



Legal Aid Society of Hawai`i

How to Get Money Damages If Your Landlord Shuts Off Your Utilities Illegally

This self-help packet will show you how to ask the court for damages if your landlord has illegally shut off your utilities.

Use this packet if:

- you rent from a private landlord and/or receive Section 8 assistance; AND
- your landlord has shut off your utilities without getting a court order to evict you first.

If you are being evicted too, talk to a Legal Aid advocate before filling out this packet.

IMPORTANT NOTE:

If you live in Public Housing, this packet will not work for you.

Talk to Legal Aid for more information on your options if you are being locked out of your public housing unit.

In some other special circumstances, this packet will not work for you because the landlord-tenant code does not apply. These other housing situations include UH housing, day-to-day hotel, or homeless shelters. Talk to a Legal Aid advocate for more information.

In addition to this packet, you will also need to complete the following forms: Summons, Return of Service, Judgment, and Notice of Entry of Judgment. These forms can be picked up from the District Court in your area.

© Copyright November 1999, Legal Aid Society of Hawai`i

All rights reserved. These materials may not be reproduced without written permission of the Legal Aid Society of Hawai`i. Under no circumstances are persons receiving these brochures to be charged for copies without written permission of the Legal Aid Society of Hawai`i. This publication is designed to provide general information and should not be utilized as a substitute for professional legal service.
f:\justice\brochure\housing\Util.pkt\util\$.H10.p65 Last updated 9/18/03

A Utility Shut Off Is Illegal.

It is illegal for your landlord to shut off your utilities unless he/she has a court order to evict you. This court order is called a *Writ of Possession*.

If your landlord has shut off your utilities illegally before getting the *Writ of Possession*, you can sue him or her in court for up to 3 times your monthly rent or \$1,000, whichever is the greater amount.

If your utilities have been shut off and you cannot get your landlord to turn them back on, Legal Aid has another self-help packet to help you ask the court to order your landlord to turn your utilities back on. This packet is called "How To Stop Your Landlord From Shutting Off Your Utilities Illegally." Call or visit Legal Aid to get this packet.

THIS PACKET CONTAINS FIVE (5) COURT FORMS. YOU WILL NOT NEED TO FILE THEM ALL AT ONCE.

READ THESE INSTRUCTIONS VERY CAREFULLY.

STEP 1: Fill Out The Forms

Fill out the forms in this packet. Type the forms if possible. If you cannot type, *print very neatly in black ink*.

Be sure to sign and date all the documents where it asks for your signature. Do not sign where it asks for the clerk's or judge's signature.

TIPS FOR FILLING OUT THE FORMS

All the forms have similar "captions" or boxes that are at the top of the page. On most of these forms, the boxes are numbered. Follow these instructions in completing these captions.

Box 1:

Fill in your *circuit* and your *division* name.

Oahu courts are First Circuit;

Maui courts are Second Circuit;

Big Island courts are Third Circuit; and

Kauai courts are Fifth Circuit.

WHAT YOU NEED TO DO: (Six Easy Steps)

1. Fill out all the court forms in this packet.
2. Make 3 copies of your *Complaint for Damages* and *Summons*. Staple the forms properly.
3. File your stapled copies at District Court and pay the \$120 filing fee or get the fee waiver. Make sure that you get at least one date-stamped copy each for yourself and your landlord.
4. Properly deliver ("serve") a date-stamped copy of the court forms and the *Return of Service* form to your landlord/landlord's attorney. (See page 4.)
5. Go to the court hearing.
6. If you won at the hearing, file the *Judgment* and *Notice of Entry of Judgment* at District Court. And give a copy of the forms to your landlord/landlord's attorney.

District Court Divisions

Oahu:	Big Island:
Honolulu	Hilo
Ewa	Kona
Wahiawa	S. Kohala
Koolaupoko - Koolauloa	N. Kohala
Waialua	Hamakua
Waianae	Puna
	Kauai:
Maui:	Lihue
Wailuku - Makawao - Hana	
Lahaina	
Hana	
Molokai	
Lanai	

See the text box on the right to figure out which *division* your housing unit is located in. If you are unsure of your *division*, call your local District Court and ask one of the clerks.

Box 2: (Plaintiff)

In this action, you are the Plaintiff. Enter your full name here.

Box 3: (Defendant)

In this action, your landlord is the Defendant. Enter the full name of your landlord.

Box 4: (Filing Parties)

In this box, the court wants information on who is filing this form. Enter your name, address, and phone number. This information is for the court to use if they need to contact you so insert an address and phone number where they can contact you. If you do not have access to your mail or your phone at home, leave an alternate address and phone number (i.e. work, friend, or relative) where the court can leave a message.

Box 5: Filling out the rest of the form.

Read each section carefully. Fill in the blanks where it asks for information from you. If a section has a checkbox, make sure you read the section well to see if the statement applies to your situation. If the statement is correct, put a checkmark in the box. **Signature Box:** Print or type your full name and sign at the bottom in the boxes that ask for your signature. Be sure that you do not sign in boxes that ask for the clerk’s or judge’s signature.

STEP 2: Separate the Forms

Separate the *Complaint for Damages* and *Summons* forms from the rest of your court forms. These are the first forms that you will need to file to start this court action. You will not need to file the rest of the forms until later in the process. See the text box on page 2 for more information on when to file each form.

STEP 3: Make Copies

Make at least 3 copies of the *Complaint for Damages* and *Summons*. **Be sure that your copies are identical to the original forms. If the original is double-sided, your copy should be double-sided too.** If you don’t know how to make double-sided copies, ask the clerk at the copy center where you are making your copies.

At this point, you do NOT need to make copies of the other forms. Keep the *Return of Service* form separate because you will not have to file it with the court until later.

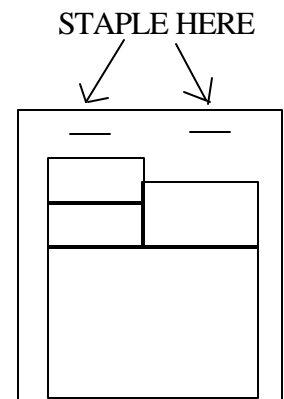
Also, remember to keep the *Judgment* and *Notice of Entry of Judgment* separate from the *Complaint for Damages* and *Summons*. You will file these two forms later (in Step 8).

STEP 4: Staple the forms properly

Put the forms in 4 separate piles. One pile should contain all the original forms. and the rest of the packets should have one of each copied form. The forms should be arranged in the following order:

1. *Complaint for Damages*
2. *Summons*

Keep all the originals together in the same packet. Remember to keep your other forms separate from the packets. You will not have to turn these in right now. Staple each set like shown in the picture on the right.



STEP 5: File Your Forms

File your *Complaint for Damages* and *Summons* at District Court. **On Oahu, all forms must be filed at the Honolulu District Court.**

Take the packets (1 original and 3 copies) to District Court. You can file your forms Monday to Friday from 7:45am to 4:00pm (closed on holidays.). A court clerk will date-stamp each packet. You will have to pay a filing fee of \$120. If you cannot afford this fee, you can request a fee waiver by filling out the *Ex Parte Application for Relief from Costs* form. If you request a fee waiver, you will need to wait for the judge to approve your waiver before the court will stamp your *Complaint for Damages* and *Summons*.

Once you have either paid the filing fee or received a fee waiver, the clerk will keep your original *Complaint for Damages* and *Summons*, and will return the copies to you.

STEP 6: Have Someone Serve Your Landlord

After the clerk date-stamps each of your packets, you must have someone “serve” (deliver) a packet to your landlord or your landlord’s attorney, if any. **YOU CANNOT DELIVER THE FORMS YOURSELF.**

CHOOSING A SERVER

The person who delivers the packet is called your “server.” Your server can be a sheriff or anyone over 18 years old, as long as the adult is not a part of this court action. This means that you cannot use any roommates or family members if their names are listed on the court papers.

If you hire a sheriff, you must pay a \$15.00 cash fee, plus 35cents per mile. You will be charged for additional mileage if the sheriff has to try more than once. *See the back of this brochure for addresses and phone numbers of the sheriff’s office on your island.*

If you do not use a sheriff, make sure that the person you choose is reliable and understands what he/she must do.

WHAT YOUR SERVER MUST DO

When your server goes to your landlord or landlord’s attorney, your server will need to:

- (1) give your landlord or landlord’s attorney a date-stamped copy of the *Complaint for Damages* and *Summons*, AND
- (2) have your landlord/landlord’s attorney sign the *Return of Service* form.

After your landlord/landlord’s attorney signs the *Return of Service* form, you or your server must take this form to District Court and turn it in to a court clerk.

STEP 7: Go To Your Hearing (There may be more than one hearing.)

There are actually several hearings that you may need to attend, depending on whether or not both parties show up for the hearings.

THE FIRST HEARING: The Answer Date

The date of your hearing will be on the back of the *Summons* form. The date will depend on when the packet was served on your landlord/landlord’s attorney. If you can’t figure out when the hearing date is, you can call the District Court clerk and ask them for your hearing date. Be sure to show up & be on time or your complaint will probably be dismissed and you will have to start this process over again.

What happens at your answer date depends on what island you are on.

ALL DIVISIONS EXCEPT FOR HONOLULU:

(the top left corner of your court forms does NOT have Honolulu as your division)

At the Answer Date, the judge will ask whether or not the Defendant (your landlord in this case) agrees or does not agree to the information you put in the *Complaint for Damages* form.

If your landlord doesn't show up OR agrees to the *Complaint*, you will win this hearing and can collect the damages if your landlord does not appeal the decision.

Skip to Step 8 on page 6 to find out what you need to do next.

If your landlord does not agree to the *Complaint*, the judge will probably order you and your landlord to go through mediation to try and work out an agreement. **This mediation can occur on the same day as this hearing OR can be planned for a later date.**

If you cannot come to an agreement in mediation, the judge will set a Trial Date. The judge will also give you a deadline to exchange exhibits before the Trial. This means that you will need to collect evidence before the Trial Date and give copies of your evidence to your landlord/landlord's attorney by the deadline given by the judge.

HONOLULU DIVISION ONLY (the top left corner of your court forms has Honolulu as your division):
At the Answer Date, the judge will simply ask whether or not the Defendant (your landlord in this case) agrees or does not agree to the information you put in the *Complaint for Damages* form.

If your landlord doesn't show up OR agrees to the *Complaint*, you will win this hearing and can collect the damages if your landlord does not appeal the decision.

Skip to Step 8 on page 6 to find out what you need to do next.

If your landlord does not agree to the *Complaint*, the judge will set another hearing to decide who wins. In Honolulu only, there is a Pre-Trial date scheduled after the Answer Date. The Pre-Trial is usually held on the Monday after your Answer date. So, generally, whether or not your Answer Date is on Monday or Friday, your Pre-Trial will be held on the following Monday.

Pre-Trial Hearing for Honolulu Division Only:

This hearing is not like a normal hearing in front of a judge. The main purpose of this hearing is for both sides to try and reach a settlement agreement. Both you and your landlord need to check in with the clerk when you get to this hearing. The clerk will call you both in for mediation when a mediator is available. You and your landlord will be given 20 minutes to try and reach a settlement agreement. After 20 minutes, you and your landlord will meet with the judge and tell the judge if you could reach a settlement.

If you reached a settlement, this will probably be the last hearing on this *Complaint for Damages*.

If you could NOT reach a settlement, the judge will set a Trial Date. You need to tell the judge and your landlord/landlord's attorney the names of all the people you will be calling as witnesses. The judge will also give you a deadline date to exchange exhibits before the Trial. This means that you will need to collect evidence before the Trial Date and give copies of your evidence to your landlord/landlord's attorney by the deadline given by the judge.

The Trial

At your trial, you will need to prove that your landlord intentionally shut off your utilities. Bring any witnesses and evidence that you have to convince the court that:

- you have a valid rental agreement with your landlord,
- your utilities were shut off illegally, AND
- your landlord intentionally shut off your utilities.

Prepare well for this hearing. Remember to follow the exhibit exchange deadline or else the judge may not allow you to show your evidence. Look over any evidence that is given by your landlord/landlord's attorney.

STEP 8: After The Hearing

IF YOU LOST THE HEARING:

This means that the judge does not think that you should receive money damages.

You have the right to appeal in several ways, depending on your situation. For example, you may be able to:

- (1) file a *Motion to Reconsider/Amend*,
- (2) file a *Motion for Relief from Judgment*,
- (3) file a *Motion for a New Trial*, OR
- (4) file an appeal to the Hawaii Supreme Court within 30 days of the judge's decision.

IF YOU WON THE HEARING:

If you won the hearing, the judge will decide the amount of damages you should receive.

Your work is not done yet. You need to do a couple more things. You need to fill out the last two forms from this packet, *Judgment* and *Notice of Entry of Judgment*.

After you fill it out, make 2 copies of each form.

Take the original and the copies to the District Court and file them with a court clerk. Both documents must be signed by a court clerk.

After the clerk signs the forms, you must deliver or mail a copy of the forms to your landlord or landlord's attorney. Once they are served, you can begin to collect the damages owed to you. You will be responsible for collecting any owed money. Call Legal Aid for more information on how to collect the debt from your landlord.

Important Names and Numbers

Legal Aid Society of Hawai'i

<http://www.legalaidhawaii.org>

LEGAL HOTLINE

open Monday to Friday: 9:00 - 11:30PM
& 1:00 - 3:30PM

Oahu call 536-4302

Maui call 242-0724

Molokai call 553-3251

Lanai call 565-6089

Hilo call 934-0678

Kona call 329-8331

Kauai call 245-7580

Sheriff's Offices

Oahu

1111 Alakea Street, 2nd floor
Honolulu
(same bldg as District Court)
538-5605

Maui

2145 Main Street
Wailuku
244-2908

Big Island

Hilo: 99 Aupuni Street
Suite 215
Hilo
933-8833

Kona: Old Kona Hospital
Kealakekua Building
322-8740

Kauai

3083 Akahi Street

Lihue

246-3331 or 246-3332

District Court Street Addresses

OAHU (First Circuit):

File all forms at Honolulu District Court:

1111 Alakea Street
3rd Floor
538-5151

MAUI (Second Circuit):

Haopili Hale
2145 Main Street
Suite 137
Wailuku
244-2800

Molokai

55 Makaena Street
Kaunakakai
553-5451

Lanai

312 Eighth Street
Lanai City
565-6447

BIG ISLAND (THIRD CIRCUIT):

Hilo: 75 Aupuni Street
Hilo
961-7470

Kona: Old Kona Hospital
Keakealani Bldg., Rm. 240
Kealakekua
322-2022

Hamakua: South Kohala Courthouse

Waimea Civic Center
67-5175 Kamamalu Street
Kamuela
885-4615

KAUAI (Fifth Circuit):

3059 Umi Street, Rm 111
Lihue
246-3330



This brochure was created through the AmeriCorps Access to Justice Project.

Court Forms for Getting Damages for an Illegal Utility Shut-off

This packet should contain the following forms. If you are missing any, please contact the Legal Aid Society of Hawai'i so that one can be mailed to you immediately. *See phone numbers at the back of instruction part of this brochure.*

1. Complaint for Damages
2. Summons
3. Return of Service
4. Judgment
5. Notice of Entry of Judgment

COMPLAINT FOR DAMAGES

1. IN THE DISTRICT COURT OF _____ CIRCUIT
 _____ DIVISION
 STATE OF HAWAII

Oahu = First Circuit
 Maui = Second Circuit
 Big Island = Third Circuit
 Kauai = Fifth Circuit

2. Plaintiff(s) (TENANT's) Name and Address

Reserved for Court Use

Civil No.

3. Defendant(s) (LANDLORD's) Name and Address

4. Plaintiff(s)/Plaintiff(s)' Attorney (Name, Attorney Number, Address, Telephone and Facsimile Numbers)

PLAINTIFF PRO SE (NO ATTORNEY)

5. I, the TENANT, am the Plaintiff, and allege as follows:

1. The Defendant(s), hereafter called "LANDLORD", is/are the owner/operator of a residential dwelling unit located at address in the County of _____, State of Hawai'i.

2. I have not abandoned or surrendered the dwelling.

3. I have a valid rental agreement.

4. On or about the date of _____, LANDLORD, without a court order so authorizing, did or caused to be done the following acts in violation of the Landlord-Tenant Code:

Landlord willfully caused the interruption of the following utility services, with intent to force me out of the unit, whether or not the service is under his or her control:

gas water electricity
 heat telephone elevator
 refrigeration other _____

Landlord willfully threatened to interrupt or cut off my utility service, with intent to force me out of the unit, whether or not the service is under the control of Landlord.

SEE REVERSE SIDE

In accordance with the **Americans with Disabilities Act** if you require an accomodation or assistance, please contact the District Court- Administration Office in your Circuit at least ten (10) working days in advance of your hearing or appointment date. **OAHU:** 538-5121; TTY: 539-4853 **BIG ISLAND:** Hilo: 961-7470 Kona: 322-2022 Hamakua: 885-4615 **MAUI:** 244-2800 **KAUAI:** 246-3330

5. As a result of the foregoing unlawful acts of the LANDLORD, TENANT suffered actual damages in an amount now presently known in full, but including:

- excessive food costs through spoilage of food and/or lack of use of food preparation appliances,
- payment for substitute lodging.

6. As a result of the unlawful acts of LANDLORD, TENANT is entitled to damages pursuant to H.R.S. § 521-74.5, in the amount of three times the monthly rent or \$1,000, whichever is greater.

TENANT asks the court to award:

1. Actual damages as pleaded and proven, in the amount to be determined at trial.
2. Statutory damages in the amount of three times the monthly rent or \$1,000 whichever is greater, pursuant to H.R.S. § 521-74.5.
3. Exemplary and punitive damages to be determined at trial.
3. Such other and further relief as this court deems just.

DATE	NAME AND SIGNATURE OF PLAINTIFF
------	---------------------------------