



LEGAL AID SOCIETY OF HAWAI'I



TENANT RIGHTS: HOW TO GET MONEY DAMAGES IF YOUR LANDLORD LOCKS YOU OUT ILLEGALLY

This self-help packet will show you how to ask the court for damages if your landlord has illegally locked you out of your unit.

Use this packet if:

- you rent from a private landlord and/or receive Section 8 assistance; AND
- your landlord has locked you out without getting a court order to evict you first.

If you are being evicted too, talk to a Legal Aid advocate before filling out this packet.

IMPORTANT NOTE:

If you live in Public Housing, this packet will not work for you. Talk to Legal Aid for more information on your options if you are being locked out of your public housing unit.

In some other special circumstances, this packet will not work for you because the landlord-tenant code does not apply. These other housing situations include UH housing, day-to-day hotel, or homeless shelters. Talk to a Legal Aid advocate for more information.

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This brochure was created
through the AmeriCorps
Project Lauima at the
Legal Aid Society of Hawaii



A LOCKOUT IS ILLEGAL.

It is illegal for your landlord to lock you out of your unit overnight unless he/she has a court order to evict you. This court order is called a *Writ of Possession*.

If your landlord has locked you out illegally before getting the *Writ of Possession*, you can sue him or her in court for up to two times your monthly rent or free occupancy for two months, and the cost of suit, including reasonable attorney's fees.

If you are locked out now and cannot get back in your unit, Legal Aid has another self-help packet to help you ask the court to order your landlord to let you back in your unit. This packet is called "How To Stop Your Landlord From Locking You Out Illegally." Call or visit Legal Aid to get this packet.

THIS PACKET CONTAINS TWO (2) COURT FORMS. YOU WILL *NOT* NEED TO FILE THEM ALL AT ONCE. OTHER NECESSARY FORMS MAY BE PICKED UP FROM DISTRICT COURT OR THE JUDICIARY WEBSITE AT:

http://www.courts.state.hi.us/self-help/landlord/forms/tenant_forms.html

READ THESE INSTRUCTIONS VERY CAREFULLY.

WHAT YOU WILL NEED TO DO: SIX EASY STEPS

1. Fill out all the court forms in this packet.
2. Make 3 copies of your *Complaint for Damages*, *Notice of Hearing*, and *Summons*. Staple the forms properly.
3. File your stapled copies at District Court and pay the \$120 filing fee or get the fee waiver. Make sure that you get at least one date-stamped copy each for yourself and your landlord.
4. Properly deliver ("serve") a date-stamped copy of the court forms and the *Return of Service* form to your landlord/landlord's attorney. (See page 5.)
5. Go to the court hearing.
6. If you won at the hearing, file the *Judgment* and *Notice of Entry of Judgment* at District Court and give a copy of the forms to your landlord/landlord's attorney.

STEP ONE: FILL OUT THE FORMS

Fill out the forms in this packet. Type the forms if possible. If you cannot type, *print very neatly in black ink*.

Be sure to sign and date all the documents where it asks for your signature. Do not sign where it asks for the clerk's or judge's signature.

TIPS FOR FILLING OUT THE FORMS: All the forms have similar "captions" or boxes that are at the top of the page. On most of these forms, the boxes are numbered. Follow these instructions in completing these captions.

Box 1:

Fill in your *circuit* and your *division* name.

Oahu courts are First Circuit;
Maui courts are Second Circuit;
Big Island courts are Third Circuit; and
Kauai courts are Fifth Circuit.

See the text box on the right to figure out which *division* your housing unit is located in. If you are unsure of your *division*, call your local District Court and ask one of the clerks.

Box 2: (Plaintiff)

In this action, you are the Plaintiff. Enter your full name here.

Box 3: (Defendant)

In this action, your landlord is the Defendant. Enter the full name of your landlord.

Box 4: (Filing Parties)

In this box, the court wants information on who is filing this form. Enter your name, address, and phone number. This information is for the court to use if they need to contact you so insert an address and phone number where they can contact you. If you do not have access to your mail or your phone at home, leave an alternate address and phone number (i.e. work, friend, or relative) where the court can leave a message.

Box 5: Filling out the rest of the form.

Read each section carefully. Fill in the blanks where it asks for information from you. If a section has a checkbox, make sure you read the section well to see if the statement applies to your situation. If the statement is correct, put a checkmark in the box. **Signature Box:** Print or type your full name and sign at the bottom in the boxes that ask for your signature. Be sure that you do not sign in boxes that ask for the clerk's or judge's signature.

District Court Divisions

Oahu:

Honolulu Ewa
Koolaupoko – Koolauloa
Waialua Wahiawa
Waianae

Maui:

Wailuku - Makawao -
Hana
Lahaina Hana
Molokai Lanai

Big Island:

Hilo Kona
S. Kohala N.
Kohala
Hamakua Puna
Kau

Kauai:

Lihue

STEP TWO: SEPARATE THE FORMS

Separate the *Complaint for Damages* and *Summons* forms from the rest of your court forms. These are the first forms that you will need to file to start this court action. You will not need to file the rest of the forms until later in the process. *See the text box on page 2 for more information on when to file each form*

STEP THREE: MAKE COPIES

Make at least 3 copies of the *Complaint for Damages* and *Summons*. **Be sure that your copies are identical to the original forms. If the original is double-sided, make sure you copy both sides.**

At this point, you do NOT need to make copies of the other forms. Keep the *Return of Service* form separate because you will not have to file it with the court until later.

Also, remember to keep the *Judgment and Notice of Entry of Judgment* separate from the *Complaint for Damages and Summons*. You will file these two forms later (in Step 8).

STEP FOUR: STAPLE THE FORMS PROPERLY

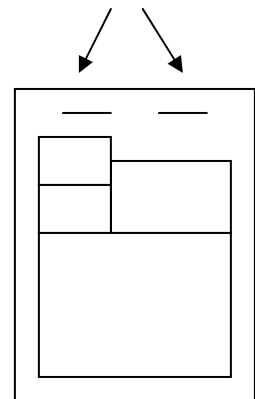
Put the forms in 4 separate piles. One pile should contain all the original forms and the rest of the packets should have one of each copied form. The forms should be arranged in the following order:

1. *Complaint for Damages*
2. *Summons*

Keep all the originals together in the same packet. Remember to keep your other forms separate from the packets. You will not have to turn these in right now.

Staple each set like shown in the picture on the right.

STAPLE HERE



STEP FIVE: FILE YOUR FORMS

File your *Complaint for Damages* and *Summons* at District Court. **On Oahu, all forms must be filed at the Honolulu District Court.**

Take the packets (1 original and 3 copies) to District Court. You can file your forms Monday to Friday from 7:45am to 4:00pm (closed on holidays.). A court clerk will date-stamp each packet. You will have to pay a filing fee of \$120. If you cannot afford this fee, you can request a fee waiver by filling out the *Ex Parte Application for Relief from Costs* form. This form can be picked up from the District Court in your area or on the Hawaii State Judiciary Website (http://www.courts.state.hi.us/self-help/landlord/forms/tenant_forms.html). If you request a fee

waiver, you will need to wait for the judge to approve your waiver before the court will file your other forms.

Once you have either paid the filing fee or received a fee waiver, the clerk will keep your original *Complaint for Damages* and *Summons*, and will return the copies to you.

STEP SIX: HAVE SOMEONE SERVE YOUR LANDLORD

After the clerk date-stamps each of your packets, you must have someone “serve” (deliver) a packet to your landlord or your landlord’s attorney, if any. **YOU CANNOT DELIVER THE FORMS YOURSELF.**

CHOOSING A SERVER

The person who delivers the packet is called your “server.” Your server can be a process server or anyone over 18 years old, as long as the adult is not a part of this court action. This means that you cannot use any roommates or family members if their names are listed on the court papers. If you hire a process server, you must pay and you will be charged for additional mileage if the server has to try more than once.

If you do not use a process server, make sure that the person you choose is reliable and understands what he/she must do.

WHAT YOUR SERVER MUST DO

When your server goes to your landlord or landlord’s attorney, your server will need to:

(1) give your landlord or landlord’s attorney a date-stamped copy of the *Complaint for Damages* and *Summons*,

AND

(2) have your landlord/landlord’s attorney sign the *Return of Service* form.

After your landlord/landlord’s attorney signs the *Return of Service* form, you or your server must take this form to District Court and turn it in to a court clerk.

STEP SEVEN: GO TO YOUR HEARING (THERE MAY BE MORE THAN ONE HEARING)

There are actually several hearings that you may need to attend, depending on whether or not both parties show up for the hearings.

THE FIRST HEARING: The Answer Date

The date of your hearing will be on the back of the *Summons* form. The date will depend on when the packet was served on your landlord/landlord’s attorney. If you can’t figure out when the hearing date is, you can call the District Court clerk and ask them for your hearing date. Be sure to show up & be on time or your complaint will probably be dismissed and you will have to start this process over again.

What happens at your answer date depends on what island you are on.

ALL DIVISIONS EXCEPT FOR HONOLULU: (if the top left corner of your court forms does NOT have Honolulu as your division)

At the Answer Date, the judge will ask whether or not the Defendant (your landlord in this case) agrees or does not agree to the information you put in the *Complaint for Damages* form.

If your landlord doesn't show up OR agrees to the *Complaint*, you will win this hearing and can collect the damages if your landlord does not appeal the decision.

Skip to Step 8 on page 7 to find out what you need to do next.

If your landlord does not agree to the *Complaint*, the judge will probably order you and your landlord to go through mediation to try and work out an agreement. **This mediation can occur on the same day as this hearing OR can be planned for a later date.**

If you cannot come to an agreement in mediation, the judge will set a Trial Date. The judge will also give you a deadline to exchange exhibits before the Trial. This means that you will need to collect evidence before the Trial Date and give copies of your evidence to your landlord/landlord's attorney by the deadline given by the judge.

HONOLULU DIVISION ONLY (the top left corner of your court forms has Honolulu as your division): At the Answer Date, the judge will simply ask whether or not the Defendant (your landlord in this case) agrees or does not agree to the information you put in the *Complaint for Damages* form.

If your landlord doesn't show up OR agrees to the *Complaint*, you will win this hearing and can collect the damages if your landlord does not appeal the decision.

Skip to Step 8 on page 7 to find out what you need to do next.

If your landlord does not agree to the *Complaint*, the judge will set another hearing to decide who wins. In Honolulu only, there is a Pre-Trial date scheduled after the Answer Date. The Pre-Trial is usually held on the Monday after your Answer date. So, generally, whether or not your Answer Date is on Monday or Friday, your Pre-Trial will be held on the following Monday.

Pre-Trial Hearing for Honolulu Division Only:

This hearing is not like a normal hearing in front of a judge. The main purpose of this hearing is for both sides to try and reach a settlement agreement. Both you and your landlord need to check in with the clerk when you get to this hearing. The clerk will call you both in for mediation when a mediator is available. You and your landlord will be given 20 minutes to try and reach a settlement agreement. After 20 minutes, you and your landlord will meet with the judge and tell the judge if you could reach a settlement.

If you reached a settlement, this will probably be the last hearing on this *Complaint for Damages*.

If you could NOT reach a settlement, the judge will set a Trial Date. You need to tell the judge and your landlord/landlord's attorney the names of all the people you will be calling as witnesses. The judge will also give you a deadline date to exchange exhibits

before the Trial. This means that you will need to collect evidence before the Trial Date and give copies of your evidence to your landlord/ landlord's attorney by the deadline given by the judge.

THE TRIAL

At your trial, you will need to prove that your landlord intentionally locked you out overnight. Bring any witnesses and evidence that you have to convince the court that:

- you have a valid rental agreement with your landlord,
- you were locked out of your unit overnight, AND
- your landlord intentionally locked you out to try and evict you.

Prepare well for this hearing. Remember to follow the exhibit exchange deadline or else the judge may not allow you to show your evidence. Look over any evidence that is given by your landlord/landlord's attorney.

STEP EIGHT: AFTER THE HEARING

IF YOU LOST THE HEARING:

This means that the judge does not think that you should receive money damages. You have the right to appeal in several ways, depending on your situation. For example, you may be able to:

- (1) file a *Motion to Reconsider/Amend*,
- (2) file a *Motion for Relief from Judgment*,
- (3) file a *Motion for a New Trial*, OR
- (4) file an appeal to the Hawaii Supreme Court within 30 days of the judge's decision.

IF YOU WON THE HEARING:

If you won the hearing, the judge will decide the amount of damages you should receive.

Your work is not done yet. You need to do a couple more things. You need to fill out the last two forms from this packet, *Judgment* and *Notice of Entry of Judgment*.

After you fill it out, make 2 copies of each form.

Take the original and the copies to the District Court and file them with a court clerk. Both documents must be signed by a court clerk.

After the clerk signs the forms, you must deliver or mail a copy of the forms to your landlord or landlord's attorney. Once they are served, you can begin to collect the damages owed to you. You will be responsible for collecting any owed money. Call Legal Aid for more information on how to collect the debt from your landlord.

REMEMBER: This pamphlet is meant to give you general information and not to give you specific legal advice about your case. The law often changes. Each case is different.

**For more information or assistance call Legal Aid at 1-800-449-4302
or access additional information at <http://www.legalaidhawaii.org>**

IMPORTANT NAMES AND NUMBERS

Legal Aid Society of Hawai`i

LEGAL HOTLINE

Monday to Friday: 9:00 - 11:30PM
& 1:00 -3:30PM

Oahu: 536-4302 Hilo: 934-0678
Maui: 242-0724 Kona: 329-8331
Molokai: 553-3251 Kauai: 245-7580
Lanai: 565-6089

Mediation Services

Oahu: Mediation Center of the Pacific
205 N. Kukui Street, Suite #206
Honolulu
521-6767
Maui: Mediation Services of Maui, Inc.
95 Mahalani Street
Wailuku
244-5744
Molokai: Mediation Center of Molokai
Meyer Bldg #9
Kaunakakai
553-3844
Hilo: Waiakea Settlement YMCA
Kuikahi Mediation Center
101 Aupuni Street, Suite 1014 B2
935-7844
Kona: West HI Mediation Services
750240 Nani-Kailua Drive
Kailua-Kona
366-2666
Kauai: Kauai Economic Opportunity
Mediation Program
2804 Wehe Road
Lihue
245-4077

Police Stations: See your phone book
for the station that is closest to you.

District Court Street Addresses

OAHU (FIRST CIRCUIT):
File all forms at Honolulu District Court:
1111 Alakea Street, 3rd Floor
538-5151

MAUI (SECOND CIRCUIT):
Haopili Hale
2145 Main Street, Suite 137
Wailuku
244-2800
Molokai
553-1100
Hana
661-0970
Lahaina
661-0970
Kaunakakai
553-5451
Lanai
565-6447

BIG ISLAND (THIRD CIRCUIT):
Hilo: 75 Aupuni Street
Hilo
961-7470
Kona: Old Kona Hospital
Keakealani Bldg., Rm. 240
Kealakekua
322-2022
Hamakua: South Kohala Courthouse
Waimea Civic Center
67-5175 Kamamalu Street
Kamuela
885-4615

KAUAI (Fifth Circuit):
3059 Umi Street, Rm 111
Lihue
246-3330

COURT FORMS FOR GETTING DAMAGES FOR AN ILLEGAL LOCKOUT

This packet should contain the following forms:

1. Complaint for Damages
2. Notice of Hearing

You will also need the following court forms:

1. Summons
2. Return of Service

You may need these additional court forms:

1. Ex Parte Motion for Relief from Costs
2. Judgment
3. Notice of Entry of Judgment

The court forms listed above can be picked up from the District Court in your area or on the Judiciary website at http://www.courts.state.hi.us/self-help/landlord/forms/tenant_forms.html).

COMPLAINT FOR DAMAGES

IN THE DISTRICT COURT OF THE _____ CIRCUIT _____ DIVISION STATE OF HAWAII	Oahu = First Circuit Maui = Second Circuit Big Island = Third Circuit Kauai = Fifth Circuit Reserved for Court Use
Plaintiff(s) (TENANT) Name	Civil No.
Defendant(s) (LANDLORD) Name	Plaintiff's (TENANT's) Attorney (Name, Attorney Number, Address, Telephone and Facsimile Numbers) PLAINTIFF PRO SE (NO ATTORNEY)

I, the TENANT, am the Plaintiff(s), and allege that:

1. My LANDLORD, the Defendant(s) is the owner/operator of a residential dwelling unit located at

enter address

in the County of _____, State of Hawai'i.

2. I, TENANT, have a rental agreement.

3. I, TENANT, have not abandoned or surrendered the dwelling.

4. On or about the date of _____ *date*, LANDLORD, without a court order so authorizing, willfully threatened to, or succeeded at, locking me out from my unit overnight in violation of the Landlord-Tenant Code, H.R.S. § 521-63(c).

5. As a result of the foregoing unlawful acts of the LANDLORD, TENANT suffered actual damages in an amount not presently known in full, but including:

- payment for substitute lodging, and
- excessive food and/or healthcare costs through lack of access to TENANT's food and health / hygienic supplies

SEE REVERSE SIDE

In accordance with the **Americans with Disabilities Act** if you require an accommodation or assistance, please contact the District Court- Administration Office in your Circuit at least ten (10) working days in advance of your hearing or appointment date. **OAHU:** 538-5121; TTY: 539-4853 **BIG ISLAND:** Hilo: 961-7470 Kona: 322-2022 Hamakua: 885-4615 **MAUI:** 244-2800 **KAUAI:** 246-3330

6. As a result of the unlawful acts of LANDLORD, TENANT is entitled to be compensated money damages pursuant to H.R.S. § 521-63(c), in the amount of two months rent, or free rent for two months, plus the cost of the suit.

7. In doing the foregoing unlawful acts, LANDLORD acted wantonly, willfully, maliciously, without probable cause, without regard for the rights, health, and feelings of TENANT, and with the intent, design, and purpose to injure and oppress TENANT. As a result, TENANT is entitled to an award of exemplary and punitive damages of up to \$20,000.

TENANT asks for the following:

1. Actual damages as pleaded and proven in an amount to be determined at trial.
2. Damages in the amount of two months rent, or free rent for two months, plus the cost of the suit, pursuant to H.R.S. § 521-63(c).
3. Exemplary and punitive damages in the amount of up to \$20,000.
4. Such other and further relief as this court deems just.

DATE

NAME AND SIGNATURE OF TENANT (PLAINTIFF)

NOTICE OF HEARING

IN THE DISTRICT COURT OF THE _____ CIRCUIT name of city or division DIVISION STATE OF HAWAII	Oahu = First Circuit Maui = Second Circuit Big Island = Third Circuit Kauai = Fifth Circuit
Petitioner(s) Name and Address Tenant's Name	Reserved for Court Use
Respondent(s) Name and Address Landlord's Name	CIVIL No. LEAVE BLANK Petitioner's (TENANT'S) Attorney (Name, Attorney Number, Address, Telephone and Facsimile Numbers) PETITIONER PRO SE (NO ATTORNEY)

TO: name of landlord's attorney and address
OR if no attorney, name of landlord and address

NOTICE IS HEREBY GIVEN that the Ex Parte check the box(es) that applies to your situation

- Petition for Temporary Restraining Order and Injunction Against Lockout
- Petition for Temporary Restraining Order and Injunction Against Utility Shut Off

shall come on for hearing before the Presiding Judge of the above-entitled Court, in his/her courtroom, at the time and date above or as soon thereafter as the parties can be heard.

YOU ARE COMMANDED to appear before the presiding Judge of the court named above, the District Court of the above Circuit, at:

LOCATION:
LEAVE BLANK=> ON _____, 20____ AT _____ O' CLOCK _____

to show cause why the Temporary Restraining Order and Injunction Against Lockout and/or Utility Shut-off (CHECK ONE) should not be extended in the form of an Injunction Against Lockout and/or Utility Shut-off for a term not to exceed three years.

YOUR FAILURE TO APPEAR AT THE DATE, TIME AND PLACE INDICATED ABOVE MAY RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

This order shall not be personally delivered between 10:00p.m. and 6:00a.m. on premises not open to the public, unless a judge of the Court named above permits, in writing on this Order, personal delivery during those hours.

In accordance with the **Americans with Disabilities Act** if you require an accommodation or assistance, please contact the District Court- Administration Office in your Circuit at least ten (10) working days in advance of your hearing or appointment date. **OAHU:** 538-5121; TTY: 539-4853 **BIG ISLAND:** Hilo: 961-7470 Kona: 322-2022 Hamakua: 885-4615 **MAUI:** 244-2800 **KAUAI:** 246-3330

DATE LEAVE BLANK	SIGNATURE OF COURT CLERK LEAVE BLANK
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