

Proving Your Case

Evidence and Subpoenas

This information sheet describes how you can prove your case in court. A landlord or tenant who would like more help can visit the Landlord Tenant Resource Center or talk to another lawyer. There is information at the end of this sheet on where to find legal help.

■ **What is evidence?** *Evidence* is anything that helps prove your side of the case, including what you tell the judge about what has happened. Photographs, papers, and other items also can be used as evidence. There are certain rules that judges follow in deciding what kind of evidence they will allow so the process is fair to everybody. The rules can be complicated, so you may want to talk to a lawyer about what kind of evidence you can use to prove your case.

For example, if you want to prove a repair was or was not made on the property, you usually can show the judge photographs and tell him or her what you saw with your own eyes. But, you usually cannot tell the judge what someone else told you or ask him or her to look at papers that were written by someone who is not in court that day.

■ **Can I use housing inspection reports as evidence?** Yes, you usually can use housing inspection reports as evidence, but you usually need to have someone from the inspector's office come to court as a witness. To get a housing inspector to come to court, you will need to request a subpoena. The inspector will have to tell the judge how the agency makes and keeps records of housing inspections so the judge will know the report is trustworthy.

■ **What is a subpoena?** A *subpoena* is an order from the court directing a person or organization to come to court to testify or provide documents or other evidence about a case. If your case is going to trial, you may want to request that a subpoena be issued to a person or organization that has information about your case. If you want a person to be a witness in your case, but you are unsure if that person will come to court for your trial date, you can serve that person with a subpoena. That person then will have to come to court on your trial date and be a witness.

If a person or organization has documents, photographs, or other evidence you need for your trial, you can ask for a subpoena requiring that person or organization to provide you with the evidence. That person or organization will have to provide the evidence before trial or bring the evidence to court on your trial date. You can request that a subpoena be served to any person or organization located in the District of Columbia or within 25 miles of the District.

You will have to fill out information about your case on the subpoena. If you are asking for documents or other evidence, you will have to write down what you want.

■ **Can I ask for a subpoena for the other party in my case?**

You cannot request a subpoena for the other party in your case. If you want information from the landlord or tenant on the other side of your case, you cannot use a subpoena to get this information. Instead, you have to send written questions or requests for documents to your landlord or tenant. This is called *discovery*.

If you are interested in conducting discovery in your case, you should speak with a lawyer. In most cases, you will have to file a motion with the court, asking a judge to give you permission to make discovery requests to the landlord or tenant on the other side of your case. If there is a jury trial request in your case, you can make a limited number of discovery requests to the other side without asking for special permission.

Help Yourself Proving Your Case

■ **How do I serve a subpoena?** If you are not an attorney, then you will have to request a subpoena from the court. Subpoenas must be signed by the clerk of the Landlord and Tenant Court. Someone in the Landlord and Tenant Clerk's Office, located in room 110, can give you a blank, signed subpoena.

After you fill out the information on the subpoena stating what information or witness you want, the subpoena must be served or delivered to the person or organization named in the document. The original, not the carbon copies, of the subpoena should be served. The person serving the subpoena must be at least 18 years old and cannot be a party in the case. The landlord or tenant in a case cannot serve a subpoena.

After the subpoena is served, the person who served the subpoena should fill out the Proof of Service section on the back of one of the carbon copies of the subpoena. This provides information on when and how the person served the subpoena. This carbon copy containing the original Proof of Service signed by the person who served the subpoena should be filed with the Landlord and Tenant Clerk's Office. Keep the other carbon copy for your records.

■ **Is there a charge for a subpoena?** If the purpose of your subpoena to order someone to appear in court to be a witness, you have to pay that person a witness fee. The current witness fee is \$40 per day. For witnesses who do not live in the District of Columbia, you also must pay for their transportation costs. The person serving your subpoena must give this money to the witness when the subpoena is delivered.

If you cannot afford to pay the witness fee, you can ask the court for permission not to pay it. To do this, you must file an Application to Proceed Without Prepayment of Costs or Fees. You will appear in front of a judge who will decide whether to grant your request. If the request is granted, you can have the subpoena served without the witness fee, but you should include a copy of the order that says you are not required to pay costs or fees.

Finding Legal Help

Visit www.LawHelp.org/DC for more information, including how to contact free legal services providers, or visit the Landlord Tenant Resource Center:

Landlord Tenant Resource Center
Superior Court of the District of Columbia
510 4th Street NW
Building B, Room 115
Washington, DC 20001

Telephone: 202-508-1710

Open 9:15 a.m. to noon, Monday through Friday,
except legal holidays

The D.C. Bar Pro Bono Program provides general information only. This is not legal advice. You can only obtain legal advice from a lawyer. If you need legal advice for a specific situation, contact an attorney. We make every effort to keep the legal education materials up-to-date, but laws change frequently. Therefore the D.C. Bar Pro Bono Program does not guarantee the accuracy of this information.