

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF (YOUR COUNTY)

SAMPLE

(Landlord's Name) \_\_\_\_\_, )  
 )  
 Plaintiff(s), ) ANSWER  
 )  
 v. ) Case No.  
 ) (The number listed on the complaint)  
(Your Name) \_\_\_\_\_, )  
 )  
 Defendant(s). )

I (We) deny that the plaintiff(s) is (are) entitled to possession because:

\_\_\_\_\_ The landlord did not make repairs.

List any repair problem: *(See Page 37)* \_\_\_\_\_

\_\_\_\_\_ The landlord is attempting to evict me (us) because of my (our) complaints (or the eviction is otherwise retaliatory). (See Page 37)

\_\_\_\_\_ The eviction notice is wrong. (See Page 37)

\_\_\_\_\_ List any other defenses: *(See Pages 37 and 38)* \_\_\_\_\_

I (We) may be entitled as the prevailing party to recover attorney fees from plaintiff(s) if I (we) obtain legal services to defend this action pursuant to ORS 90.255.

I (We) ask that the plaintiff(s) not be awarded possession of the premises and that I (we) be awarded my (our) costs and disbursements and attorney fees, if applicable, or a prevailing party fee.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Signature of Defendant(s) (Your signature)

# HOW TO USE A FORM ANSWER IN AN EVICTION

## When should I use the form answer?

If you have decided to ask for a trial on your eviction and want to represent yourself, you can use a form answer that you can get at the courthouse. An "answer" is a legal paper that gives your defenses to the "complaint" filed by your landlord. **You should only ask for a trial and use the answer form if you really want to stay in the rental unit and believe you have defenses to the eviction. If you lose, a judgment for your landlord's attorneys fees will be entered against you.** If you want to request money owed to you by your landlord, file in Small Claims Court or see an attorney.

## How should I decide what defenses to claim?

A defense to an eviction (FED) is a legal reason why your landlord should not be able to evict you. The kind of defense you claim depends on the type of notice the eviction is based on. Before you fill out the Form Answer, look at the Complaint attached to your Summons to see which reason the landlord checked for the eviction. Also, look at the notice you received from the landlord to see if it matches the reason the landlord checked and if a copy of this notice has been attached to the Summons. (If these things are not right you may have a "bad notice" defense, see below.)

Not all defenses can be used in all evictions. For example, lack of repairs can be a defense to an eviction based on a 72-hour or 144-hour notice for nonpayment of rent, but it is not a defense to an eviction based on a 30-day notice. The chart below shows the most common types of notices and the defenses that can be used.

TYPE OF NOTICE	POSSIBLE DEFENSES
72-hour or 144-hour nonpayment of rent	Repairs needed ( <i>See Questions 32, 33</i> ) Bad notice ( <i>49</i> ) Other landlord violations: lockout ( <i>48</i> ), illegal entry ( <i>30</i> ), waiver ( <i>52,53</i> ), etc.
10-day notice/no cause (week-to-week) 30-day notice/no cause (month-to-month)	Retaliation ( <i>31</i> ) Bad notice ( <i>50</i> ) Discrimination ( <i>5,7,8,9</i> )
30-day notice/for cause with right to cure 10-day (pet violation) 24-hour (outrageous conduct, personal injury, substantial damage)	Bad notice ( <i>50</i> ) Landlord's complaints untrue

**How do I fill out the form answer?**

There is a sample of the form answer on Page 35 of this booklet. Fill in the appropriate court and county at the top of the page. (These will be the same as the ones on the eviction papers that you received.) Put your landlord's name in as Plaintiff and yours as Defendant. Use the number from your eviction papers to fill in the blank after "case no." Fill in the appropriate defenses (see below) and sign and date the form. Make three copies, one for the court clerk, one for the landlord, and one for yourself. Ask the court clerk when your trial will be held.

**What are some possible defenses for the form answer?**

Call a law office for advice on how to fill out the form answer. Even if a law office cannot represent you in the FED, the office may be able to help you fill out the form answer. A sample of the form answer is on Page 35 of this booklet.

**Repair Problems** - Under Question 32 you will find a list of repairs that a landlord should make. If your landlord did not make repairs, you should check the first blank on the form answer and describe the needs for repair. Also, indicate how and when you told the landlord about the needs for repair.

You should be prepared to prove damages that equal or are larger than the rent that you owe. You must testify as to how much less your place was worth each month because your landlord refused to make repairs. For example, if you rented a four room apartment for \$400 per month but a leak in the roof prevented your use of one room for 3 months, you might testify that the apartment was worth 25% less or \$100 less per month because you could not use 1 of 4 rooms.

In addition, you should describe any damages caused to furniture or clothing and the costs for repairing or replacing the property. Remember the one-year limitation to file this kind of case.

**Retaliation Defense** - If your landlord retaliated by serving the 30-day or 10-day eviction notice or eviction papers after you complained about the need for repair, testified against the landlord, joined a tenants union or engaged in other protected activity, you may check the second blank on the form answer to allege retaliation. See Question 31 in this booklet for more information.

**Notice Defense** - If your landlord did not use the right notice or did not give it at the right time (including 3 extra days for mailing), you should check the third blank on the form answer indicating a bad notice. See Questions 49 and 50 for more information on notices.

**Other Defenses** - There is also a fourth line listed on the form answer called "Other Defenses." This is the line to check and the space to fill in when the landlord's complaint is not true.

For example, you might write the following: "I paid my June rent in full on June 1, and I have a receipt," "I offered to pay June rent on June 9, during the 72-hour eviction notice period and the landlord refused to accept it," or "The dog in question was moved out during the 10-day eviction notice period and has not returned."

Other types of "Other Defenses" are:

**Waiver** - If the landlord accepted part of the rent after rent was past due, you should write in the word "waiver" under "Other Defenses" and describe the date and amount paid. For example, you could write, "Waiver - I paid \$50 to the landlord for rent on June 2." See Questions 52 and 53 for more information on waivers.

**Discrimination** - If the notice or eviction is discrimination, you should write the word "discrimination" under "Other Defenses" and describe what happened. See Questions 5 - 10 for more information on discrimination.

**Utility shut off or lock out** - If the landlord changed the locks, removed your things, shut off the water, heat, or electricity or took other out of court action to force you to move, describe the action under "Other Defenses" and ask for twice the actual damages or two months' rent, whichever is more. Talk to a lawyer. See Question 48.

**Unlawful entry** - If the landlord or someone working for the landlord came into your home without your permission or without a 24 hour notice in advance (except for an emergency or to complete repairs initiated within seven days after you asked for repairs in writing) you may claim at least one month's rent as a penalty for each unlawful entry. Write down the date and name of the person who entered under

"Other Defenses." For example, you may write "Unlawful entry by the resident manager, John Doe, on May 14." See Question 30.

### **How should I prepare for my case in court?**

You should be prepared to back up every statement that you have made in the Answer with as much proof as possible. If you are going to depend on other people to be witnesses for you, you should get in touch with them immediately. ***Witnesses must come to court.*** The judge will not accept letters or affidavits from witnesses. Go over the case with your witnesses carefully. Make sure your witnesses understand what you are going to ask of them and that they are prepared to clearly and honestly state the facts about what you want to prove at the trial.

Make sure you have all relevant evidence like canceled checks, copies of letters, building inspector's reports, and pictures of your place, if repairs are an issue.