

FIGHT TO STAY!

Tenant Self Defense Resource Guide

**Courts are
Denying Tenants
their Right to
Counsel**



**Use this resource
guide to fight back,
defend yourself
and demand an
attorney!**

**Call the RTC hotline at 718-557-1379
for support.**

www.righttocounselnyc.org/defend_rtc

EMAIL: info@righttocounselnyc.org **FACEBOOK:** www.facebook.com/RTCNY
TWITTER: www.twitter.com/RTCNYCY

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DISCLAIMER: This document was created by the Right to Counsel NYC Coalition for general informational purposes. As such, it should not be taken as legal advice for specific eviction cases and it is not a substitute for attorney representation. Tenants are encouraged to secure individual legal advice and representation.

PART ONE – OVERVIEW

This packet is for tenants without lawyers representing them in a case in Housing Court. It was developed by attorneys and tenant organizers within the Right to Counsel NYC Coalition. This packet is not a substitute for effective legal representation and none of the material in this packet is legal advice. This packet is designed to enable and empower tenants to use their Right to Counsel in eviction cases where they are unrepresented and cannot access an attorney in housing court. We have included sample language that is intended to be more digestible and accessible for your self-advocacy purposes.

However, **as a disclaimer, this information is only general information based on protections you may have under the Right to Counsel law. It is not legal advice that is tailored to your individual eviction case. If you do not have an attorney to represent you in your case, there are legal hotlines you can call to seek support (see page 23).** Part of this packet explains how to ask for an adjournment in your case so that you have sufficient time to get legal representation. While seeking an adjournment is within your right as a tenant in housing court, there may still be circumstances where it may not be in your best interest to adjourn a case brought against you. We hope this packet assists you to understand and use NYC's Right to Counsel law.

PART TWO – WHAT IS RIGHT TO COUNSEL (RTC) AND WHO IS ELIGIBLE?

What is RTC?

Right to Counsel (RTC) – is a local law that tenants won in 2017. **It guarantees a free attorney to all income-eligible New York City tenants facing eviction.** To exercise your RTC and get a free attorney to represent you in Housing Court, you must (1) be facing eviction, and (2) be income eligible. If you are facing eviction but are not income eligible, you are still entitled to free legal advice.

What does it mean to “face eviction”?

If your landlord has sued you or someone in your home in Housing Court, either in a nonpayment case or a holdover case, then you have the type of case covered by NYC Right to Counsel. A holdover case is a case your landlord filed against you for a reason other than non-payment of rent; it may be because you overstayed a lease term that has expired, may have broken a provision in your lease (i.e., had a pet in the apartment when pets aren't allowed, housed someone without the landlord's permission, excessive noise complaints, etc.), or for any other reason that your landlord wants to raise before a judge.

What does it mean to be “income eligible”?

RTC guarantees a free attorney to all NYC tenants facing eviction who are 200% or below the federal poverty line and guarantees free legal advice to all other NYC tenants.

To determine if you are eligible for a RTC attorney, look at the chart below and find the correct number of household members in your home, including children. The total number of household members living with you do not necessarily need to be on the lease to contribute to your household size. Once you find the correct household size on the chart, you will find the income

amount that is 200% of the federal poverty line corresponding to it in the row below. If your total household income is at or lower than the amount below your household size, then you are eligible for a free attorney through NYC Right to Counsel to represent you in Housing Court if you are facing an eviction.

Household Size	1	2	3	4	5	6	7	8	Add this amount for each additional household member over 8
Maximum Income	\$33,975	\$36,620	\$46,060	\$55,500	\$64,940	\$74,380	\$83,820	\$93,260	\$9,440

What is the difference between legal representation and legal advice?

Representation is where you sign a retainer agreement with a lawyer or legal organization and hire a RTC attorney to represent you in Housing Court; remember, a RTC attorney is guaranteed to those facing eviction who are income eligible. The lawyer is **free of charge** and will be with you every step of the way in your case to give you options and information. They will also be the person talking to the judge on your behalf in court and communicating with your landlord (or their lawyer if they have retained a lawyer) on case procedures and decisions.

Legal advice is where you speak with a RTC attorney and get free information about how to go forward in your case without the attorney representing you in court and entering into a formal retainer agreement with you. Legal advice does not mean the lawyer will go with you to court; instead, legal advice is usually done in one meeting or one phone call.

PART THREE – CURRENT CALL TO ACTION TO DEFEND RTC

The Right to Counsel NYC Coalition has been calling on the courts to slow down cases since the COVID-19 pandemic began when we launched the “Housing Courts Must Change” Campaign.

There is **NO REASON** that evictions should move faster than any other type of civil court case. There is no reason to return to pre-pandemic norms of calendaring a ton of cases in every courtroom, every day, and prioritizing speed over justice. In general, our position has always been that if and when housing courts re-opened, they need to move slower than they did in pre-pandemic times to make sure that all eligible tenants can invoke their Right to Counsel, that all of the complicated COVID-related protections are upheld, and that evictions are not normalized. COVID taught the world that we do not need to return to pre-pandemic beliefs that evictions are normal, and that cases must move fast at all costs.

In anticipation of the eviction protections expiring and in the midst of a national labor shortage affecting industries across the country, including legal services providers, we started to push the courts to adopt the policy of slowing down cases. Some legal services organizations need to hire more than a dozen attorneys. This means that remaining attorneys need to take on their former colleagues' cases, move forward with cases that had previously been stalled due to the onset of the pandemic, and take on new cases filed during the pandemic. It's not possible to provide fair and effective representation in all of these instances and we all saw this coming.

The solutions are simple:

- Move only the cases where tenants are represented forward and adjourn all the rest until the legal services organizations have capacity to take more cases.
- Reduce the cases on the calendars to a number the RTC attorneys can handle. 90+ cases on each calendar is unmanageable by any standard.
- Don't calendar new cases until the backlog of cases is dealt with first.
- Mandate that all cases where the tenant is unable to secure an RTC attorney be administratively stayed and taken off the court calendar until the tenant has an RTC attorney who files a Notice of Appearance.
- Issue an administrative order to mandate that only cases where tenants have secured a retainer with a legal services provider can move forward and that all cases will be adjourned until that retainer is in place.

In response to our request to slow down the number of cases heard in housing courts across the city, **the court said no and instead *began moving cases forward without RTC*. It's only gotten worse. The courts are responsible for this.** This is a systemic problem that requires a systemic solution.

After Right to Counsel was passed in 2017, thanks to a sustained organizing campaign, it was working! Evictions plummeted, landlords sued tenants less and almost EVERYONE who had Right to Counsel stayed in their home. Now, all of that is at risk. Right to Counsel is under attack. We are fighting back. We need YOU to JOIN US!

To get involved, email us at info@righttocounselnyc.org and follow us on social media (Twitter: @RTCNYC; Instagram: @righttocounselnyc; Facebook Page: www.facebook.com/RTCNY).

We need all tenants to join this fight! When we fight, we win!

PART FOUR: HOW TO ADJOURN YOUR CASE

Okay, now you know the problem in Housing Court. **The solution is clear:** the fewer cases there are going forward, the faster legal service providers can catch up to represent all RTC eligible tenants facing eviction.

If the courts refuse to slow down, we **MUST MAKE THEM SLOW DOWN**. If we do not act now, then more eligible tenants will face their eviction case alone without an attorney. **We ask that you stand in solidarity with the tenant movement and ask the court to adjourn your case to prevent all eligible NYC tenants facing eviction from going forward without a RTC lawyer by their side.**

What does it mean to adjourn your case?

An "adjournment" means to postpone the outcome of a case by scheduling the case at a future date and time. Judges have the ability to grant numerous adjournments.

Here's an example of how this works:

- Mike has a court date on May 1st for a nonpayment case.
- On May 1st at Housing Court, Mike is told there are no RTC attorneys available for him to meet with and retain.
- Mike **asks the court to adjourn his case so that he can find and retain a RTC attorney.**
- The court agrees to adjourn the case and tells Mike to come back July 1st at 9:30am.
- Mike does not sign anything with the landlord's lawyer or have to agree to anything.
- **The goal is for RTC attorneys to have more capacity to take new cases at the later date, July 1st, so that Mike can exercise his Right to Counsel and be afforded effective legal representation to fight his eviction case.**

How do I get an adjournment in my case?

There are four ways a tenant can get an adjournment of their Housing Court case:

1. Ask the court or judge during the first court date for a future court date
2. Write a letter to give to the court or judge asking for a future court date
3. Sign a stipulation (agreement) with the landlord's lawyer for a future court date
4. File an Order to Show Cause asking the court for a future court date

Before going into any of these four ways to put your case on pause, or adjourn your case, we want to remind you that **you never have to sign something with the landlord's lawyer that you don't understand or agree with.** In addition, we want you to know that you can (and should!) exhaust each of these options to increase your chance of getting an adjournment. Specifically, if options 1 and 2 are unsuccessful in adjourning your case, it is still within your right to sign a legal agreement with the landlord or their lawyer (option 3) or file an Order to Show Cause (option 4) with the court.

You should also know that there is no rule on how long an adjournment is for, which means you can ask for several months or weeks. The new court date should be a date that is convenient for you to come to court. And **there is no limit on the number of times a court can adjourn your case – especially if you are asking to put the case on pause until you can retain an attorney under your right to counsel.**

Below are examples of these four different ways to ask for an adjournment!

1. SAMPLE OF WHAT TO SAY WHEN ASKING THE COURT TO ADJOURN YOUR CASE

You have the following rights when requesting the Court for an adjournment of your case:

- You have the right to talk to the judge in Housing Court (unless you are in the "Intake Part" where there might not be a judge, in which case you would have the right and opportunity to speak with a Court Attorney in that Part).
- You have the right to refuse to sign anything with the landlord's attorney, judge, or the judge's attorney, and in fact should not sign a document if you do not understand what it means.

- You have the right to request your assigned Housing Court judge to read the terms of any agreement or court process to you and explain what it means.
- You have the right to seek an interpreter, in which case the judge is required to wait until one is available to adequately interpret everything that is said in court so that you understand what is happening in your case.

It is common for a Housing Court judge to ask you what you want to do in your case, or try to pressure you to agree to pay or move out by a certain date. **YOU DO NOT NEED TO AGREE TO ANYTHING.** Instead, **if you believe you are eligible for a RTC attorney because of your household income and the type of case it is, then you have a right to ask the judge for an adjournment of your case.**

Here is a sample of what you can say in court to the judge:

Judge, I believe that I am eligible for an attorney through NYC Right to Counsel Law and want to exercise my right to a free attorney in my case. I need to adjourn my case for at least 60 days until a free legal services provider can take my case. If I'm able to retain a lawyer sooner, we will let the court and landlord know right away. Please allow me to exercise my right to move forward only when a free legal service provider is available to represent me in this eviction case, as required under NYC Right to Counsel Law.

You can bring this script to court with you if you need to. There is nothing wrong with reading from this page in court, especially when it's something as serious as exercising your right to a free lawyer in your eviction case.

2. SAMPLE LETTER ASKING THE COURT TO ADJOURN YOUR CASE

Another option you have to adjourn your case is to bring a letter with you to Housing Court that says what you are asking for and asking the judge or court staff to put it in writing in your court file. Even if the judge denies your request for an adjournment, you can still ask that the letter be part of the record. You are still a party to the case; as such, you are allowed to ask for things to be included. *You are also allowed to ask the judge why they are denying an adjournment in your case, though we know this may be uncomfortable to ask.*

The Sample Letter is on the next page (page 8) so that you can easily take it out of this packet, complete it, and file it in Housing Court on your next court date. We have also included the professional rule for lawyers that you can also file and reference as part of the letter asking to adjourn your case.

Here are the addresses for each borough's Housing Court that you will need to fill out in the sample letter:

Brooklyn: 141 Livingston Street
Brooklyn, NY 11201

Bronx: 1118 Grand Concourse
Bronx, NY 10456

Queens: 89-17 Sutphin Boulevard
Queens, NY 11435

Manhattan: 111 Centre Street
New York, NY 10013

Staten Island: 927 Castleton Avenue
Staten Island, NY 10310

You will also need to write in the case number for your case, which can be found on the upper right hand side of the court papers (begins with "LT", standing for "Landlord Tenant"). Then you need to fill in other blanks, sign it, and take a picture for yourself and your records.

Finally, you take the letter with you to Housing Court and ask to file it as part of your case and case file. The judge will then make a decision on your request by either granting the adjournment and giving you a future court date or denying your request. Again, you do not need to sign anything or agree to anything without first talking to a lawyer and should repeat that to the judge if needed.

Date

Housing Court Judge
ADDRESS: _____

Re: Tenant Name: _____ Index No. LT - _____ - _____ /

Dear Judge:

I am eligible and entitled to a Right to Counsel attorney to provide full representation from the start of my case to the end of my case. As such, I respectfully ask that you adjourn my case for no less than 60 days so that I may retain counsel.

It is my understanding that under my right to civil legal counsel, I am entitled to free and full representation by an attorney. As you may know, prior to the passing of the Right to Counsel bill, 90% of landlords were represented in Housing Court while less than 5% of tenants were. After passing, Right to Counsel has helped to keep over 80% of tenants in their homes when represented by a tenant attorney. If you deny my Right to Counsel in this case, it is possible I will be wrongly evicted or lose the ability to raise important rights and defenses that require legal representation. Brief legal advice is not a substitute and is not the same as full representation under Right to Counsel.

As the Court knows, free attorneys across the City are not able to take my case because they have too many cases already and to take more would put them in violation of their professional rules. See language of Rule 1.3 on the back of this letter.

I know the courts are under pressure to maintain a place of justice, fairness, and equitable application of the law. To deny me an adjournment will violate my Right to Counsel as an eligible tenant facing eviction in Housing Court, and tilt the balance of power towards the landlord unfairly.

Whether you grant or deny my application, I respectfully ask that you put this letter into my court file and upload it to NYSCEF for me.

Thank you,

Signature

Print Name

Address

Phone Number

Rule 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Comment from American Bar Association

[1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

[2] A lawyer's work load must be controlled so that each matter can be handled competently.

[3] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

[4] Unless the relationship is terminated as provided in Rule 1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client and the lawyer and the client have not agreed that the lawyer will handle the matter on appeal, the lawyer must consult with the client about the possibility of appeal before relinquishing responsibility for the matter. See Rule 1.4(a)(2). Whether the lawyer is obligated to prosecute the appeal for the client depends on the scope of the representation the lawyer has agreed to provide to the client. See Rule 1.2.

[5] To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action. Cf. Rule 28 of the American Bar Association Model Rules for Lawyer Disciplinary Enforcement (providing for court appointment of a lawyer to inventory files and take other protective action in absence of a plan providing for another lawyer to protect the interests of the clients of a deceased or disabled lawyer).

3. SAMPLE STIPULATION TO SIGN AND ADJOURN YOUR CASE

A “stipulation” is a written agreement between two parties. This agreement can be signed by a tenant or their lawyer, and either the landlord or their lawyer.

We are providing a sample on the next page (page 12) for you to easily take out and use in Housing Court if the landlord or their lawyer are willing to agree to put your case on pause – or adjourn your case – until a future date.

The sample stipulation also includes space for you to include any repair needs you may have in your apartment or building, and the date to come back to court.

IMPORTANT: You do not have to sign anything that you do not understand or fully agree with. The landlord or their lawyer may try to add in a ton of stuff, you do not need to agree to any of it if you do not want to or do not believe you can complete the terms.

Remember, you have a right to have the document read to you in your preferred language and to have the court or judge read it out loud to you and to answer any questions you have.

The stipulation will then be signed by the judge and included as part of your court file. Make sure to take a copy or write down the next court date and any other important dates or terms for you to follow.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF _____ PART _____

Index No. LT: _____

STIPULATION

Landlord-Petitioner(s),

-against-

Tenant-Respondent(s).

Address: _____

1. This matter is adjourned to _____, to allow Tenant-Respondent
_____ the opportunity to secure effective counsel.

2. This matter is stayed until Tenant-Respondent's counsel has entered a Notice of
Appearance with the courts and consented to representation on NYSCEF; a date no less than 60
days from today.

3. In the interim, Tenant-Respondent alleges the following conditions in need of repair:

4. Tenant-Respondent shall provide access on _____ and _____, between 9am-5pm, workers to arrive by 11am, in order for the necessary repairs and accommodations to be made as required by law. If workers arrive after 11am, or without proper equipment to complete repairs, then Tenant-Respondent can deny access without consequence.

5. Landlord-Petitioner agrees to complete all necessary repairs at least one week prior to the return date.

Dated: _____

(Petitioner)/(Petitioner's Counsel)

(Tenant-Respondent)

4. SAMPLE ORDER TO SHOW CAUSE ASKING THE COURT TO ADJOURN YOUR CASE

Filing an “Order to Show Cause” is the fourth and final way to ask the court for an adjournment of your case, or to put your case on pause until a future date. It might be necessary for you to file an Order to Show Cause if:

- The judge doesn’t agree to grant your adjournment request made orally
- The judge doesn’t agree to grant your adjournment request made by letter
- The landlord’s attorney won’t agree to adjourn the case by stipulation and the judge won’t agree to grant your adjournment request
- **You know there won’t be a RTC attorney available to take your case in Housing Court on your next court date and you want to make sure you’re not forced to go forward without one.**
 - o In other words, you want to make sure your case is adjourned in advance so you can feel better knowing you have more time to get a lawyer and exercise your right to one.

What is an Order to Show Cause?

It is a paper request that can be used to ask the court to do something. For example, an order to show cause can be used to start a new case, to discontinue a case, to try getting additional time to stay in your home after a judge has issued a warrant of eviction, or to grant some other relief that either side is asking for. An order to show cause specifically asks the court for a new court date and must explain why it needs that court date. For example, **you can file an Order to Show Cause asking the court to adjourn your case for several weeks or months so that you may retain a RTC attorney if one is not available at your first court date.** You can also file an Order to Show Cause *ahead* of your court date to show the judge that you know your rights and want to make sure your case doesn’t go forward quickly when you don’t yet have your RTC attorney.

*Note: While you won’t be able to confirm before your first court appearance whether you will retain a RTC attorney, you should still expect to be screened for RTC eligibility by a legal services provider at your scheduled appearance if you want an attorney. If, due to attorney capacity constraints, you are unable to retain an attorney, you still have the right to seek an adjournment of your case.

How do I file an Order to Show Cause?

There are two required pages and three steps for an Order to Show Cause; the pages are included in this packet and steps outlined below.

1. Page #1 is the Order page that says “Order to Show Cause” in the upper right hand side. You do NOT sign this one, but you do need to fill it out with your name and your landlord’s name.
 - a. If your landlord is a company like an LLC, write out the full name of that company. You can learn more about who the landlord is by going to [Who owns what in nyc? \(justfix.nyc\)](http://justfix.nyc.org/who-owns-what-in-nyc).

2. Page #2 says “Affidavit in Support” in the upper right hand side. **This page must be signed in front of a court employee or a notary public.**

- a. **You will need a picture ID when filing and signing this page in court.**
- b. **We have also prepared an extra document with an ethical rule explained, please bring that when you file and ask that it be a part of your order to show cause.**

3. Take these pages to the Housing Court in your borough, go through security, and go to the window for filing. In some boroughs, there is a specific window for Order to Show Cause filings. If you’re unsure where this is, you can ask a court staff person.

PLEASE KNOW THAT ONCE YOU FILE AN ORDER TO SHOW CAUSE, YOU MUST WAIT IN HOUSING COURT FOR THE JUDGE TO SIGN IT. This can take several minutes and even hours, so it’s best to plan on being in Housing Court for most of the day if you’re filing an order to show cause. Please also note that a judge may choose to deny (or not sign) an Order to Show Cause, even if a tenant is potentially eligible for RTC; if this happens, they should provide a reason for their denial on your Order to Show Cause and you have the right to re-file a new Order. Regardless of whether they sign it or not, you may still ask for an adjournment for your case at your scheduled court appearance.

You Filed the Order to Show Cause, the Judge Signed it, What Now?

Once a judge signs your Order to Show Cause, you will be given copies or given an original and told to make two or three copies. **It’s a good idea to ask the court staff to make copies** because the copy machine at the courthouse is sometimes broken or will eat your money.

Then, the court staff will keep the original papers and give you the copies, which you have to serve (or deliver) to your landlord and any other parties that you named in the case:

- a. The first set of copies goes to the landlord. If the landlord has an attorney, then the copies go to their attorney and not to the landlord.
 - i. This info is on your court papers already; and, it is very important that you deliver the papers ***exactly* how the papers require by the *due date***.
- b. The second set, if your case is post-judgment (meaning that a warrant of eviction was already issued by a judge), may require proper delivery to a NYC Marshal.
 - i. **Ask the court staff if this is needed and make sure you understand where to deliver.** You can get a list of City Marshal names and addresses here: <https://www1.nyc.gov/site/doi/offices/marshals-list.page>.
- c. The third set of copies is yours to keep, along with proof of delivery/service.

You will need proof of delivering the papers at your next court date (*see explanation of proof of delivery below):

Time for Court, What to Do:

You will first need to arrive ON TIME. Take the time to fill out the information below to make sure you don't forget! WRITE IT DOWN.

Come to Court at _____ on _____ in Room _____

Once you get to court, you will need to go through security. Follow the court officer's directions to get through the security line.

Don't forget to bring the court documents:

- 1) Court papers from your landlord that started the case;
- 2) Your Order to Show Cause, with the Affidavit in Support*; and,
- 3) Proof of service (delivery). (Sometimes this is a Certified Mail Receipt(s) or Certificate of Mailing – and if you're not sure, ask court staff and the post office)

*An **affidavit** is a written and sworn statement. When you sign an affidavit, you swear that the information in it is true. Thus, an **“Affidavit in Support”** is a statement that you swear to the truth of in support of the Order to Show Cause that you file with the Court asking for an adjournment.

Once you go to the room for your case (called a “court part”), you will need to check in with the court staff by saying your name and case (you can reference the index number starting with LT (“Landlord-Tenant”) that is listed on your court papers). Then you may need to sit down to wait until the judge or other court staff calls you. **If you need an interpreter, ask a friend to write that down for you on a piece of paper or your court papers so that you get one before you go before the judge.**

If you are not feeling well on the day of your scheduled appearance, please contact the Court Clerk to inform them of your circumstances. It is very important that you communicate this to them before your court appearance in order to prevent a default judgment from being issued against you for your non-appearance. A default judgment in an eviction case can result in a warrant of eviction that the judge can grant without any prior opportunity for case settlement or trial.

Again, **you do not and should not need to talk to the landlord or their lawyer on your own, you can wait to talk to them in front of the judge or a court attorney; and you do not need to sign anything without first *knowing exactly what it says* and what it requires of you, *and MOST IMPORTANTLY consequences if you don't do what it says.***

NEXT FEW PAGES ARE THE PAGES YOU CAN FILL OUT AND TAKE WITH YOU TO COURT TO FILE AN ORDER TO SHOW CAUSE.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF _____ PART _____
(County) (Courtroom)

Index No. LT: _____

ORDER TO SHOW CAUSE

Landlord-Petitioner(s),

-against-

Tenant-Respondent(s).

Tenant's Address: _____

UPON the Affidavit in Support of _____ (Tenant-Respondent), and
upon the annexed papers, and
good cause having been shown,

LET Landlord-Petitioner _____ (name) show cause at the Housing Part
of the Civil Court of the City of New York, Part _____,

_____ (address and county), New

York, virtually by Microsoft Teams and/or in person, on _____, 2022, at

_____ A.M./P.M. or as soon as they may be

heard,

WHY an order should not be made:

- a) Pursuant to N.Y.C. Admin. Code § 26-1301 and C.P.L.R. § 2201, directing this Court:

- i. to uphold NYC Right to Counsel Law, which guarantees all income-eligible tenants a free attorney when facing eviction or termination of tenancy, and
- ii. to stay the instant case for purposes of exercising their NYC Right to Counsel, which requires no less than 60 days to secure counsel with able and meaningful capacity to represent Tenant-Respondent

b) For such other and further relief as may seem just, equitable, and proper.

ORDERED, that pending the hearing of this motion, LET all proceedings on the part of the Petitioner, their attorney, and the Marshal of the City of New York be stayed,

SUFFICIENT CAUSE THEREFORE APPEARING, LET service by

_____ (date) of a copy of this Order together with a copy of the Affidavit of Support and other documents annexed thereto on the _____ (Petitioner-Landlord)_, by certified mail, return receipt requested or personal service on or before the _____ day of _____, 2022, and proof will be filed with the court clerk by the return date be sufficient.

DATED: _____, New York
_____, 2022

Judge of Housing Court

To: _____
(Landlord-Petitioner's/Petitioner's Counsel's Name & Address)

(NYC Marshal, if applicable)

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF _____ PART _____

Index No. LT: _____

ORDER TO SHOW CAUSE

AFFIDAVIT IN SUPPORT OF

Landlord-Petitioner(s),
60 Days
Counsel
-against-

For: Adjournment of Not Less than
To Exercise My Right to
(Relief Requested)

Tenant-Respondent(s).

Tenant's Address: _____

State of New York, County of _____ ss.:

_____, being duly sworn, deposes and
says:
(Print your name)

Tenant's Initials

1. PARTY _____ a) I am the party named as (Tenant-Respondent) in the entitled proceeding.
_____ b) I am the _____ of the party named as (Tenant-Respondent) in the entitled proceeding.
2. REQUEST I request that:

My case be stayed for not less than 60 days so that I may exercise my NYC Right to Counsel because I am income-eligible and do not want to face my eviction case without an attorney by my side.

3. DEFENSE(S) I have a good defense(s)/claim(s) because:
CLAIM(S)

The NYC Right to Counsel Law was passed in 2017, and had an immediate expansion during the COVID-19 Pandemic in 2021. The reason for this law is to protect vulnerable tenants, like myself, from losing our affordable homes or leaving our community.

I do not yet know my defenses to this case because I have not had an opportunity to meet with a Right to Counsel attorney because they are currently over capacity and cannot take my case right now. If the overburdened attorney was to take my case now, they would be violating Rule 1.3, Diligence (see attached).

4. EXCUSE/ I have a good excuse/reason because:
REASON

I do not need an excuse or specific reason to invoke my NYC Right to Counsel.

5. PRIOR ORDER _____ a) I have not had a previous order to show cause regarding this index number.
_____ b) I have had a previous order to show cause regarding this index number, but I am making this further application because:

Sworn to me before this _____ day of _____, 2022

(Signature of Tenant-Respondent)

(Signature of Court Employee and Title or Notary Public)

TO BE FILED WITH AFFIDAVIT IN SUPPORT OF ORDER TO SHOW CAUSE

Rule 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Comment from American Bar Association

[1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

[2] A lawyer's work load must be controlled so that each matter can be handled competently.

[3] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

[4] Unless the relationship is terminated as provided in Rule 1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client and the lawyer and the client have not agreed that the lawyer will handle the matter on appeal, the lawyer must consult with the client about the possibility of appeal before relinquishing responsibility for the matter. See Rule 1.4(a)(2). Whether the lawyer is obligated to prosecute the appeal for the client depends on the scope of the representation the lawyer has agreed to provide to the client. See Rule 1.2.

[5] To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action. Cf. Rule 28 of the American Bar Association Model Rules for Lawyer Disciplinary Enforcement (providing for court appointment of a lawyer to inventory files and take other protective action in absence of a plan providing for another lawyer to protect the interests of the clients of a deceased or disabled lawyer).

PART FIVE – TIPS, INFORMATION & RESOURCES

TIPS:

- Talk to a tenant organizer before filing anything with the court
- Make sure to request an interpreter for your preferred language before or at your first court date
- You do not need to sign anything you do not understand
- You do not have to talk to the landlord's lawyer alone
- Keep written records as best you can, or take pictures on your telephone
- Do not be afraid to stand with the many other tenants in your exact position doing the same thing - EXERCISING YOUR RIGHT TO COUNSEL AS A NYC TENANT!!

How to Search Your Case History:

While many of you may be in housing court for the first time, others may have experience with a past eviction case. Housing courts across the city are still moving through thousands of eviction cases that were filed before the pandemic, meaning that it's possible that your case may have been before a judge at one point in time before going "on pause." If your case had already started, you should check to see if a judgment had been entered against you for any rent money owed and/or a warrant of eviction. As a tenant litigant, you also have the right to access your court file and case history, which can be done in any of the following ways:

- 1) If your case was electronically filed by your landlord (or "converted to electronic filing"), you can search for it by creating an account on the New York State Unified Court System website: <https://iapps.courts.state.ny.us/nyscef/UnRepresentedHome>. You will then be able to access any pre-existing court file using your Index Number (*beginning with "LT").
- 2) If your case was not electronically filed or converted to electronic filing by your landlord, you can always access the file by visiting Housing Court and requesting a copy of the file from the Court Clerk.
- 3) If your case has an upcoming court date scheduled, you can look up your case history to confirm the number of times that your case, if at all, has appeared before a judge in the past. To do this, visit WebCivil Local: <https://iapps.courts.state.ny.us/webcivilLocal/LCMain>. You will be able to search by Index Number (*beginning with "LT"), your name (Parties "Party Name" and "Court(s)") and even Court Calendars.

Your right to an adjournment under the Right to Counsel law, as supported by this packet, applies regardless of whether your case has been in front of a judge before or not. However, we encourage you to speak with a housing lawyer or Housing Court Answers if you find that a judgment was issued against you already. The contact information for some of these resources is below.

RESOURCES:

Number for Housing Court Answers	<p>For individual legal questions, please call 718-557-1379 or (212) 962-4795 from Monday – Friday, between 9am and 5pm;</p> <p>Para preguntas legales individuales: llame al 718-557-1379 o al (212) 962-4795 de lunes a viernes entre las 9am y las 5pm</p>
ERAP Application	<p>Application: https://otda.ny.gov/ERAP</p> <p>List of what you need to apply:</p> <ul style="list-style-type: none"> • English:https://otda.ny.gov/programs/emergency-rental-assistance/Renter-Checklist.pdf • Spanish:https://otda.ny.gov/programs/emergency-rental-assistance/Renter-Checklist-Spanish.pdf <p>Youtube video explainer: https://www.youtube.com/watch?v=Ih19INyhmjg</p> <p>Here is the list of groups that help you apply to ERAP https://www1.nyc.gov/site/hra/help/new-york-emergency-rental-assistance-program-erap.page</p>
Contact info for organizing groups	<p>English: http://bit.ly/NYtenantorganizing</p> <p>Spanish: http://bit.ly/NYorganizainquilinos</p>
Our Campaigns	<ul style="list-style-type: none"> • Defend RTC: https://www.righttocounselnyc.org/defend_rtc • Statewide RTC: https://www.righttocounselnyc.org/statewidertc • Housing Courts Must Change: https://www.righttocounselnyc.org/hcmc
Rent Strike Toolkit	<p>English: http://bit.ly/toolkitrentstrike</p> <p>Spanish: http://bit.ly/GuiaHuelga</p>
RTC Website + Email	<p>www.righttocounselnyc.org; Email info@righttocounselnyc.org</p>

PART SIX: FREQUENTLY USED WORDS IN COURT

311: This is a citywide telephone hotline. Tenants call 311 to report problems in their apartments such as no heat or hot water, water leaks, sewer back- up, mold, garbage collection, bedbugs, power outages, and other bad conditions.

ADJOURNMENT: Putting off or postponing a court case until another time. Judges may **adjourn** a case for many reasons including giving **parties** more time or finding a day when a **trial** can happen in a case.

AFFIDAVIT: A written and sworn statement. When you sign an affidavit, you swear that the information in it is true.

AFFIDAVIT OF SERVICE: A signed statement that a document in a court case was “**served**” upon, or given to, the other **party** to the court case. **Service** can be by certified mail or by personally handing documents to the other **party**.

CERTIFICATE OF OCCUPANCY: A document issued by the City outlining the lay-out of a building and saying that the building is in good enough condition for people to live there.

CONTEMPT: If a person disobeys a court order or interferes with court proceedings, the judge will hold that person “in contempt” to punish them. **Filing** a contempt motion is how you let the court know that a **party** has disobeyed a court order.

COURT ATTORNEY: A lawyer who sits in the courtroom and works with the judge to help resolve cases.

COURT OFFICER: A person in a uniform who sits or stands in the courtroom and is responsible for court security and maintaining order in the courtroom.

DEFAULT: When one side does not show up in court, it is called a default. In an eviction case, if a tenant doesn’t show up, then the landlord can win the case automatically.

DISMISS (dismissing a case): If at any stage in the court process, a **party** loses their case, the judge will say the case is dismissed. When a case is dismissed, it is over and the **party** bringing the case has lost.

DEPARTMENT OF BUILDINGS: NYC agency that enforces rules about the construction and maintenance of buildings.

EVIDENCE: Materials that are shown to a judge or jury during a court case to help decide who should win the case. Evidence can include photos, documents, videos and witness **testimony**.

FILING: Submitting a legal document to the court.

HARASSMENT: When a landlord unlawfully tries to make a tenant leave their apartment or otherwise give up their rights. Harassment can be:

- using force or threatening to use force;
- interrupting or discontinuing essential services like heat, hot water or electricity;
- starting court cases without legal basis;
- removing your possessions from an apartment;
- discriminating against a tenant for their race, sex, religion, immigration status, or other protected categories;
- removing the apartment door or changing the lock without giving the tenant a key;
- other acts that interfere with the peace of a tenant, such as construction at late hours;
- repeatedly making “buy out” offers.

HP CASE (a/k/a “Repairs Case”): A case a tenant starts against a landlord to get the landlord to make repairs, provide services, or stop harassment. HP is short for Housing Part.

INDEX NUMBER: The number issued by the court which is used to identify a court case. For example, “L&T 52363-2015.” “L&T” stands for Landlord and Tenant, and the last part of the index number is the year the case was **filed**.

INQUEST: An inquest is like a **trial** that happens when the other side does not show up in court. At an inquest, the judge hears **evidence** to help them decide the outcome of the case.

JUDGMENT: A decision by the court. A judgment may **dismiss** a case, order a **party** to pay money, or direct one or more of the **parties** to do something.

MARSHAL: A person who works for the city and delivers notices of eviction and warrants of eviction. In order for there to have been a lawful Notice of Eviction, the court must have issued a “judgment” for a warrant of eviction, which a landlord later authorizes the Marshal to deliver.

PART: A courtroom in the courthouse is called a **“Part”** and it is usually identified by a letter.

PARTY: One side in a case. In housing court, the party that starts the case is called the **Petitioner**, and the party that is being sued is called the **Respondent**.

PETITION: The paper that a **party files** in court to start a housing court case. The Petition describes what the person starting the case wants from the person who is being sued.

PREJUDICE: When a case is discontinued “with prejudice,” it cannot be re-filed by a landlord, meaning that it cannot be brought back to court and is permanently dismissed. When it is discontinued “without prejudice,” it *can* be re-filed if the landlord corrects the issues that led to its discontinuance.

SERVICE: Delivery of court documents by one **party** to another.

SELF REPRESENTED LITIGANT (a/k/a “Pro Se”): Individuals who do not have a lawyer representing them in their court case.

SETTLEMENT: A final agreement that ends a court case.

STIPULATION OR CONSENT ORDER: A formal agreement between the **parties** resolving a case or some issue in a case without a court **hearing**.

SUBPOENA: A court order requiring a person to show up in court to give **testimony** and produce documents.

TESTIMONY: A witness’ spoken **evidence** in court.

TRIAL: Examination of all the **parties’ evidence** and the law by a judge in order to make a final decision in a case.

WARRANTY OF HABITABILITY: The legal requirement that a landlord must keep a tenant’s apartment in good repair, or in a livable condition.

DISCLAIMER: This document was created by the Right to Counsel NYC Coalition for general informational purposes. As such, it should not be taken as legal advice for specific eviction cases and it is not a substitute for attorney representation. Tenants are encouraged to secure individual legal advice and representation.