

EVICITION RETURN/ANSWER DATE

(As of August 13, 2021)

For legal information purposes only. Seek the assistance of an attorney for legal advice.

What is a return/answer date?

- This is the first court hearing for a tenant to respond to the eviction filing brought by the landlord.
- The eviction filing is also known as a Complaint for Summary Possession.
- The date and time of the hearing can be found on the summons attached to the Complaint.

Does a tenant need to attend?

- Yes, the tenant should attend this hearing.
- While the tenant may also file a written answer with the court and not attend the hearing, attending the hearing ensures that the tenant and landlord are aware of the next steps in the process.

Does a landlord need to attend?

- Yes, the landlord needs to attend the hearing.

When can a landlord bring an eviction for non-payment of rent?

- Evictions will be phased in depending on how behind the tenant is on rent:
 - 4+ months behind on rent: Eviction may be filed August 7, 2021 to September 5, 2021
 - 3 months behind on rent: Eviction may be filed September 6 to November 5, 2021
 - 2 months behind on rent: Eviction may be filed November 6, 2021 to January 5, 2022
 - 1 month behind on rent: Eviction may be filed January 6 to August 6, 2022
- A landlord must also have provided at 15-day notice to tenants before filing for eviction which requires participation in mediation prior to filing for an eviction.
- If the landlord could not bring the action yet, the tenant should notify the judge.

What is the impact of the CDC eviction moratorium?

- If the tenant has provided the CDC eviction moratorium declaration to the landlord and the landlord still filed for eviction, the tenant should raise this with the court at the return hearing.

What will happen at the return/answer hearing?

- The judge will review the paperwork that the landlord filed and then engage in a discussion with the landlord and tenant if both are present.
- When the judge calls the case, the tenant can either agree to the eviction or enter a “general denial.”
- If the tenant is present, the judge may ask the tenant questions including: if they admit or agree with what the landlord has written in the Complaint; if the tenant agrees that they should be evicted; whether the tenant owes the rent; and/or when the tenant can move out.
- If the tenant is not present, the judge will likely enter a default judgment which allows the landlord to evict.

How should a tenant respond to the judge?

- The tenant must decide if they will agree to move out immediately or argue against their eviction.
- If the tenant desires to argue against their eviction, they will enter a “general denial.”
- If the tenant agrees with the Complaint, the judge will order a Writ of Possession that contains a specific time that the tenant must move by. That date might be immediately or a time in the very near future.

- If the tenant enters a general denial, the case will be set for a further hearing and possibly mediation.
- If there is anything that the tenant disagrees with or believes is not true, the tenant should let the judge know that they would like to enter a “general denial.”
- A tenant should review the paperwork for any errors or misstatements, including, but not limited to:
 - Miscalculation of the amount owed: there should be no rent increases from March 4, 2020 – August 6, 2021; no late fees of more than 8%; or any attorney fees included in the rent amount;
 - Misstatements by a landlord about participation in rent assistance or receiving rent assistance;
 - Misstatements by landlord about participation in mediation;
 - Misstatements by landlord about when notice was provided; or
 - Misstatements about the reason for the eviction
- If the eviction is for non-payment of rent and a rent assistance application is pending, the tenant should enter a “general denial” and let the court know about the pending application.

Will the landlord have an opportunity to respond to what the tenant says?

- Yes. The judge may allow the landlord to respond to determine what should be done next. However, if the tenant has entered a denial, the issue of whether the eviction should occur should not be decided until trial.
- The landlord may bring up claims that the tenant’s conduct presents a critical health and safety issue. If the landlord raised these concerns in their Complaint for Summary Possession, the judge may set a trial sooner.

What will a judge do?

- If a tenant admits or agrees to the paperwork filed by the landlord, the judge will likely order the eviction, and if damages (back rent, attorney fees, damages to the unit) are expected, another hearing may be scheduled to determine what the tenant may owe to the landlord.
- If a tenant denies the claims by the landlord by entering a general denial, the judge may do any of the following:
 - Require the landlord and tenant to go to mediation (even if mediation had previously occurred);
 - Ask if the landlord and tenant want a settlement conference where the judge oversees the discussion;
 - Order the parties to follow-up with rental assistance and schedule another hearing (called a pre-trial hearing or status conference);
 - Schedule a trial date.
- If a landlord has filed the non-payment case before allowed to, the judge will likely set another hearing date once the case is eligible to be filed. For example, if the landlord filed the case on September 7, 2021 where a tenant was only two months behind in rent, the judge will likely reschedule the hearing after November 6, 2021.
- If a 15-day notice was not provided to a tenant before filing, a judge may order the landlord to do so before hearing the case again.

What do I do if I need help or have questions?

- Tenants can contact Legal Aid for assistance at (808) 536-4302 (toll free at 1-800-499-4302), Monday through Friday, 9:00 am-11:30 am and 1:00 pm-3:30pm or apply on-line at www.legalaidhawaii.org.
- Landlords can call the Landlord Tenant Hotline at (808) 586-2634.
- The Honolulu District Court Access to Justice Room and the Self Help Centers can also provide legal assistance and information:
 - Oahu: Monday, Wednesday, Friday 9 am – 1 pm, (808) 452-1544
 - Hilo: Tuesday & Friday, 11:15 am – 12:45 pm, (808) 746-5363
 - Kona: Wednesday, 11 am – 1 pm, (808) 437-7557
 - Kauai: Monday & Thursday, 10 am – noon, (808) 698-7552; in-person services at court for eviction on Mondays from 8 am – noon
 - Maui County: Monday & Thursday, 10 am – 1 pm, (808) 707-7153