

**HOW TO PREPARE
FOR A
LANDLORD-TENANT
TRIAL**



Written by Hon. Magaret Cammer

**Civil Court of the City of New York
Hon. Fern A. Fisher, Administrative Judge
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INTRODUCTION

This booklet is meant to help you understand the general rules and procedures of a Housing Court trial. It does not discuss all the legal issues that may come up before the court in any particular trial. The purpose of the booklet is to give you general information to make it easier for you to understand how a trial works, how to conduct yourself during the trial and what rights you have after the trial is over.

Trials in Housing Court are usually heard by a Judge without a jury. The Judge can decide a case only upon legally admissible evidence. Therefore, it is up to you to present proper proof to the Judge to prove or disprove the claims that are being made in the lawsuit. Parties are expected to have all their evidence in Court on the day the case is scheduled for trial.

After the trial is over, the Judge will render a judgment. A judgment is an official written document issued by the Court determining the issues in the parties dispute.

EVIDENCE



Bring with you all evidence necessary to prove your claim or your defense. Anything that will help prove the facts in dispute should be brought to court. This includes written agreements, leases, receipts and photographs. Originals (not photocopies) may be required, if available. All **public documents must be certified** by the agency producing such documents. A certification is a statement that the documents are true copies of an agency's records. Someone at the agency should be able to tell you how to get the records certified.

Landlords should bring:

- original or certified copy of deed to the building
- the lease for the party you are suing, if there is a lease
- certified copies of registration statements (e.g., DHCR rent registration, multiple dwelling registration statement)
- record keeping book
- any other documents that are relevant to the claims you are making
- witnesses (e.g. a superintendent or mechanic who can testify as to attempts to gain access and/or attempts to repair conditions, if conditions are an issue)



EVIDENCE (CONTINUED)

Tenants should bring:

- rent receipts, checks or other proof of rent payments
- the lease for the apartment, if you have a lease
- photographs of any conditions you are claiming
- heat charts, if heat is an issue and you kept a record
- receipts or bills for any money you claim you spent
- any other documents that are relevant to your defense or to the claims you are making
- witnesses (e.g., a friend or neighbor who has seen a condition complained of, if conditions are an issue)



Sworn testimony, including your own, is evidence.

Any witness whose testimony is important to your case may testify in person before the Court. This can be someone who witnessed the events or someone whose special knowledge and experience make him or her an expert on the cost of the services or repairs that were provided or may be required. **A signed and notarized statement cannot be used in the place of live testimony and is not admissible as evidence.**

If you are unable to get a witness to appear voluntarily or need certain records from a government agency, you may apply to the Court for issuance of a **subpoena**. A subpoena is a legal document that commands the person named in the subpoena to appear in court to testify. A “subpoena duces tecum” is a legal document that directs someone, including a City agency, to produce in court a written document or record you need. For example, **Buildings Department, DHCR, Police, Fire Department and Department of Social Service records can be subpoenaed.** Either party may apply for a subpoena before the trial date. An expert witness may not be compelled to testify by subpoena, but you may pay the expert witness for coming to court to testify.



The Landlord-Tenant Clerk’s office has subpoena forms. After you have filled out the forms, the Clerk will present the subpoena to the Judge for the Judge’s signature. The Clerk will tell you how to serve the subpoena. The Clerk will also tell you whether a fee must be paid to the subpoenaed party and, if so, how much.

HOW A TRIAL IS CONDUCTED

Generally, the landlord presents his or her case first. After being sworn as a witness, the landlord or the landlord's managing agent will tell his or her version of the claims in the case.



The landlord may offer certain documents into evidence. When the landlord or the person on the landlord's behalf has finished testifying, the tenant has the right to ask questions. This is called **cross-examination**. Sometimes a Judge may ask some questions to clarify matters. Other witnesses can be presented in support of the landlord's claims, and they, too can be cross-examined by the tenant or may be asked questions by the Judge.

The tenant will then be sworn as a witness and tell his or her side of the story and present evidence. When the tenant has finished testifying, the landlord has the right to cross-examine the tenant. Sometimes a Judge may ask some questions to clarify matters. Other witnesses can be presented in support of the tenant's claims, and they, too, can be cross-examined by the landlord or may be asked questions by the Judge.

Parties to a lawsuit have a right to object to the introduction of evidence or the way a question is being asked or answered. The proper way to object is to say "**objection.**" The Judge may then ask what the basis for the objection is. If the Judge agrees with the objection, the Judge will say "**sustained**" and the evidence will not be admitted. If the Judge disagrees with the objection, the Judge will say "**overruled**" and the evidence will be admitted.

CONDUCT IN COURT

Parties to a lawsuit are expected to be courteous to each other and to the Court. Parties should **speak only to the Judge** and not to each other when making legal arguments. Do not get into an argument with the other side. **If you disagree with what the other side is saying, tell the Judge, not the other side.**



Do not interrupt someone who is speaking during the trial, unless you have an objection. Wait until the other side or the Judge is finished speaking and then say what you want to say.

A Judge is not allowed to have *ex parte* communications. An *ex parte* communication is a conversation or writing between a Judge and only one party to a lawsuit when the other side was not notified in advance that the communication would occur. Therefore, a party should not try to contact a Judge without the other side being given a chance to be present at the discussion.

SETTLEMENTS



It is sometimes better to settle a case than try it. **A settlement is a voluntary, binding agreement** that resolves the differences between the parties to a lawsuit. It is put in writing in a document that is sometimes called a **stipulation**. In a settlement you can help determine the outcome of a case. In a trial, only a Judge decides the outcome. However, no one can force you to settle a case. Also, **no case should be settled unless and until the settlement has been reviewed by a Judge and you understand the terms of the agreement.**

APPEALS

Parties have a **right to appeal** a Judge’s decision at the end of a case. A settlement cannot be appealed. There are strict time limits on the right to appeal. Appeals can be costly because there is a fee for filing the Notice of Appeal and for the transcript of the trial. The Court has the power to grant **Poor Person’s Relief**. Poor Person’s Relief is when the Court waives payment of certain court costs if the Court is satisfied that a party cannot afford to pay the costs.



The fact that a party files a Notice of Appeal does not mean that an eviction will take place. The party must also apply to a Judge for a **stay of eviction**. Often the Court will grant a stay only if a specific sum of money, usually the judgment amount, is deposited in Court.

Each Court has an Appeals Clerk who can give you information about how to apply for Poor Person’s Relief or ask to stay an eviction and how to file an appeal. Ask at the Landlord-Tenant Clerk’s Office where the Appeals Clerk is located.

NOTES

**ADDRESSES AND PUBLIC TRANSIT TRAVEL DIRECTIONS TO NEW YORK
CITY CIVIL COURT**

Bronx County

851 Grand Concourse
1118 Grand Concourse
4, B or D Train - To 167th Street

Harlem Community Court

170 East 121st Street
4, 5 or 6 Train - To 125th Street station; M101 or M98 bus to 121st Street;
M100 crosstown Bus to 3rd Avenue

New York County

111 Centre Street (75 Lafayette Street) (between White and Franklin Streets)
1 or 9 Train - To Franklin Street
4 or 5 Train - To Brooklyn Bridge
6 Train - To Canal Street
A, C, E, J, M, N, R or Z - To Canal Street Station

Kings County

141 Livingston Street
2, 3, 4, or 5 Train - To Borough Hall Station
A, C, or F Train - To Jay Street/Borough Hall Station
M, N, or R Train - To Lawrence Street/Metro Tech Station

Queens County - (Jamaica)

89-17 Sutphin Boulevard (at 89th Avenue)
E, F, or J Train - Sutphin Boulevard Station
IQ40, Q43 or Q44 Bus - To Sutphin Boulevard
Q9, Q24, Q30, Q31, Q54, Q56 - To Jamaica Avenue

Richmond County

927 Castleton Avenue (Corner of Bement Avenue)
At the Staten Island Ferry Bus Ramp take either:
S-44 Staten Island Mall Bus or **S-46 Castleton Avenue Bus**
Get off at the corner of Castleton Avenue and Bement Avenue
(About a 20 minute ride from the ferry bus ramp)

Civil Court Information Helpline: (646) 386-5700.
Further information on the Civil Court can be found at:
NYCourts.Gov/NYCHousing

