can call yourself as a witness). After each witness has testified, each Defendant may ask questions of the witness (cross-examination). You may then ask follow-up questions on redirect. The Defendant may have their own witnesses including themselves.
10. When the judge asks you questions, be direct with your answers. If you don't know an answer admit that you do not know the answer. Do not be afraid to admit that you do not know something.
11. Take your time when answering questions. Give the question as much thought as you need to understand it and formulate your answer. You may be ordered to explain your answer.
12. Be respectful and courteous with the court. Always address the judge as "Your Honor". Do not interrupt. If something needs to be clarified, wait until it is your turn to speak or ask to speak again.
13. Be sincere. Do not be sarcastic or argue with the court or the other party. Stay calm.
14. If you are stating dates, times and places, etc. be exact. If you cannot be exact, make it understood that you are only estimating.
15. Speak clearly and distinctly, using words, phrases and terminology that you understand. Keep your hands away from your mouth and speak loudly enough so the judge can easily hear you.
16. Remain polite to the judge after the ruling. The judge must sign an order before it becomes effective. The judge may tell you to make changes to the Order of Repairs and then bring the Order back for the judge to sign.
17. You may bring a friend for moral support. That person must remain silent.
18. Avoid laughing or talking about the case in the hallway or restrooms of the courthouse in such a way that the other party and counsel and witnesses for the other party may see you or hear you.

Note: These are the rules that apply to attorneys and you must follow them as well.

- After Trial.
 - If the judge rules in your favor, he/she will sign the Order on Complaint for Specific Performance.
 - If a Defendant comes to trial the judge may ask for their current mailing address and fill it in.
 - If a Defendant is represented by an attorney you will need to fill in the attorney's name and mailing address on the Clerk's Certificate of Service portion of the Order. Copy the address information onto each copy.

- Then take the copies to the Court Clerk's office.
- The Court Clerk will stamp the judge's name on the copies and date stamp the Order and all copies.
- The Court Clerk will certify as many of the copies as you request and pay for. (There is no charge for an uncertified copy, if you provide the copy.) The Court Clerk will hand you all of the copies.
- The Defendant's copy will be mailed in the envelope you provide if the Defendant did not show up.
- If the Defendant is present, the Court Clerk will give the Defendant a conformed copy of the Order on Complaint for Specific Performance.

ALWAYS KEEP A COPY OF THE COMPLETED FORMS FOR YOUR RECORDS!