

Eviction Appeal Scenarios

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Justice of the Peace, Wise County Pct. 3

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Resources

Texas Justice Court Training Center:
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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Step 1 – Is This a Nonpayment of Rent Eviction?

- A critical question to ask yourself in every eviction case is “what are the grounds for eviction?”
- This is important, not just to decide if the plaintiff has proven its case, but if the eviction is based on nonpayment of rent, special rules and procedures apply and must be carefully followed.
- Most importantly, a person appealing a nonpayment of rent eviction with either an appeal bond or statement of inability must be ordered to pay one month’s rent into the justice court registry.

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Nonpayment of Rent Eviction? Scenario 1

- Mike has a mortgage that gets foreclosed upon. The bank purchases the house at the foreclosure sale and now seeks to evict Mike.
- Is this a nonpayment of rent eviction?

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Nonpayment of Rent Eviction? Scenario 2

- Billy hasn't paid October or November's rent. April gives him a 3-day notice to vacate on November 10th and files the suit on November 14th.
- Billy pays October and November's rent to April on November 17th and the case goes to trial on November 25th.
- Is this a nonpayment of rent eviction?

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Nonpayment of Rent Eviction? Scenario 3

- Daniel hasn't paid November's rent.
- His landlord, Bray, knows that Daniel doesn't have money, so when Bray files the eviction suit, he doesn't ask for any money damages, instead only asking for possession of the premises.
- Is this a nonpayment of rent eviction?

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Nonpayment of Rent Eviction? Scenario 4

- Becky has a pet in violation of her lease.
- Charlotte, her landlord, gives Becky a notice to vacate on October 21st when she discovers the pet at the premises.
- At the time, Becky is current on rent.
- The eviction suit is filed on October 25th.
- Becky doesn't pay November's rent on the 1st, and Charlotte asks the court to award November's rent at trial on November 13th.
- Is this a nonpayment of rent eviction?

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Nonpayment of Rent Eviction? Scenario 5

- Tenant's lease expired on May 31, on June 1, landlord demanded to pay June rent or vacate, tenant did neither. Landlord gives notice to vacate and pursues eviction.

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Scenario 6

- A tenant in a non-payment of rent eviction case appeals the judgment with a Statement of Inability. The court forgets to send a notice to the tenant informing them that they must pay rent into the registry to avoid a writ of possession being issued while the appeal is pending. Five days later, and before the case has been sent to the county court, the landlord comes in and asks for a writ of possession.
- What should the court do?

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Scenario 7

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 8

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

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Scenario 9

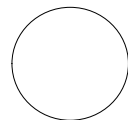
Eviction case that was dismissed for lack of jurisdiction. The attorney for the plaintiff wants to file an appeal.

Can we accept the appeal? Do they need to refile in a JP that holds jurisdiction over the case?

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Scenario 10

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 11

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 12

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 13

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 14

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?

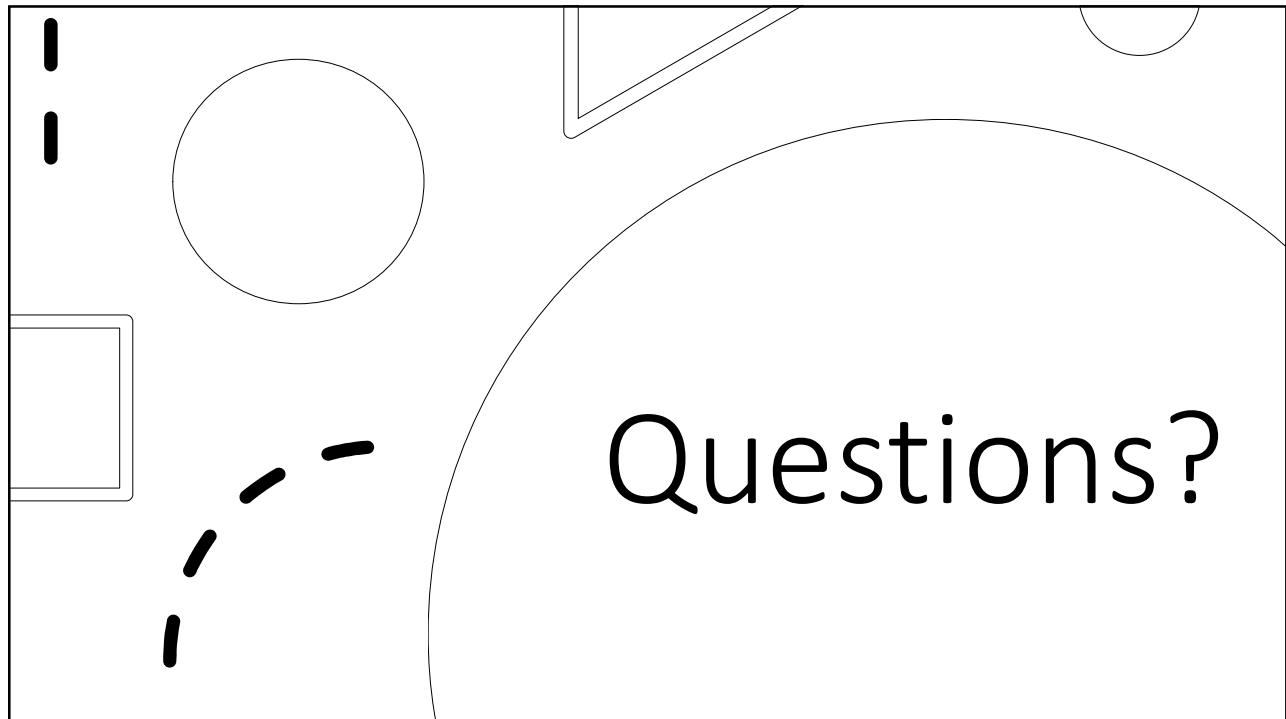
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Scenario 15

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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