

Pre-Judgment: Basic Steps for Handling a Small Claims Case for EVICTION

Any forms mentioned in this basic guide may be obtained from the Clerk of Court or online at <http://www.wicourts.gov/forms1/circuit.htm>.

Before filing an eviction action, you must serve proper notice terminating tenancy according to Chapter 704 of the Wisconsin Statutes. Some counties require proof of this notice before an eviction will be granted. You must also determine if the eviction action is due to a foreclosure action per §799.41(2).

1. **Decide in which county you will file your case.** This will usually be the county where the subject property is located.
2. **Fill out a Small Claims Summons and Complaint form.** The form (SC-500i) has step-by-step instructions on the left side.
3. **Determine if the eviction is to remove a tenant whose tenancy is terminated as a result of a foreclosure judgment and sale.** Use the check boxes on SC-500 to provide this information.
4. **Once you have filled out the form, you should make at least two copies** for each tenant you are suing and a copy for yourself.
5. **File the Summons and Complaint.** The Summons and Complaint and **all copies** must be filed and a fee paid to the Clerk of Court in the county where you are filing your case. Follow local court rules or procedures for combining eviction with money claims.
6. **Have each tenant you are suing served with a copy of the Summons and Complaint.** For the court to hear the case, each tenant must be provided with a copy of the Summons and Complaint far enough in advance of the first court date. A sheriff or private process server must attempt to personally serve all tenants. If personal service cannot be accomplished, the sheriff or process server may post notice on the property and mail copies of the Summons and Complaint to the tenants. See Pre-Judgment: Basic Steps to Small Claims Service (SC-6050V) for additional information.
7. **Complete an Affidavit of Nonmilitary Service (GF-175) for each tenant you are suing.**
8. **File your proof(s) of service and Affidavit(s) of Nonmilitary Service with the Clerk of Court.** File the Affidavit(s) of Nonmilitary Service and the proof(s) of service you received from the sheriff or private process server. File these documents with the Clerk of Court at or before the first court date according to local court rules.
9. **Attend the first court date.** All parties are required to attend the first court date. However, DEFENDANTS may be allowed to appear in writing or by telephone if a local court rule grants that privilege. Follow the local court rules where your case is filed or your case may be

dismissed. If the court grants you an eviction judgment, skip to number 12 below and file the necessary paperwork.

10. **If your case cannot be settled at the first court date, the court will schedule a trial.** Before the trial, you may contact the other tenant to try to settle your case. Some counties require the parties attend mediation. If you reach an agreement, put your agreement in writing and file it with the Clerk of Court before the trial. You may use the form Stipulation and Order for Dismissal (Eviction) (SC-5300V) to do this. If you have not reached an agreement before the trial, organize your paperwork and evidence in support of your claim and make enough copies for the court and all parties. If you have witnesses, arrange for them to attend. Practice what you are going to say. Make sure to follow local court rules for filing documents or statements before the trial.
11. **Attend the trial.** Be on time and be polite. Don't get emotional. Explain why the court should give you what you are asking for. The court will review your evidence and listen to your witnesses, if any. When the court makes its decision, listen carefully. See the instructional packet, Basic Guide to Wisconsin Small Claims Actions (SC-6000V) for additional information about preparing and attending trial.
12. **Complete any post-decision activities.** If you are granted an eviction judgment and the tenants will not move out, you must have the sheriff help you remove the tenants. You must pay a fee to obtain a Writ of Restitution form (SC-512) from the Clerk of Court. Take the writ to the sheriff. You will be required to pay a service fee to the sheriff. You may also be required to provide a bond to the sheriff. Contact the local sheriff's department for additional information. Follow local court rules to schedule any necessary hearings to get a judgment for money you claim you are owed for unpaid rent and/or damages.

If you are granted a money judgment, you may have the judgment docketed by paying a fee to the Clerk of Court so it becomes a lien on the other party's real estate. The other party will be required to complete a Financial Disclosure of Assets form (SC-506) and send it to you within 15 days of entry of judgment unless they have already paid the judgment. If the other party does not complete the disclosure, you may file a Motion and Order for Hearing and Contempt (SC-507). The court does not collect your judgment for you, but there are actions you can take to collect your judgment. See Post-Judgment: Basic Steps Guide for Handling a Small Claims Earnings Garnishment (SC-6070V) and the Execution Against Property form (GF-115).