



**MARICOPA COUNTY JUSTICE COURT**

If you want to file a...

**EVICITION ACTION  
(Complaint & Summons  
Tenant Eviction)**



# MARICOPA COUNTY JUSTICE COURT

A **EVICITION ACTION** is filed for alleged violations of the lease or rental agreement or of the Arizona Residential Landlord and Tenant Act.

**The rental property subject to the action must be located in the justice court precinct (venue).**

You must give the tenant proper notice and you must wait until the business day after the expiration of the tenant's notice before filing the forcible detainer in the justice court. The justice court does not provide the initial notice to vacate forms, if you need more information on the type of notice you must deliver to the tenant you may refer to the Arizona Residential Landlord Tenant Act which is provided in booklet form by the Arizona Secretary of State or you may access this information online at [www.azsos.gov](http://www.azsos.gov).

You may file a forcible detainer in the **justice court** if the total amount due **does not exceed \$10,000.00**. If the amount exceeds \$10,000.00 you must file in the Superior Court.

### **Please STOP...**

If the location of the rental property is not located in this justice court precinct.  
If the total amount due exceeds \$10,000.00.  
If you did not serve the tenant with the proper notice.

### **Please PROCEED...**

If you are filing within the correct jurisdiction / venue.  
If you are claiming \$10,000.00 or less in rent or damages.  
If you have properly served notice on the tenant and the time in the notice has completely expired.

### **FORMS Needed:**

Summons Residential Eviction Action (provided in this packet)  
Complaint – Eviction Action (provided in this packet)  
Copy of the Eviction Notice you served on the tenant  
Judgment form (when you come to court on your scheduled court date)

**ADDITIONAL FORMS** needed to serve on the defendant (at the time of service of the Summons and Complaint):  
Residential Eviction Information Sheet (provided in this packet)

### **INSTRUCTIONS:**

1. Obtain a copy of the ARIZONA RESIDENTIAL LANDLORD & TENANT ACT and ARIZONA RULES OF PROCEDURE FOR EVICTION ACTIONS and familiarize yourself with the contents.
2. Read the attached Residential Eviction Information Sheet AND Information for Landlords and Tenants.
3. Check the venue for your complaint on the court precinct map. You are responsible for filing your case in the correct court.
4. Complete the summons and complaint forms. Make 3 copies of the forms if you are filing against one person; make 4 copies if you are filing against two persons (such as a married couple), etc.
5. File the summons and complaint forms, together with a copy of the eviction notice served on the tenant, with the court clerk and pay the court filing fee.
6. Make arrangements with a licensed process server to serve the papers on the defendants. Process servers may be found in the Yellow Pages of the phone directory.
7. When you come to court on your scheduled court date, you must have your judgment form completed with the case caption (names of parties) typed or printed. Present the judgment form to the judge who will complete the ORDER portion and sign the judgment.

**IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS A NOTICE OF CHANGE OF ADDRESS** form must be filed with the court when a party changes their address.

Visit us at [www.superiorcourt.maricopa.gov/justicecourts](http://www.superiorcourt.maricopa.gov/justicecourts) for additional filing information and online forms.

\_\_\_\_\_  
Attorney for Plaintiff

\_\_\_\_\_  
Address

( ) - \_\_\_\_\_

Phone \_\_\_\_\_ Bar Number \_\_\_\_\_



# Maricopa County Justice Courts, Arizona

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

( ) - \_\_\_\_\_

Plaintiff(s) Name / Address / Phone

( ) - \_\_\_\_\_

Defendant(s) Name / Address / Phone

### COMPLAINT (Eviction Action)

Residential  Mobile Home  Commercial

### YOUR LANDLORD IS SUING TO HAVE YOU EVICTED, PLEASE READ CAREFULLY

1. This court has jurisdiction to hear this case. The property is within this court's judicial precinct and is located at: \_\_\_\_\_

2. The Defendant wrongfully withholds possession of this property.

3. Any required written notice was served on the Defendant on \_\_\_\_\_ and was served in the following manner: \_\_\_\_\_ A copy of this notice is attached to this complaint.

4. The Plaintiff is authorized to file this action and has done so for the following reason(s):

**RENT:** The Defendant has failed to pay rent as agreed. The rent is unpaid since \_\_\_\_\_ and had a prior unpaid balance of \$\_\_\_\_\_

The rental agreement requires rent to be paid each month on the \_\_\_\_\_ day of each month in the following amount: \$\_\_\_\_\_

The lease provides for late fees and that the late fees be calculated in the following manner:

\_\_\_\_\_  
\_\_\_\_\_

**Notice:** If you are a residential tenant and the only allegation from your landlord is that you have not paid your rent, you may contact your landlord or your landlord's attorney and offer to pay all of the rent due, plus any reasonable late fees, court costs and attorney's fees. If you pay these amounts prior to a judgment being entered, then this case will be dismissed and your lease will be reinstated and will continue.

**NON-COMPLIANCE:** The Defendant committed and has failed to remedy, a condition that is a material non-compliance of the rental agreement. Specifically, after receiving a notice to remedy the problem, the Defendant, on the \_\_\_\_\_ day of \_\_\_\_\_ caused or allowed the following condition to occur:

\_\_\_\_\_  
\_\_\_\_\_

**IRREPARABLE BREACH:** The Defendant has committed a material and irreparable breach. Specifically, on the \_\_\_\_\_ day of \_\_\_\_\_, the Defendant did the following:

\_\_\_\_\_  
 \_\_\_\_\_

**OTHER:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

5. The Defendant owes a rental concession in the following amount: \$\_\_\_\_\_ The nature of the rental concession (if any) is: \_\_\_\_\_

6. As of the date that this action is being filed, the Defendant owes the following:

Rent (From Current and Prior Months) Totaling: .....	\$ _____
Late Fees: .....	\$ _____
Rental Concessions: .....	\$ _____
Costs: .....	\$ _____
Attorneys Fees: .....	\$ _____
Other Damages: .....	\$ _____
<b>Total Amount Requested:</b> .....	<b>\$ _____</b>

7. The Plaintiff requests a money Judgment for the amounts described above and also a Judgment for possession of the property.

8. **WRIT OF RESTITUTION:** The Plaintiff requests the court issue a Writ of Restitution returning the property to the Plaintiffs possession 5 days from the date of the judgment or 12 to 24 hours from the time of the judgment. (Applies to material and irreparable breach only)

9. By signing this complaint, I verify that the assertions are true and correct to the best of my knowledge and belief and that they are based on a reasonably diligent inquiry.

Date: \_\_\_\_\_  
                         Plaintiff



# Maricopa County Justice Courts, Arizona

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s) Name / Address

\_\_\_\_\_  
Defendant(s) Name / Address

\_\_\_\_\_  
ATTORNEY for Plaintiff Name / Address

\_\_\_\_\_  
ATTORNEY for Defendant Name / Address

## SUMMONS (Eviction Action)

### THE STATE OF ARIZONA TO THE DEFENDANT(S) NAMED ABOVE:

**1. YOU ARE SUMMONED TO APPEAR** and answer this complaint in the court named above.

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Courtroom #: \_\_\_\_\_

Be in court at least 15 minutes before the scheduled hearing.

**REQUESTS FOR REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES MUST BE MADE TO THE COURT AT LEAST 3 JUDICIAL DAYS IN ADVANCE OF ANY SCHEDULED HEARING.**

**2.** You must appear at the date and time shown above if you wish to contest the allegations in the attached complaint. For additional information, please see the attached Residential Eviction Procedures Information Sheet.

**3. IF YOU FAIL TO APPEAR**, a judgment will likely be entered against you, granting the relief specifically requested in the complaint, including removing you from the property.

**4.** If you do not agree with the allegations in the complaint, you should file a written answer admitting or denying some or all of the allegations and pay the required answer fee. In cases of hardship, you may apply for a deferral or waiver of the filing fee.

**5.** A trial may be held on the date stated above or it may be continued for up to three days.

**6.** The attorney for the Plaintiff (or the Plaintiff, if the plaintiff does not have an attorney) must be given a copy of your answer and any other pleading you file in this case. The address is:

Date: \_\_\_\_\_  
\_\_\_\_\_  
Justice of the Peace



## Maricopa County Justice Courts RESIDENTIAL EVICTION INFORMATION SHEET

**Notice** A landlord must provide a tenant with written notice saying why the eviction process has started. The tenant should have received this notice before this lawsuit was filed.

**Rent cases:** If this lawsuit has been filed for not paying rent, the tenant can stop it and continue living in the residence by paying all rent now due, late fees, attorney's fees and court costs. After a judgment has been granted, reinstatement of the lease is solely in the landlord's discretion. Inability to pay rent is not a legal defense and the judge cannot give more time to pay, even if the tenant is having financial problems.

**Before Court:** Eviction cases move through the court system very quickly. If the tenant disagrees with the landlord's allegations, the tenant is encouraged to file a written answer. The answer form available from the court allows the tenant to admit or deny the allegations and explain his or her position. If the tenant cannot afford to pay the answer fee, he or she may apply for a waiver of that fee. If a tenant believes that the landlord owes him or her money, the tenant may under some circumstances file a counterclaim. The summons states that a trial will occur on the date listed, but due to the high volume of cases, a trial may not occur then. If the tenant fails to appear, and the landlord or his attorney is present, a judgment will probably be entered against the tenant. Tenants can represent themselves or arrange for lawyers to represent them. The court will not provide a lawyer.

**At Court:** At the time listed on the summons, the judge will start calling cases. If both parties are present, the judge will ask the tenant whether the complaint is true. If the tenant says no, he or she will need to briefly tell the judge why. If the reason appears to be a legal defense, the judge will need to hear testimony from both sides and make a decision after a trial. After talking to the landlord or its attorney, a tenant may wish to agree to what the landlord is requesting by signing a "stipulation" A stipulation is an agreement under which the parties resolve the dispute on the basis of what the agreement says. Only matters contained in the written agreement can be enforced. These agreements should be clear and understandable by both parties. Most stipulations include judgments against tenants. See below.

**Continuances:** Either party may ask that the court date be delayed. The court will agree only if there is a very good reason. A delay will be no more than three business days. There is no assurance a delay will be granted and parties should come to court prepared for trial and bring necessary witnesses and documents.

**After a Judgment:** If a landlord receives a judgment, it may apply for a writ of restitution to remove the residents. Writs of Restitution are served by constables, who will direct the residents to leave. A tenant may avoid the difficulties associated with a writ of restitution by vacating the property and returning the keys to the landlord. This ends his or her possession of the residence. If the tenant wants to continue to live in the residence after a judgment has been entered, the tenant will need to obtain the landlord's approval and sign a new lease. A tenant will have five (5) days to vacate the premises unless evicted for criminal activity, in which case the tenant has only twelve (12) to twenty four (24) hours to vacate. A judgment will probably appear on a tenant's credit report for several years. Parties wishing to appeal from a judgment have five days to do so after the judgment is entered and can obtain forms and information from the court filing counter. If a tenant wants to remain in the rental home during the appeal, the tenant must also pay a "supersedeas bond" to suspend the judgment while the case is being reviewed. If the tenant prevails the court will dismiss the case.

**Sources of Additional Information:** You can get copies of the Arizona Residential Landlord Tenant Act, the Arizona Mobile Home Parks Residential Landlord and Tenant Act and the Long Term Recreational Vehicle Rental Space Act from a library or from the Secretary of State's office or web page: [www.azsos.gov](http://www.azsos.gov). In Maricopa County if you wish to consult an attorney, you may want to contact the Arizona State Bar Attorney Referrals Line at (602) 257-4434 or Community Legal Services at (602) 258-3434. Contact the court in other counties for similar referrals. You can obtain a summary of the obligations of landlords and tenants on the web page for justice courts in Maricopa County:

<http://www.superiorcourt.maricopa.gov/JusticeCourts/CourtsAndSections/Evictions.asp>



# Maricopa County Justice Courts, Arizona

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(        ) - \_\_\_\_\_

Plaintiff(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(        ) - \_\_\_\_\_

Defendant(s) Name / Address / Phone

## JUDGMENT (Eviction Action)

This matter was heard by the Court on this date: \_\_\_\_\_

Plaintiff appeared  in person  by counsel  failed to appear

Defendant appeared  in person  by counsel  failed to appear

Defendant was given proper notice

Defendant was properly served with the Summons and a copy of the complaint at least two (2) days prior to trial.

Defendant pleads  GUILTY  NOT GUILTY, and has filed a responsive pleading.  
 Defendant has filed a counterclaim.

**IT IS ORDERED** granting judgment to:

Plaintiff(s)

- 1. \$ \_\_\_\_\_ Rent
- 2. \$ \_\_\_\_\_ Late charges, if any
- 3. \$ \_\_\_\_\_ Court cost
- 4. \$ \_\_\_\_\_ Rental concessions
- 5. \$ \_\_\_\_\_ Damages
- 6. \$ \_\_\_\_\_ Attorney fees, if any
- 7. \$ \_\_\_\_\_ Other: \_\_\_\_\_

\$ \_\_\_\_\_ TOTAL

Defendant(s)

- 1. \$ \_\_\_\_\_ Court cost
- 2. \$ \_\_\_\_\_ Damages
- 3. \$ \_\_\_\_\_ Attorney fees, if any
- 4. \$ \_\_\_\_\_ Other: \_\_\_\_\_

\$ \_\_\_\_\_ TOTAL

Plaintiff awarded nothing

Defendant awarded nothing.

With interest thereon at the rate of \_\_\_\_\_ % per annum from the date of judgment until paid in full, plus accruing costs.

The court finds that the defendant has committed a material and irreparable breach, in violation of ARS 33-1368A, and a Writ of Restitution shall be granted on: Date: \_\_\_\_\_ Time: \_\_\_\_\_ (between 12 - 24 hours from the time of judgment).

A Writ of Restitution shall be granted on: Date: \_\_\_\_\_ Time: \_\_\_\_\_ (five [5] calendar days after date of judgment).

**WARNING:** After service of the Writ of Restitution, if you remain on, or return unlawfully to, the property, you will have committed criminal trespass in the third degree.

**IT IS ORDERED** dismissing this case  with prejudice  without prejudice

Date: \_\_\_\_\_  
Justice of the Peace

I CERTIFY that I delivered / mailed a copy of this JUDGMENT to:

Plaintiff at the above address  Plaintiff's attorney  Defendant at the above address  Defendant's attorney

Date: \_\_\_\_\_ By \_\_\_\_\_  
Clerk

**Judgment Worksheet**  
(Eviction Action)

Complete this form and give it to the Judge on your court date.

Attach a copy of the lease agreement or any lease provision that is the basis for your complaint.

Attach a copy of the Notice that was given to the tenant.

1. Rent due	_____	\$ _____
	month	amount
	_____	\$ _____
	month	amount
	_____	\$ _____
	month	amount
	_____	\$ _____
	month	amount
		Total Rent Due: \$ _____

2. Late Charges	Late charge per day:	\$ _____
	Number of days late:	_____
	Total Late Charges:	\$ _____

3. Court costs	Filing fee:	\$ _____
	Service of process fee:	\$ _____
	Certified mail costs:	\$ _____
	Other:	\$ _____
	Total Court Costs:	\$ _____

4. Rent concession (must be in lease):	\$ _____
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5. Damages (Describe each item of damage and attach an estimate)	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
	Total Damages: \$ _____

<b>Total judgment requested:</b>	\$ _____
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# Maricopa County Justice Courts, Arizona

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(        )        -  
Plaintiff(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(        )        -  
Defendant(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(        )        -  
Attorney for Plaintiff(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(        )        -  
Attorney for Defendant(s) Name / Address / Phone

## NOTICE of CHANGE OF ADDRESS

**If your address is protected by Court Order, DO NOT use this form**

I am the  Plaintiff  Defendant in this action.

I hereby notify the court and all parties to this action that my address has changed.

My **OLD** address is: *Please Print*

Street \_\_\_\_\_

City, State Zip \_\_\_\_\_

Daytime Phone (        )        - \_\_\_\_\_

My **NEW** address is:

Street \_\_\_\_\_

City, State Zip \_\_\_\_\_

Daytime Phone (        )        - \_\_\_\_\_

Date: \_\_\_\_\_

Plaintiff  Defendant

I CERTIFY that I delivered / mailed a copy of this NOTICE of CHANGE of ADDRESS to:

Plaintiff at the above address     Plaintiff's attorney     Defendant at the above address     Defendant's attorney

Date: \_\_\_\_\_ By \_\_\_\_\_  
 Plaintiff  Defendant



## **Maricopa County Justice Courts**

### INFORMATION FOR LANDLORDS AND TENANTS

#### GENERAL INFORMATION

This information page for landlords and tenants provides an overview of the Arizona Residential Landlord and Tenant Act and the references cited are to the applicable portion of the Arizona Revised Statutes. This information is provided for apartment and home rentals. The rules for renting a mobile home or a space for a mobile home are similar but are not covered by these pages. Mobile home parks are governed by a different set of statutes that can be found at A.R.S. § 33-1401 - 33-1501.

A landlord can bill separately for utilities but cannot require a tenant to sign a lease that requires a tenant to waive any rights under Arizona law. A.R.S. § 33-1314.01 & 33-1315. It is also illegal for a landlord to allow someone to live in a residence rent free in return for the landlord not maintaining the property. A.R.S. § 33-1316. In addition, a landlord cannot refuse to rent a residence on the basis that the potential tenant has children. A.R.S. § 33-1317. Landlords must also register with the county assessor. A.R.S. § 33-1902.

From the tenant's perspective, perhaps the most important thing to remember is that a tenant has a duty to pay rent and to pay that rent on time. If a tenant fails to do so, the landlord will likely bring an eviction action. There is no provision in Arizona law that allows a tenant to withhold rent because the landlord is being disagreeable or because a landlord broke oral promises to a tenant. Except as is explained below, a tenant may not withhold rent.

#### **Tenant Obligations**

In addition to the obligation to pay rent on time, a tenant must do the following under Arizona law. A.R.S. § 33-1341 & 33-1344.

- Keep the residence clean and safe
- Remove and dispose of trash
- Keep all plumbing fixtures clean
- Use electrical appliances, heating and air-conditioning systems and plumbing in a reasonable manner
- Not deliberately or negligently damage the property or allow someone else to do so
- Unless agreed otherwise, use the property only as a residence

#### **Access by Landlord to Residence A.R.S. § 33-1343**

A tenant cannot unreasonably withhold consent to the landlord to enter the residence in order to inspect the premises or make repairs. Unless there is an emergency or unless it is impracticable to do so, the landlord must give the tenant at least two days notice that he is going to enter the residence. The landlord can only enter at reasonable times.

#### **Landlord Obligations**

A landlord is required to do the following under Arizona law. A.R.S. § 33-1322 – 1324.

- Provide the tenant with the name and address of the property's owner and manager
- Provide the tenant with a free copy of the Arizona Landlord and Tenant Act
- Provide the tenant with a signed copy of the lease
- Provide the tenant with possession of the residence
- Comply with applicable building codes
- Make necessary repairs so that the residence is habitable
- Keep common areas clean
- Maintain all electrical, plumbing, heating, and air-conditioning equipment
- Provide for the removal of trash
- Supply running water and reasonable amounts of hot water

#### **Security Deposits A.R.S. § 33-1321**

A landlord can require that the tenant make a security deposit to cover any potential damages made to the property. The amount of the security deposit cannot be more than one and one-half month's rent. Upon move-in, the landlord is required to furnish the tenant with a signed copy of the lease, a form documenting any damages to the property, and written notification that the tenant may be present at the move out inspection. However, the tenant is required to ask the landlord when the move out inspection will occur. If a tenant requests the security deposit back after he has moved out, the landlord must return it or provide an itemized list of all of the deductions taken for property damage and the balance of the deposit within 14 days. If the landlord fails to do so, the tenant can file suit in a justice court and recover twice the amount wrongfully withheld.

### **Tenant Options if Landlord Fails to Comply / Self-Help for Minor Defects A.R.S. § 33-1363**

If a landlord fails to make repairs and the problem can be fixed for either less than \$300.00 or an amount equal to one-half of the monthly rent (whichever is greater), the tenant can notify the landlord of his intention to repair the problem at the landlord's expense. The notification should be in writing. If the landlord does not fix the problem within 10 days from receiving the notice, the tenant can hire a licensed contractor, submit a repair bill to the landlord, and deduct the cost of the work from his rent. This provision does not apply if the damage was caused by the tenant or one of his guests. Sample notices are available at [www.AZLawHelp.org](http://www.AZLawHelp.org)

### **Failure to Supply Essential Services A.R.S. § 33-1364**

If a landlord fails to provide running water, gas and/or electrical service, or fails to provide reasonable amounts of hot water, heat and/or cooling, then the tenant may give notice to the landlord that he is in breach of the lease. Sample notices are available at [www.AZLawHelp.org](http://www.AZLawHelp.org) At that point the tenant has one of the following three options.

Option One: The tenant can arrange for utilities on his own and deduct the cost from the rent. With the utility company's approval, a tenant group or group of tenants can pay a landlord's delinquent utility bill and deduct that amount from their rent.

Option Two: The tenant can file suit and recover damages based on the decreased fair rental value of the residence.

Option Three: The tenant can find substitute housing (e.g. a motel) during the period of the landlord's noncompliance. If this occurs, the tenant is excused from paying rent for as long as the landlord does not provide the essential service.

### **Other Noncompliance by the Landlord A.R.S. § 33-1361**

If the landlord fails to comply with the lease in a material way, the tenant can deliver a written notice to the landlord explaining the failure and stating that the lease will terminate in 10 days. If the landlord's noncompliance is materially affecting the tenant's health and safety, then the same notice can state that the lease will end in 5 days. There are two exceptions. First, if the problem can be fixed before the date specified on the notice, then the lease will continue. Second, the problem cannot have been caused by the tenant or his guest.

### **Military Orders and Lease Provisions**

Under the Service Members' Civil Relief Act, a military member can break his lease upon receipt of Permanent Change of Station orders or upon receipt of orders deploying him for at least 90 days. 50 App. U.S.C.A. § 535(a). If one of those events occurs, then the landlord cannot refuse to allow the military tenant to leave. This provision of federal law also applies to any of the military member's family members who may have responsibility under the lease. 50 App. U.S.C.A. § 535(a)(2). A military tenant who is either moving or being deployed is still responsible for any reasonable repair costs to the residence beyond normal wear and tear. To terminate a lease under this law, the military member must provide the landlord with written notice and a copy of the orders. 50 App. U.S.C.A. § 535(c)(1)(A). The military member can either deliver this notice in person or mail it certified mail, return receipt requested, to his landlord. 50 App. U.S.C.A. § 535(c)(2).

### **Forcible Detainer Actions A.R.S. § 33-1368; 33-1377**

An eviction is a type of lawsuit called a forcible detainer. Forcible detainer means that the tenant has remained in or on the property after the landlord has given written notice that the rental agreement has been terminated and that the tenant must leave the property. A landlord can file a forcible detainer action against a tenant for nonpayment of rent, if the tenant has breached the lease, or if the tenant has committed a crime. Forcible detainer actions seek the eviction of the tenant and the repossession of the rental property. They may also be filed if the tenant misrepresented information to the landlord or has unauthorized occupants in the residence.

Most forcible detainer actions involve an allegation that the tenant has not paid rent on time. If a tenant fails to pay rent, the landlord can give notice that he will terminate the lease if the rent is not paid within five days. After the five day notice, the landlord will most likely not be willing to accept partial payment because he will not be able to proceed with the case unless the tenant agrees in writing that the landlord can do so. A.R.S. § 33-1371. On day six, the landlord can file suit. The tenant's inability to pay the rent is not a legal defense to the lawsuit. However, the tenant does have some options.

The tenant can pay all of the rent and any late fees any time before the forcible detainer is filed and avoid eviction. If the action has been filed, then the tenant must pay all past due rent, late fees, attorney's fees and court costs. If the tenant does so before a judgment is entered, he can avoid eviction. After a judgment has been entered, reinstatement of the lease is solely at the landlord's discretion.

As a general rule, the only defense to an allegation of nonpayment of rent is that the rent was actually paid, in the manner and in the amount provided in the lease.

### **What Will Happen In Court**

Forcible detainer cases are similar to other kinds of lawsuits; however, they move through the court system very quickly. The landlord begins the case by filing a summons and complaint and a copy of the eviction notice served on the tenant. The landlord then serves the summons and complaint, together with a Residential Eviction Information Sheet on the tenant by one of the acceptable methods. The filing fee for the landlord is \$45.00. After receiving the lawsuit, the tenant should file an answer. The answer form gives the tenant several options to check and explain as to why the landlord should not prevail. The answer fee for the tenant is \$31.00. If the tenant is unable to afford the answer, the tenant may apply for a waiver of that fee. If the tenant believes that the landlord owes him money, then the tenant may file a counterclaim.

The summons indicates that a trial will occur on the date listed on the summons but due to the extremely high volume of cases in Maricopa County, a trial may or may not occur on that date. However, if the tenant fails to appear, and the landlord or his attorney is present, then a judgment will most likely be entered against the tenant.

At the date and time listed on the summons, the justice of the peace will start calling cases. If both parties are there, the judge will ask the tenant whether the complaint is true. If the tenant says that the complaint is untrue, then the tenant will need to briefly tell the judge why. If the reason appears to be a legal defense, then the judge will need to take testimony from both sides and make a decision after a trial. The trial may or may not occur that day depending on the court's schedule and workload. If either side needs a delay, they may ask for it but continuances will be granted for no more than three business days.

If a landlord receives a judgment against a tenant, he may apply for a writ of restitution for repossession of the residence in five days. The fee for issuing the writ is \$111.00. These writs are served by constables, who will direct the tenant to leave at that time. The landlord can cut off utility services to the residence at that time but cannot dispose of or sell any of the tenant's personal property for 21 days. A.R.S. § 33-1368E – 33-1370.

A tenant can avoid the hassle, expense and embarrassment associated with a writ of restitution by turning in the keys to the landlord. Doing so ends the tenant's possession of the residence.

### **Appeal from a Judgment**

A tenant may appeal a forcible detainer judgment to superior court. Within five days from the date of the judgment, the tenant must do the following.

- (1) File a Notice of Appeal.
- (2) File a Designation of Record.
- (3) Pay an appeal fee or file a request for a waiver of that fee.
- (4) Post a cost bond in the amount of \$250.00 or file an affidavit in lieu of that bond.

If the tenant wants to stop the execution of the judgment, then he must also file a supersedeas bond. A supersedeas bond must be in an amount equal to the judgment and costs. Superior Court Rule of Civil Appellate Procedure 6(a)(1). In addition, a tenant must continue to pay rent to the court to stay an eviction action. Superior Court Rule of Civil Appellate Procedure 6(a)(5).