

# Eviction Scenarios

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## Agenda

- This is a scenarios discussion class about types of evictions.
- You will discuss the question(s) on the slide at your table.
- Feel free to use any available resources to answer, including [www.tjctc.org](http://www.tjctc.org) materials.
- Nominate table spokesperson who will share your answer.

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## Resources:

- [www.txcourts.gov](http://www.txcourts.gov)
  - Texas Rules of Civil Procedure (TRCP)
- [statutes.capitol.texas.gov](http://statutes.capitol.texas.gov)
  - All statutes other than the Rules of Civil Procedure
- [www.tjctc.org](http://www.tjctc.org) (TJCTC website)
  - Deskbooks, including the Evictions Deskbook
  - Legal question board, forms, webinars, modules, etc.

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## Scenario 1

Joe Hill signed a lease starting in January and ending in December. His landlord decides that she wants to sell the property in May. She sends Joe a lease amendment releasing him of all obligations under the lease, but Joe fails to sign it. The sale listing stated that the sale was subject to the lease. When the landlord goes under contract to sell the house, she gives him a 3-day notice to vacate and files an eviction afterwards.

1. Would you grant this eviction? Why or why not?
2. Does Joe have an obligation to sign the lease amendment?
3. If the sale goes through, what is the new owner's relationship to Joe?
4. Would the situation change if the landlord gave him \$700 when she sent him the lease amendment? Would that raise any issues?

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## Scenario 2

Meg Wolitzer is renting a house, but the homeowner/landlord failed to pay the mortgage, leading to foreclosure. The bank now owns the house and wants Meg to leave.

1. Should Meg be forced to leave because the homeowner did not pay the mortgage?
2. Do you need more information? If so, what?
3. Should the bank give Meg more time to find another place to live?
4. What if this was a commercial tenancy?

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## Scenario 3

Gillian Flynn had an eviction suit for nonpayment of rent filed against her. Plaintiff was awarded possession, \$5,000 in back rent, and \$300 in late fees. Ms. Flynn tried to appeal the decision the same day it was issued by filing a Statement of Inability to Pay. The judge told Ms. Flynn that she would not accept the Statement to appeal unless Ms. Flynn paid money into the court registry by the end of that same day.

1. Did the judge do anything wrong here?
2. Would it change anything if Ms. Flynn appealed by filing a Cash Deposit?
3. Does the Evictions Deskbook cover these issues? Is so, on what pages?

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## Scenario 4

Stephen McCauley is being evicted for having unlawful drugs in his apartment. Stephen's total rent is \$1200 monthly. He pays \$400 and the local housing authority pays \$800. Judge is requiring him to pay rent into the registry in the amount of \$1200 for him to maintain possession of the premises during the appeal.

1. Is the judge doing anything wrong? If so, what?
2. Would anything change if reason for eviction was non-payment?
3. What if the landlord was not asking for any money in the judgment?
4. How much would you make him pay into the court registry?
5. Can that be contested? If so, describe the proper procedure.

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## Court's Required Notice (1 of 2)

- The justice court must provide a written notice to the tenant at the time the appeal bond or Statement is filed that contains the following information in **bold or conspicuous type**:
- the **amount** of the initial deposit of rent stated in the judgment that the tenant must pay into the justice court registry;
- whether the initial deposit must be paid in **cash, cashier's check, or money** order, and to **whom** the cashier's check or money order, if applicable, must be made payable;

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## Court's Required Notice (2 of 2)

- the **calendar date** by which the initial deposit must be paid into the justice court registry
  - for a court that closes before 5:00 p.m. on the **specified date, the time the court closes**;
  - **and**
  - a statement that failure to pay the required amount into the justice court registry by the specified date may result in the court **issuing a writ of possession without a hearing**.
- *Property Code § 24.0053(a-1); Rule 510.9(c)(5)(A).*

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## Special Note for This Notice

- 5-day Notice Deadline Not Extended if Court Closes Before 5PM!
  - Paying rent is not filing something with court
  - Notice provides due date and time that the court closes if before 5PM

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## Scenario 5

Recently, your local legal aid organization contacted all your JP courts in the county. They asked you to add a section to the “Rent Paid into the Court Registry” notice that states:

“A tenant who appealed by filing a Statement of Inability to Afford Payment of Court Costs must continue to pay the designated rent amount into the county court registry within five days of the rental due date under the terms of the rental agreement. *Rule 510.9(c)(5)(B)(ii)*.

If the tenant fails to do so, the landlord can request a writ of possession from the county court. *Property Code § 24.0054*”

1. Can or should the court do this? Explain your answer.

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## Scenario 6

Lief Enger rented an apartment for the past year. Recently, he became disabled due to an illness and is living off a reduced income. Lief was unable to pay rent for the last two months. The landlord has sent him a notice asking him to vacate. Lief says it is disability discrimination because he does not have the money due to the illness.

1. Is it fair for Lief to be evicted after falling behind on rent due to his illness?
2. Is he correct that this is illegal discrimination based on his disability?
3. After the suit is filed, can the landlord make a settlement agreement with Lief and what should that process look like?
4. What if he asked for a reasonable accommodation of a payment plan?

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## Scenario 7

Janet Fitch is a single mother of two children, ages 3 and 6. Janet is also pregnant with her third child. Janet's neighbors complain to the landlord, Michael, that there are too many children in the building, and they express additional worry about the noise Janet's new baby will create once the baby is born.

In response to these complaints, Michael files an eviction against Janet and cites noise complaints. Janet asserts the affirmative defense has discrimination against her family and minor children.

1. Who would you rule for? Are there facts not mentioned above that would influence your decision? If so, what are they?
2. Can an apartment complex have policies that say they are an "adult only" and will refuse to rent to minor children?

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## Scenario 8

Riley Sager has lived in the same apartment for 8 years. All the leases for this apartment have had a provision prohibiting pets, including the current lease. Riley deals with severe depression and has recently gotten an emotional support dog as part of treatment. Recently, the dog growled at a child who lives in the same complex, and his parents complained to the landlord. Landlord filed an eviction based on the safety of the child.

1. Can the landlord ask for documentation of the disability and need for the emotional support animal?
2. Can they evict based on the dog growling at a child or any other reason based around an emotional support animal?
3. Would the outcome change if the reason for eviction was that Riley refused to pay a pet fee and deposit?

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## Accommodation Refusal

- Granting the request would impose an undue financial and administrative burden on the housing provider
- The request would fundamentally alter the essential nature of the housing provider's operations
- The specific assistance animal in question would pose a direct threat to the health or safety of others despite any other reasonable accommodations that could eliminate or reduce the threat
- The request would result in significant physical damage to the property of others despite any other reasonable accommodations that could eliminate or reduce the physical damage.

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## Fair Housing Resources:

- [www.justice.gov/crt/housing-and-civil-enforcement-section](http://www.justice.gov/crt/housing-and-civil-enforcement-section)
  - U.S. Justice Department Civil Rights Division
- [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/partners/FHAP/agencies](https://www.hud.gov/program_offices/fair_housing_equal_opp/partners/FHAP/agencies)
  - Fair Housing Assistance Program (FHAP) Agencies List
- <https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/eviction-resources/fair-housing-act-module/overview-of-the-fair-housing-act>
  - Fair Housing Act Module
- <https://www.ada.gov/resources/service-animals-faqs/>
- [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/assistance\\_animals#\\_Obligations\\_of\\_Housing](https://www.hud.gov/program_offices/fair_housing_equal_opp/assistance_animals#_Obligations_of_Housing)

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## Scenario 9

Curtis Sittenfeld received notice of lease termination on April 2<sup>nd</sup> with an effective date of May 2<sup>nd</sup>. Curtis submits a repair request on April 3<sup>rd</sup>. Curtis fails to move out and receives a 3-day written Notice to Vacate, and landlord files the eviction.

1. If Curtis files an answer asserting retaliation for the repair request, would that defense be successful?
2. What are the rules for asserting a retaliation defense in an eviction? Where can you find the rules in the Deskbook?

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## Scenario 10

Grady Hendrix has an oral month-to-month agreement with his landlord. The landlord charges \$1,000 per month and says if rent is paid more than 3 days late, there will be an additional \$50 per week. Grady has paid rent 4 days late for the past 3 months. The landlord gives Grady notice of the \$150 due and gives a deadline for payment due in one month. A month goes by, and Grady does not pay the late fees. However, he was not late paying rent this month.

1. Are the late fees reasonable here? Is there a TX Property Code Section on late fees for residential tenants?
2. Can the landlord evict Grady for nonpayment of late fees?
3. Does the landlord have any other remedies?

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# Questions? Thank you!!!

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