

# Interactive Eviction Appeals

Rebecca Glisan  
Director of Curriculum & Staff Attorney  
Texas Justice Court Training Center

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## Resources

Texas Justice Court Training Center:  
[www.tjctc.org](http://www.tjctc.org)

- Evictions Deskbook Ch. 4, Section F
- Charts, self-paced modules, webinars, legal board, etc.

Texas Constitution and Statutes:  
<https://statutes.capitol.texas.gov/>

Texas Rules of Civil Procedure:  
<https://www.txcourts.gov/rules-forms/rules-standards/>

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## Spot the Mistakes

An eviction judgment was entered on a Friday and the court received a Statement of Inability to appeal the judgment from Defendant Thea the following Monday. Justice court clerk Bronson sent a notice of the Statement of Inability to the plaintiff on Wednesday. Bronson then called Thea to let her know that she must file an additional Statement of Inability – because one is needed for the appeal bond and a separate one is needed for the appeal filing fee. He also told her during the phone call that she must pay one month's rent into the registry no later than five days after the day that she filed the Statement of Inability.

Thea did not pay the rent into the registry by the deadline, and so Plaintiff John came in to request a writ of possession. Judge Amber had Bronson tell John that he couldn't get the writ yet because Thea would have one extra day to pay since the court closes before 5 p.m. every day. After the extra day, Thea still hadn't paid. Judge Amber told Bronson that Thea's failure to pay the rent into the registry by the deadline meant her appeal wasn't in fact perfected and so he shouldn't send the case up to the county court after all.

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## Scenario #1

I know the court loses authority to grant or deny any relief on the 21st day after the date a civil Judgment is signed. Does this rule apply to eviction cases where the appeal period is only 5 days?

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## Scenario #2

Is it considered legal advice in an eviction case to tell a party the actual date for their last day to appeal?

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## Scenario #3

Does a judge have the discretion to deny an appeal in an eviction case?

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## Scenario #4

Eviction case that was dismissed for lack of jurisdiction. The attorney for the plaintiff wants to file an appeal. Can we accept the appeal? Do they need to refile in a JP that holds jurisdiction over the case?

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## Scenario #5

On an eviction appeal by Statement of Inability, does the JP decide if the party is indigent or is that for the County Court at Law judge to rule on? (No contest was filed).

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## Scenario #6

The court entered a default judgment in an eviction after the tenant did not appear. Notice of the judgment was sent to the premises. An occupant of the tenant has now filed an appeal of the case.

Can an occupant appeal?

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## Scenario #7

In an Eviction Case, the defendant emailed the court within their 5 days to appeal stating that they wished to appeal with a SIP, but they failed to attach the required form. The Court emailed the defendant back providing them with the form that needed to be submitted to the Court. However, the defendant did not timely submit the SIP and his appeal period has now passed.

Should the Court transfer the case to CCL regardless of it not being timely filed?

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## Scenario #8

What should you do if a defendant in an eviction filed for bankruptcy before the trial but didn't show up and didn't notify the court, and then calls after the judgment is entered to say she had filed for bankruptcy?

Can she appeal it or does the judge dismiss the default judgment since the bankruptcy has now been submitted to the court?

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## Scenario #9

In an eviction case, the appeal deadline passed, and the plaintiff requested a writ of possession the next day. The court issued the writ that same day. Three days later, the court received a Statement of Inability appealing the case in the mail. It was post-marked the day before the appeal deadline.

Do we send the case up? What do we do about the writ of possession that was already issued?

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## Scenario #10

We have an eviction where a judgment was rendered for the plaintiff. The tenant wants to appeal this case, so they filed a Statement of Inability. We sent notice to the plaintiff letting them know they have 5 days to contest the Statement of Inability. Plaintiff is asking if they can get a copy of the Statement of Inability that the tenant filed.

Are we able to release this document to the plaintiff?

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## Scenario #11

A tenant has appealed a case using a Statement of Inability. I know that covers the appeal bond. Does it also cover the rent that needs to be paid into the registry in order for the tenant to stay in possession of the premises during the appeal?

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## Scenario #12

Our office had an eviction hearing with 2 occupants. The occupants were in a relationship that ended due to family violence and now there is a protection order in place. Both parties are on the lease and now both parties are appealing separately. Both parties filed statements of inability for the appeal bond.

Do they both pay the 1 months rent or is the rent divided?

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## Scenario #13

A default judgment was issued on a non-payment of rent eviction. The defendant filed an appeal with a statement of inability and was given the notice to pay into the court registry. The defendant did not pay the one month's rent into the court registry within the 5 days. The plaintiff requested a writ of possession the day after the one month's rent was due. A writ of possession was issued.

Does the appeal still get transferred to the county court?

If so, do I have to wait for the writ of possession to be executed by the constable before I can transfer the case?

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## Scenario #14

An eviction case was appealed. The defendant did not pay rent into the registry by the deadline. The case was sent up to the county court the next morning, and the plaintiff came in asking for a writ of possession that afternoon.

What do we do now? Should we not have sent it up so quickly?

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## Scenario #15

A defendant in an eviction appeals with a Statement of Inability and pays the rent into the court registry; but for some reason the case is sent back because it wasn't perfected at the higher court.

Who gets the money from the registry? Plaintiff or Defendant?

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# Questions?

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