

Form 15: Temporary Restraining Order

The four forms that follow these instructions can help you file a civil complaint to ask a court for a *temporary restraining order* (called a "TRO" for short). A TRO is an order from the court that orders your landlord to either do something to correct a problem or stop doing something that is illegal. A TRO can, for example, order a landlord to:

- ✓ Make emergency repairs.
- ✓ Restore your utilities.
- ✓ Let you back into your apartment if you were illegally locked out.

If you are below a certain income, you may be able to get a TRO and summons without paying court costs. To ask the court to *waive* (not require you to pay) court fees, you will need to file an **Affidavit of Indigency** (see **Booklet 9**).

If you obtain a TRO against your landlord, you must have that order, along with the complaint and summons, *served* on your landlord by a deputy sheriff or a constable as soon as possible.

HOW TO FILL OUT THESE FORMS

There are four different sample court forms that follow these instructions:

1. Verified Complaint and Motions for Temporary Restraining Order and Preliminary Injunction
2. Grant of Temporary Restraining Order
3. Order for Notice
4. Contempt Complaint

Verified Complaint Form

The purpose of the Verified Complaint on page 489 is to tell the judge what the landlord has done and ask the court to order the landlord to stop the illegal activity. The letters and numbers in the instructions below match those on the form.

- a. Write the name of your county.
- b. Write your name.
- c. Write the landlord's name.
- d. Write the name of the court where you are filing the complaint.
- e. Fill in the Docket Number, which is the number the court has given your case. You can ask the court for it.

1. Fill in your name, address, and phone number and your landlord's name, address, and phone number.
2. Fill in the date and check each item that applies to your situation so the judge will know what the landlord has done.
3. If you lost any property, or your property was damaged because of your landlord, and you want to be reimbursed for it, or you had other costs such as hotel or transportation expenses, list these costs and the total.
4. Under the law, your landlord is *liable* to you for three times your rent or the total cost of the expenses you listed (whichever is greater). Fill in this amount.
5. Check the situation that applies to you.
9. Sign, and fill in your name, address, and telephone number.
10. Under the "Verification" section, fill in your name and the date and sign your name.

Grant of Temporary Restraining Order Form

The purpose of the Grant of Temporary Restraining Order on page 491 is to order the landlord to stop the illegal behavior. It is a temporary order for a limited period of time. Give this order to the court when you file your Verified Complaint. You do not need to fill it out. The court fills it out.

Order of Notice Form

The purpose of the Order of Notice on page 492 is to set the date for a hearing, at which time the judge will decide whether or not to order the landlord to stop the illegal behavior. Give this order to the court when you file your Verified Complaint. You do not need to fill it out. The court fills it out.

Contempt Complaint Form

The purpose of the Contempt Complaint on page 493 is to tell the court that your landlord has failed or refused to obey the court order. Use this form only after a reasonable time has passed and your landlord has not obeyed the court order. The letters and numbers in the instructions below match those on the form.

- a. Write the name of your county.
- b. Write your name.
- c. Write the landlord's name.
- d. Write the name of the court where you are filing the complaint.
- e. Fill in the Docket Number, which is the number the court has given your case. You can ask the court for it.

1. Fill in the same court case number that is on your Verified Complaint form and the date you filed the Verified Complaint with the court. You can get this information from your Verified Complaint.
2. Fill in the date the court first ordered your landlord to stop (desist and refrain from) the illegal behavior. Get this information from the judge's order.
4. Fill in the same date you wrote in #2 above and explain how your landlord failed or refused to obey the court order.
8. Sign and date the document and fill in your address and telephone number.

HOW TO USE THESE FORMS

Step 1: Bring Your Forms to Court

After filling in the Verified Complaint form and an Affidavit of Indigency form (see **Booklet 9**), make two copies of each form. Take the original copy to your local district or housing court. Find the clerk's office where papers are filed and give your original forms to the clerk.

Step 2: Bring Your Proof to Court

Before you go to court, gather any documents or photographs that will help you prove your case. For example, if you have a report from the board of health saying that your utilities have been shut off, bring a copy of this report. If there are people who saw that you were locked out, ask them to come to court as your witness. Also, bring to court a lease or bills addressed to you, showing that the apartment in question is your residence.

Step 3: Ask to See a Judge

After you give your original forms to the clerk, tell the clerk you need to see the judge today. Tell the clerk it is an emergency. You may need to tell the clerk what the emergency is.

Step 4: Make Sure Your Case Is Called

When you go to the courtroom where the clerk told you to go, make sure you answer the clerk in the courtroom when she calls out your name. If the clerk does not call your name, immediately go back to the clerk where you filed the court papers and ask what happened to your case. (You may be in the wrong courtroom or the clerk may have sent your papers to the wrong courtroom.)

Step 5: Tell the Judge What Happened

When you appear before the judge, speak clearly about what the landlord (or someone else acting under her orders) did or threatened to do. Show the judge any proof that will back up your story. Tell the judge what you want the court to do.

Step 6: Listen to What the Judge Orders

If the judge grants your request for a TRO, the judge should sign either the Grant of Temporary Restraining Order form or the Order for Notice form. After the judge signs the order, read what she wrote. **Note:** In an emergency situation, the court may order a TRO even if the landlord is not there. If your landlord is not present at the hearing, the court may also schedule a second hearing within 5 to 10 days to give the landlord a chance to tell her story.

Step 7: Notify Your Landlord

Ask the clerk to make two copies of the judge's order and of the Affidavit of Indigency. Also, ask the clerk for the name and address of a local constable or sheriff who can serve the order to your landlord. You must have the order *served* by a sheriff or constable. You can also ask the judge for permission to have a neighbor, friend, or family member officially deliver the order to your landlord. (As a plaintiff, you are not allowed to deliver an order yourself.) Take the original copy of the signed order and a copy of the Affidavit of Indigency to the sheriff's office, and ask them to serve the order on your landlord as soon as possible. Keep a copy of the order and Affidavit of Indigency for yourself.

Step 8: Notify the Court If the Landlord Refuses to Obey the Order

After the officer serves your landlord, if she does not obey the judge's order within a reasonable time, fill out the Contempt Complaint form on page 493. This tells the court that the landlord refuses to obey the court's order. Take this to the clerk's office and ask the clerk to schedule a hearing immediately. If your landlord is found to be in violation or *contempt* of the original order, she can be arrested and/or fined by the court.

(Please type or print)

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

a. _____, ss: d. Name of Court _____
County e. Civil Docket No. _____

b. _____
Plaintiff(s) - Tenant(s)

vs.

c. _____
Defendant(s) - Landlord(s)

VERIFIED COMPLAINT AND MOTIONS
FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION
FOR PROTECTION FROM UNLAWFUL EVICTION, UTILITY TERMINATION,
OR BREACH OF QUIET ENJOYMENT G.L. c. 186, §14

1. Name of Plaintiff (the tenant) _____
Address (of apartment or rental house where you live) _____
Telephone Number _____

Name of Defendant (the landlord) _____
Address (of landlord) _____
Telephone Number _____

2. On or about _____ (date), the Defendant/landlord:

Locked me out of the premises or otherwise attempted to regain possession of the premises without judicial process.

Turned off or failed to restore the following utility service: _____

Otherwise directly or indirectly interfered with my quiet enjoyment of the residential premises.

(Specifically explain what happened) _____

3. By engaging in the above acts, the Defendant/landlord has cost me the following sums of money:

List of Expenses

Item	Cost
_____	_____
_____	_____
_____	_____

4. My landlord is therefore liable to me for the above amount or three times my monthly rent, \$_____ (*enter amount equal to three times your monthly rent*), whichever is larger.

THEREFORE, I ask the Court to:

5. Issue a Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction restraining and enjoining the Defendant from (check where appropriate):
- Denying me possession of the premises.
 - Depriving me of utility service.
 - Interfering with my right to quiet enjoyment of the premises and a safe and sanitary apartment.
6. Award me money damages for the greater amount of No. 3 or 4 above, plus costs.
7. Award such relief as the Court deems appropriate.
8. Waive the requirement of Rule 65(c) of the Massachusetts Rules of Civil Procedure that I provide security for the issuance of the above Order(s) because I cannot afford to provide such security.
9. Schedule a Preliminary Injunction Hearing prior to the expiration of any Temporary Restraining Order that may be granted.

Respectfully submitted,

Plaintiff's/tenant's signature

Name

Address

Telephone Number

10. VERIFICATION

I, _____ (*plaintiff/tenant*), have personal knowledge of all of the facts stated above and hereby swear under the pains and penalties of perjury that all of those facts are true and accurate.

Date: _____

Signature: _____

(Please type or print)

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

a. _____, ss: d. Division _____
County e. Civil Docket No. _____

b. _____
Plaintiff(s) - Tenant(s)

vs.

c. _____
Defendant(s) - Landlord(s)

CONTEMPT COMPLAINT

I/We, the Plaintiff(s) say:

1. That I am/we are the Plaintiff(s) in Civil Action No. _____ filed on _____, 20__.
2. That on _____, 20__, this Court issued a Temporary Restraining Order/Preliminary Injunction that ordered the Defendant(s) to desist and refrain from:

3. That said Temporary Restraining Order/Preliminary Injunction is still in force and effect.
4. That since _____, 20__, the Defendant(s) has/have willfully failed and/or refused to obey said order by: _____.

THEREFORE, I ask:

5. That an Order of Notice be issued by this Court requiring the Defendant(s) to show cause why he/she/they should not be adjudged in contempt of court.
6. That the Defendant(s) be found in contempt of court.
7. That the Court make further orders for relief as it deems proper and just.
8. Signed this _____ day of _____, 20__

Signature

Address

Telephone Number

