

EVICITION DEFENSE CENTER

Asking for a Trial and Pleadings

If you want to fight your eviction case, you can ask the judge for a trial and pleadings.

A **trial** is a court date where both sides tell their side of the story to the judge. They can present evidence and have witnesses testify. Usually, there isn't a trial in eviction cases unless the tenant asks for one.

Pleadings are optional papers that each side writes to explain why they should win the case. You and your landlord must give a copy to the other side and the court before the trial.

- The “Bill of Particulars” is the written argument your landlord must give to the court and you.
- The “Grounds of Defense” is the written argument you write and give to the court and your landlord.

Pros of a Trial and Pleadings:

- Asking for a trial can give you more time to get help or get ready to fight your case.
- Pleadings give you the chance to see what your landlord will argue before the trial.

Cons of a Trial and Pleadings:

- If you ask for pleadings and lose the case, you might have to pay more money. Lawyers often write pleadings for landlords, and you might have to pay those fees if you lose.
- If you do not turn pleading in on time, your landlord could win by default.

What Happens If You Get a Trial with Pleadings

If the judge says there will be a trial, either side can ask the judge for pleadings. If the judge agrees, they will set two due dates. Your landlord's papers are due first, then yours.

Next, you should contact Legal Aid for help with your case. Tell them when your trial is and when the pleadings are due, if the judge ordered them.

How to Ask for a Trial and Pleadings

At your first court date, wait until the judge asks you to speak. Read from the script below. Do not admit you owe rent or did anything wrong.

Bring three copies of the attached form to court and ask to give one to the judge. Be prepared to give the judge a few reasons if they want to know why you want a trial.


This is general legal information, not legal advice.

For individual advice about your case, please contact Legal Aid (866-534-5243).

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Script: Request for a Trial with Pleadings

Here is what you should say to the judge when they first give you a chance to speak, before you say anything else.

•  Your honor, I dispute my landlord's claims. I hereby request a trial (with pleadings) so I can argue my case.

I have here a written copy of my request. May I give you a copy?

If the judge won't take the form, say this:

•  Your honor, Virginia Code section 8 point 01 dash 28 says “the plaintiff or defendant shall, on motion, be granted a continuance whenever the defendant appears and pleads.”

I want a trial so I can prepare and tell my side of the story

Instructions: If you disagree with what your landlord is saying, sign this form and bring three copies to court. Put an X in the check box if you want written arguments. Hand the form to the judge before you admit you owe rent, so they rule on this before saying the landlord can evict you.

REQUEST FOR A TRIAL

I dispute the facts and/or legal justification the landlord has presented in the summons for unlawful detainer.

I hereby request a continuance and trial in this case, pursuant to Va. Code § 8.01-28. (“The plaintiff or defendant shall, on motion, be granted a continuance whenever the defendant appears and pleads.”)

I also request the Court to order pleadings in this case. (If checked.)

Signature of Defendant/Tenant: _____