

REPAIR AND REMEDY CASES
INSTRUCTIONS AND INFORMATION REGARDING FILING SUIT
(PLEASE READ CAREFULLY BEFORE COMPLETING THE PETITION)

REPAIR AND REMEDY: A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the **Texas Property Code** to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought cannot exceed \$20,000.00 excluding statutory interest and court costs but including attorney fees, if any.

LANDLORD'S LIABILITY: A landlord is liable to a tenant to repair or remedy if

1. The tenant has given the landlord proper notice of condition;
2. The condition materially affects the physical health or safety of an ordinary tenant;
3. The tenant has given subsequent written notice to repair or remedy;
4. The landlord has had reasonable time to correct the situation;
5. The landlord has not made an effort to repair or remedy the condition;
6. The tenant was not delinquent in payment of rent at the time notice was given to landlord.

PETITION: In order to file the petition, you must bring the following information to the Court:

1. Contact information for both parties including Plaintiff's agent, management company, etc.;
2. Street address of the premises;
3. Lease and notice information (oral, written, etc);
4. Rent information (amount, paid by whom, due when);
5. Property condition;
6. Relief requested;
7. One twenty nine dollars (\$149.00) fee for filing and service.
8. The last 3 numbers of the landlord's driver's license and social security (if an individual), if available.
9. At the time of filing, you must include a Case Information Sheet, and if you are suing your landlord as an individual, you must file a Military Affidavit on your landlord.

CITATION: A citation will immediately issue directing the landlord to appear for a trial date, which is no less than 10 days and no more than 21 days from date the petition is filed. The citation must be served at least 6 days before trial date.

HEARING: The tenant must appear to present his case. If he doesn't appear, the Judge may dismiss the case. If the landlord doesn't appear and was served, the Judge may hear evidence and render judgment.

JUDGMENT: The judgment must be clear and explicit and may include reduction of rent, actual damages, penalty, costs, and attorney fees.

APPEAL: Either party may appeal the judgment within 21 days from the date the judgment is signed.

The laws governing Repair and Remedy can be found in **Chapter 92 of the TEXAS PROPERTY CODE** and **Rule 509 of the TEXAS RULES OF CIVIL PROCEDURE**.

If you have further questions regarding procedures, you may contact the Clerk; however, she **CANNOT GIVE LEGAL ADVICE**.

CAUSE NO. _____

PLAINTIFF

§ IN THE JUSTICE COURT

v.

§
§
§
§
§
§
§

PRECINCT NO. _____

DEFENDANT

_____ COUNTY, TEXAS

PETITION: REPAIR AND REMEDY CASE

COMPLAINT: Plaintiff files this petition against the above-named Defendant pursuant to Rule 509 of the Texas Rules of Civil Procedure and Section 92.0563 of the Texas Property Code because there is a condition in Plaintiff's residential rental property that would materially affect the health or safety of an ordinary Plaintiff.

Information Regarding Residential Rental Property:

Street Address Unit No. (if any) City County State Zip Code

Defendant's Contact Information (to the extent known):

Street Address Unit No. (if any) City County State Zip Code Phone No.

SERVICE OF CITATION: Plaintiff requests service of the citation on the Defendant, and if required, alternative service pursuant to Rule 509.4 of the Texas Rules of Civil Procedure. Plaintiff will check the box next to each statement that is true: Plaintiff received in writing Defendant's name and business street address. Plaintiff received in writing the name and business street address of Defendant's management company. The name of Defendant's management company is _____. To Plaintiff's knowledge, this is the management company's contact information:

Street Address Unit No. (if any) City County State Zip Code Phone No.

The name of Defendant's on-premises manager is _____. To Plaintiff's knowledge, this is the on-premises manager's contact information:

Street Address Unit No. (if any) City County State Zip Code Phone No.

The name of Defendant's rent collector serving the residential rental property is _____. To Plaintiff's knowledge, this is the rent collector's contact information:

Street Address Unit No. (if any) City County State Zip Code Phone No.

PROPERTY CONDITION: The property condition materially affecting the physical health or safety of an ordinary Plaintiff that Plaintiff seeks to have repaired or remedied is:

LEASE AND NOTICE: Plaintiff will check the box next to each statement that is true:

The lease is oral. The lease is in writing. The lease requires the notice to repair and remedy a condition to be in writing. Plaintiff gave written notice to repair or remedy the condition on _____.

The written notice to repair or remedy the condition was sent by certified mail, return, receipt requested, or registered mail on _____.

Plaintiff gave oral notice to repair or remedy the condition on _____.

Name of person(s) to whom notice was given: _____

Place where notice was given: _____

RENT: At the time Plaintiff gave notice to repair or remedy the condition, Plaintiff's rent was:
 current (no rent owed); not current but Plaintiff offered to pay the rent and Defendant did not accept it; or not current and Plaintiff did not offer to pay the rent owed.

Plaintiff's rent is due on the ____ day of the month week _____ (specify any other rent-payment period). Plaintiff's rent is \$_____ per month week _____ (specify any other rent-payment period). Plaintiff's rent: is not subsidized by the government is subsidized by the government as follows, if known: \$_____ paid by the government, and \$_____ paid by Plaintiff.

RELIEF REQUESTED: Plaintiff requests the following relief (check all that apply): a court order to repair or remedy the condition; a court order reducing Plaintiff's rent in the amount of \$_____ to begin on _____; actual damages in the amount of \$_____;

a civil penalty of one month's rent plus \$500; attorney's fees; and court costs. Plaintiff states that the total relief requested does not exceed \$10,000, excluding interest and court costs but including attorney's fees.

I hereby request a jury trial. The fee is \$22 and must be paid at least 14 days before trial.

I hereby consent for the answer and any other motions or pleadings to be sent to my email address as follows: _____

Plaintiff's Printed Name

Signature of Plaintiff
or Plaintiff's Attorney

Address of Plaintiff
or Plaintiff's Attorney

City State Zip

Phone & Fax No. of Plaintiff
Or Plaintiff's Attorney

AFFIDAVIT OF MILITARY STATUS OF DEFENDANT(S)

CAUSE NUMBER: _____

_____, PLAINTIFF
VS.
_____, DEFENDANT

IN THE JUSTICE
COURT PRECINCT 2
FANNIN COUNTY, TEXAS

My name is (please print) _____

I am (check one) ___ the plaintiff or ___ an authorized agent of the plaintiff in the case described above. I am capable of making this affidavit. I have been duly sworn on oath and the facts in this affidavit are within my personal knowledge and are true and correct.

NOTE: You can search military status by using the following website: <https://www.dmdc.osd.mil/appj/scra/scraHome.do>
[check or fill in as applicable]

___ 1. No defendant in this case is on active duty in the U.S. military (Army, Navy, Air Force, Marines or Coast Guard). The facts on which I base my conclusion are as follows: _____

___ 2. Defendant [insert name(s)] _____ is on active duty in the U.S. military.

___ 3. Defendant [insert name(s)] _____ has been deployed by the U.S. military to a foreign country.

___ 4. Plaintiff and the undersigned (if the undersigned is acting agent of plaintiff) are not able to determine whether any defendant is in the U.S. military – except for any defendant named in 2 above.

___ 5. Plaintiff and the undersigned (if the undersigned is acting agent of plaintiff) are not able to determine whether any defendant is in the U.S. military has been deployed to a foreign country – except for any defendant named in 3 above.

___ 6. Defendant [insert name(s)] _____ has signed, while on active duty, a separate written waiver of his or her rights under the U.S. Servicemembers Civil Relief Act of 2003.

Affiant (Plaintiff)

Sworn to and subscribed before me on this the _____ day of _____, 20____.

CLERK OF THE COURT
Justice Court, Precinct 2
Fannin County, Texas

NOTARY PUBLIC
IN AND FOR THE
STATE OF TEXAS



Servicemembers' Civil Relief Act (SCRA) Certificates

To obtain certificates of service or non-service under the Servicemembers' Civil Relief Act of 2003 (formerly known as Soldiers' and Sailors' Civil Relief Act of 1940) you can use the public website: <https://www.dmda.osd.mil/asp/scra/acraHome.do>. This website will provide you with the current active military status of an individual. There is no charge for this certificate.

You can also receive certificates from the individual Services by sending your correspondence to the appropriate military office listed below. If other than current status needs to be verified, then you need to send your request direct to the Services listed below. The charge for each SCRA certificate (as of February 21, 2002) is \$5.20. Checks should be made payable to "Treasurer of the United States".

ARMY:

Army World Wide Locator Service
Enlisted Records and Evaluation Center
8899 East 56th Street
Indianapolis, IN 46249-5031
NOTE: All requests must be in writing.

NAVY:

Bureau of Naval Personnel
PERS-312E
6720 Integrity Drive
Millington, TN 38055-3120
(801)874-3388

AIR FORCE:

Air Force Personnel Center
AFPC/DPDXIDL
850 C Street West, Suite 50
Randolph Air Force Base, TX 78160-4752
Locator Service:
<http://www.afpc.randolph.af.mil/library/airforce/locator.asp>
(210) 666-2860
DSN: 666-2860.

MARINE CORPS:

Commandant of The Marine Corps
Headquarters, U.S. Marine Corps (MMSB10)
2008 Elliott Road, Suite 201
Quantico, VA 22134-8030
Locator Service: (703)784-3941-3944

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QUESTIONS

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