

TENANT'S SUMMARY PROCEEDINGS MANUAL

For Courts Outside New York City



FORMS PACKET

The forms in this packet are free. You should read the “Tenant’s Summary Proceedings Manual” completely before filling out these forms and submitting them to the court.

New York State Unified Court System

DIVISION OF COURT OPERATIONS
OFFICE OF TRIAL COURT OPERATIONS

SEPTEMBER 2007

FORMS PACKET

TENANT’S SUMMARY PROCEEDINGS MANUAL For Courts Outside New York City

The forms contained in this packet are free and should be used only by tenants in Summary Proceedings in courts outside of New York City. You should read the “Tenant’s Summary Proceedings Manual” before completing any of these forms.

FORMS AND INSTRUCTIONS	
Tenant’s Answer.....	LT-T-TA
Order to Show Cause.....	LT-T-OSC
Affidavit in Support of Order to Show Cause.....	LT-T-AIS
Affidavit of Service of Order to Show Cause & Affidavit in Support.	LT-T-ASO

If you feel you need legal advice at any time during your case, talk with a lawyer. If you cannot afford a lawyer, or are unsure how to find one, these resources can help you:

- Go to www.lawhelp.org/ny/;
- Call the New York State Bar Association Lawyer Referral Service (toll free) at 1-800-342-3661;
- Go to www.nycourthelp.gov and click on “Lawyers”;
- Go to www.nycourts.gov/attorneys/nybarassociations.shtml;
- Ask at any courthouse about lawyer referral services.

Instructions for Preparing: TENANT'S ANSWER

Find the number on the form for each instruction below.

Type or print in black ink only.

1. Write the name of the court where the case is being heard.
2. Write the name of the county where the court is located.
3. Write the Index Number or Docket Number that is on the Landlord's court papers.
4. Write the name and address of the property owner.
5. Write your name and address.
6. Write the property address.
7. Put a check mark(s) [✓] next to your defense(s). *You may check more than one.*
8. Write the date you are filling out the form.
9. Sign the form. Print your name below your signature.

STATE OF NEW YORK
CITY/DISTRICT/TOWN/VILLAGE COURT (1) _____
COUNTY OF (2) _____

(4) _____

(3) Index/Docket No. _____

Petitioner(s)/Landlord(s)

-against-

TENANT'S ANSWER

(5) _____

Respondent(s)/Tenant(s)

(6) _____

(7) **ANSWER**

_____ General Denial

SERVICE

_____ The Respondent did not receive a copy of the Petition and Notice of Petition.

The Respondent received the Petition and Notice of Petition, but service was not correct as required by law.

_____ The Respondent did not receive a Notice to Terminate (for Holdover Proceeding).

PARTIES

_____ The Respondent is identified improperly, by the wrong name, or is not identified on the Petition and Notice of Petition.

_____ The Petitioner is not the Landlord or Owner of the building.

RENT

_____ The Respondent was not asked, either orally or in writing, to pay the rent before the Petitioner started this proceeding.

_____ The Respondent tried to pay the rent, but the Petitioner refused to accept it.

_____ The monthly rent being requested is not the legal rent or the amount on the current lease.

_____ The Petitioner owes money to the Respondent because of a rent overcharge.

_____ The rent, or a portion of the rent, has already been paid to the Petitioner.

APARTMENT

_____ There are conditions in the apartment that need to be repaired and/or services that the Petitioner has not provided.

_____ The apartment is an illegal apartment.

OTHER

_____ Other defense / answer _____

(8) _____
Date

(9) _____
Signature

Print Name

Instructions for Preparing **Order to Show Cause**

Find the number on the form for each instruction below.

Type or print in black ink only.

1. Write the name of the court where your case is being heard.
2. Write the name of the county where the court is located.
3. Write the Index Number or Docket Number that is on the court papers that started the case.
4. Write the name of the petitioner (your landlord) the same way it is written on the court papers that started the case.
5. Write your name (you are the respondent/tenant) the same way it is written on the court papers that started the case.
6. Write your name the same way it is written on the court papers that started the case. (You are the person who is requesting the Order to Show Cause.)
7. You will be filling out a form called an Affidavit that will be given to the court with this Order to Show Cause. (The Affidavit form and instructions for filling it out follow the Order to Show Cause.) In # 7, write the date that you sign the Affidavit after you have filled it out. It is best to fill out and sign the Affidavit form on the same date that you fill out the Order to Show Cause.

Do not write anything below line 7. The court will complete the remainder of the form. Go to the next form and instructions to complete the affidavit.

STATE OF NEW YORK
CITY/DISTRICT/TOWN/VILLAGE COURT (1) _____
COUNTY OF (2) _____

(4) _____

(3) Index/Docket No. _____

Petitioner(s)/Landlord(s)

-against-

ORDER TO SHOW CAUSE

(5) _____

Respondent(s)/Tenant(s)

Upon the annexed affidavit of (6) _____, sworn to the (7) _____ day of _____, 20____.

LET the petitioner or petitioner's attorney SHOW CAUSE before one of the Judges of this Court, to be held at the (8) _____ Court located at (9) _____ in the County of (10) _____ State of New York, on the ____ day of _____, 20____, at ____ a.m./ p.m., or as soon thereafter as counsel can be heard, WHY an order should not be made vacating and setting aside the Judgment and Warrant of Eviction entered herein in favor of the petitioner and against the respondent, and dismissing the Petition or, in the alternative, restoring this case to the calendar upon the grounds set forth in the annexed affidavit, and why such other and further relief should not be granted as may be just and proper.

ORDERED, that pending the hearing and determination of this motion, LET all proceedings on the part of the petitioner, petitioner's attorney and agents, and any Sheriff, Marshal, Constable or other enforcement officer for the enforcement of said judgment and warrant of eviction be stayed.

ORDERED that the respondent deposit with the clerk the sum of \$_____ (cash, certified check or money order), said sum to be transmitted to the _____ pending further direction of the Court.

APPROPRIATE FISCAL AUTHORITY

SUFFICIENT CAUSE THEREFORE APPEARING, LET service of a copy of this order, together with the affidavit and any exhibits annexed hereto on the petitioner/ petitioner's attorney at: _____

by personal service/personal delivery/certified mail, return receipt requested, on or before the ____ day of _____, 20__ and upon the Sheriff, Marshal, Constable or other enforcement officer, by personal delivery on or before the ____ day of _____, 20__ be deemed sufficient. Proof of service of a copy of this order and its accompanying affidavits and exhibits must be filed with the Clerk of the Court BEFORE the above-scheduled return date of this Order to Show Cause.

ENTER:

DATE: _____

CITY/ DISTRICT/TOWN/VILLAGE COURT JUDGE/JUSTICE

Instructions for Preparing: Affidavit in Support of Order to Show Cause

Find the number on the form for each instruction below.

Type or print in black ink only.

- 1–5. Write the same information as in # 1–5 of the Order To Show Cause.
6. Write your address.
7. Write the county where you live.
8. Write your name.
9. Check if you are the tenant.
10. Do not fill in this box if you are the tenant.
11. Check the line before the word “Stipulation” if you and your landlord had entered into a written agreement about the eviction.
Check the line before the words “a Trial/Inquest” if the judge heard the case in court, either with you present or without you present.
Check the line in front of the word “Other” if some other action was taken by the court.
12. Explain why you want the judge to re-open the case. If you did not come to court on the day the case was heard, explain why.
13. Check if this is the first Order to Show Cause you are submitting in this case.
14. Check if you have previously submitted an Order to Show Cause in this case.
Give the date(s) of the previous Order(s) to Show Cause and explain any new facts that were not previously provided to the court that support this new motion.
15. If you have had a previous case with this landlord, write the Index # or Docket # of the case. Otherwise, leave this space blank.

THIS FORM MUST BE NOTARIZED. Leave the rest of this form blank until you are in the presence of a Notary Public.

16. The person who served the papers should sign here in the presence of a Notary Public.
17. The notary will complete the date and sign his/her name. The person who served the papers must sign and print his/her name in the presence of a Notary Public.

Important Notes:

- You must have the Order to Show Cause and this Affidavit served on your landlord. The person serving these court papers must fill out the form shown on the next page. (Affidavit of Service of Order to Show Cause and Affidavit In Support) and return it to you to give to the court.
- ***You may NOT serve these papers.*** The person serving the papers must be over 18 and must not be a named party on the case.

STATE OF NEW YORK
CITY/DISTRICT/TOWN/VILLAGE COURT (1) _____
COUNTY OF (2) _____

(4) _____

Petitioner(s)/Landlord(s)

-against-

(3) Index/Docket No. _____

**AFFIDAVIT IN SUPPORT OF
ORDER TO SHOW CAUSE**

(5) _____

Respondent(s)/Tenant(s)

(6) _____

State of New York, County of (7) _____

(8) _____, being duly sworn, deposes and says:

PARTY _____ (9) I am the tenant named as respondent in the above summary proceeding.

_____ (10) I am the person claiming possession to these premises and am the _____
of the tenant named above.

On the Date of Trial:

TRIAL _____ (11) Stipulation (a written agreement) was made between landlord and tenant.

_____ a Trial / Inquest was held before Judge _____

_____ Other _____

REASON FOR

APPLICATION (12) I make this application to Restore the Case to the Calendar because:

PRIOR _____ (13) I have not had a previous Order to Show Cause regarding this index number.

ORDER _____ (14) I have had a previous Order to Show Cause regarding this index number but am
making further application because (state any new facts that were not previously presented to
the court that support this motion):

PRIOR I have had a previous case with this landlord.

CASES (15) Earlier Index/Docket Numbers:

REQUEST I request that the case be restored to the calendar and that I be granted permission to serve
these papers on Petitioner.

(16) Sworn to me before this _____

(17)

day of _____, 20 _____

Signature of Respondent

Notary/Clerk

Print or Type Name

Instructions for Preparing

Affidavit of Service of Order to Show Cause and Affidavit in Support

Find the number on the form for each instruction below.

Type or print in black ink only.

- 1- 5. Write the same information as in # 1- 5 of the Order to Show Cause.
6. Write the name of the county where this Affidavit will be signed and sworn to.
7. Write the address of the property from which the landlord is trying to evict you.
8. Write the name of the person who is serving the Order to Show Cause.
9. Write the date that the Order to Show Cause was served.
10. Check [✓] the box that tells how the landlord was served with the Order to Show Cause.

If you select the first or second box, write the address where the papers were delivered.

11. Enter the information that describes the person who was served.
12. Write the name of the Marshal who also was served with the Order to Show Cause and Affidavit.
13. If the Marshal was personally served, write the name of the person in the Marshal's Office on whom the Order to Show Cause was served.
14. Enter the information that describes the person in the Marshal's Offices who was served.
15. If the papers were mailed to the Marshal, write the name of the Marshal and the address of the Marshal's Office to which the Order to Show Cause was mailed.

NOTE: THIS FORM MUST BE NOTARIZED.

LEAVE THE REST OF THIS FORM "BLANK" UNTIL YOU ARE IN THE PRESENCE OF THE NOTARY PUBLIC.

16. The person delivering the papers should sign here in the presence of a Notary Public. The notary will complete the date and sign his/her name.
17. The person serving the papers must sign here.

(4) _____

Petitioner(s)/Landlord(s)

(3) Index/Docket No. _____

-against-

**AFFIDAVIT OF SERVICE OF:
(1) ORDER TO SHOW CAUSE
(2) AFFIDAVIT IN SUPPORT OF ORDER
TO SHOW CAUSE**

(5) _____

Respondent(s)/Tenant(s)

State of New York, County of (6) _____: Address (7) : _____
_____ Apt. _____

(8) _____, being duly sworn, deposes and says:
I am over the age of eighteen and not a party to this action. On the (9) _____ day of _____, 20____
I served a copy of the Order to Show Cause and Affidavit in this matter on:

Known to me to be the Petitioner(s) by: (10)

Delivering a true copy to him/her/them at the following address:

Delivering a true copy to his/her/their attorney(s) or managing agent(s) at the following address:

_____ The person served is described as follows: (11)

Sex _____, Color of Skin _____, Hair Color _____, Approximate: Age _____, Weight _____, Height _____. Other identifying features _____

Mailing a copy, properly sealed and enclosed in a post-paid wrapper by Certified Mail, Return Receipt Requested, in a Post Office of the United State Postal Service within the State of New York, addressed to the petitioner (or his/her registered managing agent) at the address registered with the Department of Housing Preservation and Development.

AND ALSO SERVED ON THEM

By: Enforcement Officer (12) _____ by:

Delivering a copy to (13) _____, a person in the Marshal's Office.

The person served is described as follows: (14) Sex _____, Color of Skin _____, Hair Color _____, Approximate: Age _____, Weight _____, Height _____.

Other identifying features: _____

Mailing a copy, properly sealed and enclosed in a post-paid wrapper by Certified Mail, Return Receipt Requested, in a Post office of the United States Postal Service within the State of New York, addressed to:

(15) Marshal _____

(16) Sworn to me before this _____
day of _____, 20____

(17) _____
Signature of Person Serving Papers

Notary Public