

# Eviction Information for Landlords and Tenants



*Provided as a courtesy to interested parties by Tom Selman,  
Constable of Precinct One, Angelina County*

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Constables serve their Justice Court and the public in cases where Landlord/Owner and Tenant relationships wind up in court. Landlords/Owners and Tenants sometimes have questions about the procedures that must be followed in these cases. The provisions of the Texas Property Code and the Texas Rules of Civil Procedure, Part V – Rules of Practice in Justice Court, guide the proceedings in these type cases. The general information contained herein reflects how an eviction is usually handled in Angelina County Precinct One.

## **IMPORTANT NOTICE – This information is not “Legal Advice”**

Landlords and tenants that represent themselves in court and do not use the services of an attorney must know and understand how court and *Pro Se* litigation work and must not rely on or expect the court personnel or constable to help them or provide information on how to prosecute their case. It is unlawful and improper for the Judge and/or the Court Clerks to give you legal advice and they may not be able to answer any landlord or tenant questions that go beyond basic information about the court, i.e. “where is the court located”, “what date will the case be heard”, “what time do I need to be in court”, “how much does it cost to file an eviction”, etc. and so on. Specific questions that get into the case or other processes and procedures may go unanswered. Please do not be offended as court personnel will not be helping the opposing party in their case either. Remember, the COURT IS A NEUTRAL VENUE for parties to come into to resolve their differences. In order for the Court to be an impartial trier of the facts, only information and testimony submitted under oath and in open court can be considered. Laws are in place to ensure the right of all parties to a fair trial and to prevent secret evidence or evidence and testimony that the other litigant has not had a chance to raise objections to from being considered. In order to remain neutral and to be fair, the judge and court personnel cannot discuss your case, legal matters, give advice, tips or assistance to any of the parties as this would undermine our system of justice and fair play. If you have a lot of questions, don't understand how the process works or are seeking information from the court to help with your case, chances are your understanding of the court system is not that great and the best way to ensure a successful resolution in your case would be to consult with your family attorney as he is a trained professional in these matters. Attorneys know all the rules, how the court operates and can provide legal advice, counsel, guidance, direction and representation in your case.

*The following information relates to the process only, is not legal advice and is provided as a courtesy to any interested party that may have a need to be involved in the filing or defending of an eviction case.*

There are several steps a landlord (or property owner) must follow to initiate an eviction case. All provisions related to tenants and evictions can be found in the [Texas Property Code](#) and must be adhered to by the court and the parties in the case. Below are the 3 steps involved in the eviction process:

- 1) LANDLORD ISSUE WRITTEN NOTICE TO TENANT - Prior to filing an eviction with a court, a landlord must, under the Property Code, give proper notice in writing (a [Notice to Vacate](#) will suffice) to the tenant asking them to leave the property. The minimum amount of time given in the written notice is 3 days in most **routine residential** evictions. If a foreclosure or tax sale is involved or if the property is commercial, some situations can require a longer period of notice to the tenant before the court case can be filed. Refer to [Texas Property Code](#) or your attorney if you are not sure or if your eviction has special circumstances.
- 2) LANDLORD FILE EVICTION CASE - If the tenant fails to vacate under the terms of the written notice that the landlord issues, the landlord may then file an eviction case with the Justice Court after the time given in the Notice to Vacate has passed. The required forms to file a case are available at the Justice Court or at the Angelina County web site in the form of an [Eviction Packet](#). A landlord would then read the instructions and complete the forms (court personnel cannot assist with the filling out of the forms). Once completed, the landlord would return the forms to the Court Clerk and pay the filing fee. At that time the clerk will provide a receipt for the payment and will set a court date so all parties will know when the hearing will be held in the case. After processing the forms the landlord files, the court clerk will issue a Citation that will be served on the tenant by the constable which will notify them of the eviction proceedings and the time and date of the court hearing. Failure of either party in the case to be present at the time and date of the hearing can result in that party losing their case. All parties should arrive for court with all the evidence, documentation and/or witnesses that they plan to use to prove or defend their case. All records of rent payments, contracts, inter-party communications, etc. can be entered into evidence to help either party prove or defend their case. After the Judge hears the testimony and reviews the evidence that was allowed in the case, he will make a ruling. The Judge will enter into an order or a Judgment in the form of a document that is the decision of the court which becomes part of the record that details the award of the court. Both parties will receive a copy. If the landlord wins his case, the tenant is thereby evicted at that time. Some or most tenants, after losing their case in court, will vacate or leave if they have not already. Tenants in evictions, as in all other cases in our legal system, always have the right to appeal the Court's ruling to the next higher court. Approximately 7 days must pass after the hearing to allow time for the filing of the appeal. If no appeal is perfected during that period, the eviction is final. Landlords must wait for the appeal period to pass before taking the last

step in the process if the tenant fails to vacate the property on their own. Note, however, that step 3 is not always required as most tenants leave on their own and do not have to be removed by law enforcement.

- 3) WRIT OF POSSESSION – In some evictions, the tenants refuse to leave even after the Judge orders the eviction. Landlords whose tenants refuse to vacate after the eviction is ordered and the appeal period has passed must sometimes be forced to leave by the sheriff or constable. If a tenant remains after the appeal period has passed and the landlord chooses not to allow them additional time to leave or wants immediate possession of his property, the landlord may return to the court and request a Writ of Possession. There is a fee for this Writ. Upon receipt of payment, the court will issue the Writ. After the Judge signs the Writ, the constable will go to the property and will present those documents to the tenant if they are still there. If no one is home, the Writ and a Warning Notice is posted to the premises. The tenant will have only 24 hours to gather up their belongings and leave. [Tenant's Guide to Understanding a Writ of Possession](#) provides more details on how the execution of the Writ by the constable works. The constable will contact the landlord and will set up an exact time to meet to remove the tenant and the tenant's property from the premises if they have not vacated. Landlord must provide the manpower to move the tenant's belongings to the curb or beside the road. Constable will maintain order and oversee the process to ensure the property is handled according to the Texas Property Code. Writ of Possession cannot be executed if it is about to rain, sleeting or snowing.

Jurisdiction and Venue – Landlords must file evictions with the Justice Court Precinct in which the property is located, unless the monetary amount for which the suit is asking exceeds the \$10,000.00 jurisdictional limit of the Justice Court. Suits for rents due exceeding \$10,000.00 must be filed in the County Court at Law. If a landlord is not sure what precinct the property is located in, it is advised he find out, otherwise, the case could be in jeopardy of dismissal if it is filed in the wrong court. Court fees are not refundable if the case is filed in the wrong court. Court personnel do not always know the exact precinct boundaries and will not usually provide opinions about what precinct a particular property is located in. It is a landlord's responsibility to know the correct precinct that their property is located in and to properly file their case with the court in that precinct.

Currently, all property inside Lufkin city limits is within Precinct One. County [Precinct Maps](#) show lines for each Justice Court Precinct should one be unsure of proper venue.