

# Eviction Show Cause Hearing Information

## 1. CHECK IN WITH THE EX PARTE DEPARTMENT COURTROOM CLERK

- ✓ Tell the Clerk your name and the name of the case you are appearing on.
- ✓ Make sure that your cell phone, pager, and hat are off.
- ✓ Leave all food and drink outside the courtroom and dispose of chewing gum.

## 2. AFTER CHECKING IN, CONSULT WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY THEN CONSULT WITH A PERSON FROM THE HOUSING JUSTICE PROJECT WHO WILL SCREEN YOU FOR ELIGIBILITY REGARDING THE PROGRAM'S FREE LEGAL ASSISTANCE.

- ✓ If the Housing Justice Project is unable to assist you, wait patiently inside the courtroom until your case name is called.

## 3. WHEN YOUR CASE IS CALLED, APPROACH THE BENCH.

## 4. ORDER OF PROCEEDING:

- ✓ **INTRODUCTIONS and OPENING STATEMENT.** After the parties and their witnesses introduce themselves to the judge, either party may give a brief Opening Statement which describes the issues in the case.
- ✓ **PRELIMINARY MOTION.** The judge may then make a decision about an issue in a case based on a preliminary motion by a party, such as jurisdiction or postponing the hearing.
- ✓ The **PLAINTIFF** or their attorney then presents their side of the case by the testimony of witnesses and/or other evidence. When the judge instructs, the Defendant can also ask questions of each plaintiff's witness.
- ✓ The **DEFENDANT** or their attorney then presents their side of the case by the testimony of witnesses and/or evidence. When the judge instructs, the Plaintiff can ask questions of each defendant's witness.
- ✓ **OBJECTIONS.** If there is a legal reason why the court should exclude any testimony or evidence, you may say, "Objection!" Everyone should stop speaking, and the judge will ask you the "basis" for your objection. The judge will then hear from the other party why the evidence should be admitted, and then will "rule on the objection."
- ✓ **CLOSING ARGUMENTS.** After each side is finished presenting their case, each party may summarize the reasons why the judge should rule in their favor.
- ✓ **RULING.** The judge makes an oral ruling, and the judge will sign a written court order. Each party should have a "proposed order" ready for the judge, which sets forth the ruling that they would like the judge to make.

## 5. HOW TO PRESENT EVIDENCE OTHER THAN TESTIMONY

- ✓ Evidence other than testimony may include: photographs, rental documents, receipts, copies of checks and money orders, tape recordings, letters, or pleadings.
- ✓ First, when you wish to submit evidence to the judge, a witness must first “authenticate it” by identifying what it is, its background, and its accuracy or truthfulness.
- ✓ Second, show the evidence to the opposing party or attorney. They may agree that the judge may consider the evidence, or they may object to the evidence.
- ✓ Third, the judge will hear any objections to the evidence, your response, and then rule on whether it shall be “admitted into evidence.” It will then be “admitted” or “refused.”

## 6. POSSIBLE DEFENSES THAT A TENANT (DEFENDANT) MAY OFFER:

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| Was not properly served with eviction Notice       | Landlord knows about and refuses to repair damages                |
| Summons and Complaint not served/defective         | Landlord has shut-off a utility, such as water                    |
| Landlord's action is retaliatory or discriminatory | Habitability problems such as rodents, waste or structural damage |
| Tenant has already moved out completely            | Tenant has paid rent and landlord accepted it                     |

## 7. AT THE CONCLUSION OF THE HEARING, THE JUDGE MAY RESOLVE YOUR CASE BY:

- ✓ Directing the Clerk to issue a Writ of Restitution, which directs the sheriff to evict you.
- ✓ Entering a judgment for the amount owing for rent, attorney's fees & court costs.
- ✓ Dismissing the case “with prejudice.” This is a final ruling, based upon the facts given.
- ✓ Dismissing the case “without prejudice.” This means that the landlord may be able to start the eviction over again by serving a new Notice and/or Summons and Complaint.
- ✓ Set your case for trial within 30 days.

## 8. IF A WRIT OF RESITUTION IS ISSUED:

If a writ of restitution is issued, the Sheriff will most likely post the Writ on your door the next business day following your hearing. The Writ will state a date by which you need to have moved out of the property, or the Sheriff will physically evict you.

## 9. APPEAL PROCEDURES:

If you disagree with the facts found or the law applied by the court, you may file a Motion for Reconsideration, a Motion for Revision or you may appeal the decision to the Court of Appeals. Each of these remedies is beyond the scope of this paper.

## **FOR MORE INFORMATION**

After your hearing, you may consult with a person from the Housing Justice Project for further information about the outcome of your hearing; and to obtain information on housing assistance and social services referrals.