

# REPAIR AND REMEDY

## WHAT IS A REPAIR AND REMEDY CASE

A Repair and Remedy case is a lawsuit brought to seek judicial remedy for the alleged failure of a landlord to remedy or repair a condition as required by Chapter 92 of the Texas Property Code. The relief sought can be for no more than \$10,000 in damages excluding statutory interest and court costs but including attorney fees, if any.

## CITATION

A citation will immediately issue directing the landlord to appear for a trial date, which is no less than 10 days and no more than 21 days from date the petition is filed. The citation must be served at least 6 days before trial date.

## LANDLORD'S LIABILITY

A landlord is liable to a tenant to repair or remedy if:

1. The tenant has given the landlord proper notice of condition;
2. The condition materially affects the physical health or safety of an ordinary tenant;
3. The tenant has given subsequent written notice to repair or remedy;
4. The landlord has had reasonable time to correct the situation;
5. The landlord has not made an effort to repair or remedy the condition;
6. The tenant was not delinquent in payment of rent at the time notice was given to landlord.



**DEMAND FOR JURY** can be made by either party must be made no later than 14 days before trial and requires a jury fee of \$22.00 or by filing a sworn statement of inability to pay the jury fee. Rule 504.1

## APPEAL

Either party may appeal the judgment within 21 days from the date the judgment is signed. Appeal must be made in writing and by filing appeal bond.

## HEARING

The tenant must appear to present his case. If he does not appear, the Judge may dismiss the case. If the landlord does not appear and was served, the Judge may hear evidence and render a judgment.

## FILING FEE

Filing fee for a Repair and remedy is \$41.00, plus the cost of service. If you are unable to pay the fee, you may file a Statement of Inability to Pay under Rule 502.3, Rules of Civil Procedures.

CAUSE NO. \_\_\_\_\_

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
v.	§	PRECINCT NO. ONE
_____	§	
DEFENDANT	§	WALLER COUNTY, TEXAS

**PETITION: REPAIR AND REMEDY CASE**

**COMPLAINT:** Plaintiff files this petition against the above-named Defendant pursuant to Rule 509 of the Texas Rules of Civil Procedure and Section 92.0563 of the Texas Property Code because there is a condition in Plaintiff's residential rental property that would materially affect the health or safety of an ordinary Plaintiff.

**Information Regarding Residential Rental Property:**

_____	_____	_____	_____	_____	_____
Street Address	Unit No. (if any)	City	County	State	Zip Code

Defendant's Contact Information (to the extent known):

_____	_____	_____	_____	_____	_____	_____
Street Address	Unit No. (if any)	City	County	State	Zip Code	Phone No.

**SERVICE OF CITATION:** Plaintiff requests service of the citation on the Defendant, and if required, alternative service pursuant to Rule 509.4 of the Texas Rules of Civil Procedure. Plaintiff will check the box next to each statement that is true:  Plaintiff received in writing Defendant's name and business street address.  Plaintiff received in writing the name and business street address of Defendant's management company.  The name of Defendant's management company is \_\_\_\_\_. To Plaintiff's knowledge, this is the management company's contact information:

_____	_____	_____	_____	_____	_____	_____
Street Address	Unit No. (if any)	City	County	State	Zip Code	Phone No.

The name of Defendant's on-premises manager is \_\_\_\_\_. To Plaintiff's knowledge, this is the on-premises manager's contact information:

_____	_____	_____	_____	_____	_____	_____
Street Address	Unit No. (if any)	City	County	State	Zip Code	Phone No.

The name of Defendant's rent collector serving the residential rental property is \_\_\_\_\_. To Plaintiff's knowledge, this is the rent collector's contact information: \_\_\_\_\_

_____	_____	_____	_____	_____	_____	_____
Street Address	Unit No. (if any)	City	County	State	Zip Code	Phone No.

**PROPERTY CONDITION:** The property condition materially affecting the physical health or safety of an ordinary Plaintiff that Plaintiff seeks to have repaired or remedied is:

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**LEASE AND NOTICE:** Plaintiff will check the box next to each statement that is true:

The lease is oral.  The lease is in writing.  The lease requires the notice to repair and remedy a condition to be in writing.  Plaintiff gave written notice to repair or remedy the condition on \_\_\_\_\_.  The written notice to repair or remedy the condition was sent by certified mail, return, receipt requested, or registered mail on \_\_\_\_\_.  Plaintiff gave oral notice to repair or remedy the condition on \_\_\_\_\_. Name of person(s) to whom notice was given: \_\_\_\_\_. Place where notice was given: \_\_\_\_\_.

**RENT:** At the time Plaintiff gave notice to repair or remedy the condition, Plaintiff's rent was:  current (no rent owed);  not current but Plaintiff offered to pay the rent and Defendant did not accept it; or  not current and Plaintiff did not offer to pay the rent owed. Plaintiff's rent is due on the \_\_\_\_ day of the  month  week  \_\_\_\_\_ (specify any other rent-payment period). Plaintiff's rent is \$\_\_\_\_\_ per  month  week  \_\_\_\_\_ (specify any other rent-payment period). Plaintiff's rent:  is not subsidized by the government  is subsidized by the government as follows, if known: \$\_\_\_\_\_ paid by the government, and \$\_\_\_\_\_ paid by Plaintiff.

**RELIEF REQUESTED:** Plaintiff requests the following relief (check all that apply):  a court order to repair or remedy the condition;  a court order reducing Plaintiff's rent in the amount of \$ \_\_\_\_\_ to begin on \_\_\_\_\_;  actual damages in the amount of \$ \_\_\_\_\_;  a civil penalty of one month's rent plus \$500;  attorney's fees; and  court costs. Plaintiff states that the total relief requested does not exceed \$10,000, excluding interest and court costs but including attorney's fees.

I hereby request a jury trial. The fee is \$22.00 and must be paid at least 14 days before trial.

I hereby consent for the answer and any other motions or pleadings to be sent to my email address as follows: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff's Printed Name

\_\_\_\_\_  
Signature of Plaintiff

\_\_\_\_\_  
Address of Plaintiff or Plaintiff's Attorney

\_\_\_\_\_  
City State Zip

Instructions: The Servicemembers Civil Relief Act applies to a civil proceeding in the Justice Courts. Before entering a default judgment against an individual defendant, the plaintiff must file with the court an affidavit stating whether or not the defendant is in the military service, showing necessary facts to support the affidavit, or stating that the plaintiff is unable to determine whether or not the defendant is in military service, if that is the case. The requirement for an affidavit may be satisfied by a written, signed document declared to be true under penalty of perjury. If it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If the court is unable to determine if the defendant is in military service, the court may require plaintiff to file a bond in an amount approved by the court. A person who makes or uses an affidavit under this Act knowing it to be false, may be fined or imprisoned or both. 50 U.S.C. App. 501 et seq. To obtain certificates of service or non-service under the Servicemembers' Civil Relief Act, you may access the public website: <https://www.dmdc.osd.mil/appj/scra/scraHome.do>. This website will provide the current active military status of an individual.

**Military Status Affidavit**

Cause No. \_\_\_\_\_

Plaintiff:	In the Justice Court
Vs.	Precinct One
Defendant:	Waller County, Texas

BEFORE ME, on this day personally appeared, \_\_\_\_\_, who, under penalty of perjury, stated that the following facts are true:

I am the  Plaintiff  attorney of record for the Plaintiff in this proceeding.

\_\_\_\_\_, Defendant, **is not** in military service.

\_\_\_\_\_, Defendant, **is** in military service.

I know this because \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

I am unable to determine whether or not the Defendant is in military service.

Signed on: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_  
 \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

THE STATE OF TEXAS § \_\_\_\_\_

COUNTY OF WALLER § \_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME on \_\_\_\_\_.

\_\_\_\_\_  
 Clerk of the Court

CAUSE NO. \_\_\_\_\_

Plaintiff:	In the Justice Court
Vs.	Precinct One
Defendant:	Waller County, Texas

**CERTIFICATE OF LAST KNOWN MAILING ADDRESS**

I, \_\_\_\_\_, certify that the last known mailing address that I have for the defendant, \_\_\_\_\_, is:

Respectfully submitted,

\_\_\_\_\_  
Plaintiff / Pro Se

Address: \_\_\_\_\_  
\_\_\_\_\_

## JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/13)

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_

STYLED \_\_\_\_\_  
(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

### 1. Contact information for person completing case information sheet:

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_ Fax: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_ State Bar No: \_\_\_\_\_

Email: \_\_\_\_\_

Signature: \_\_\_\_\_

### 2. Names of parties in case:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

[Attach additional page as necessary to list all parties]

### 3. Indicate case type, or identify the most important issue in the case (select only 1):

**Debt Claim:** A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.

**Repair and Remedy:** A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.

**Eviction:** An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.

**Small Claims:** A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.