



Fulton County

Edition

For private market renters

Eviction Defense Manual

First Edition

**HOUSING
JUSTICE
LEAGUE**

Written by the Housing Justice League and Manual Atlanta

Neighbor,

If you are dealing with an eviction, **you are not alone.** Fulton County tenants are

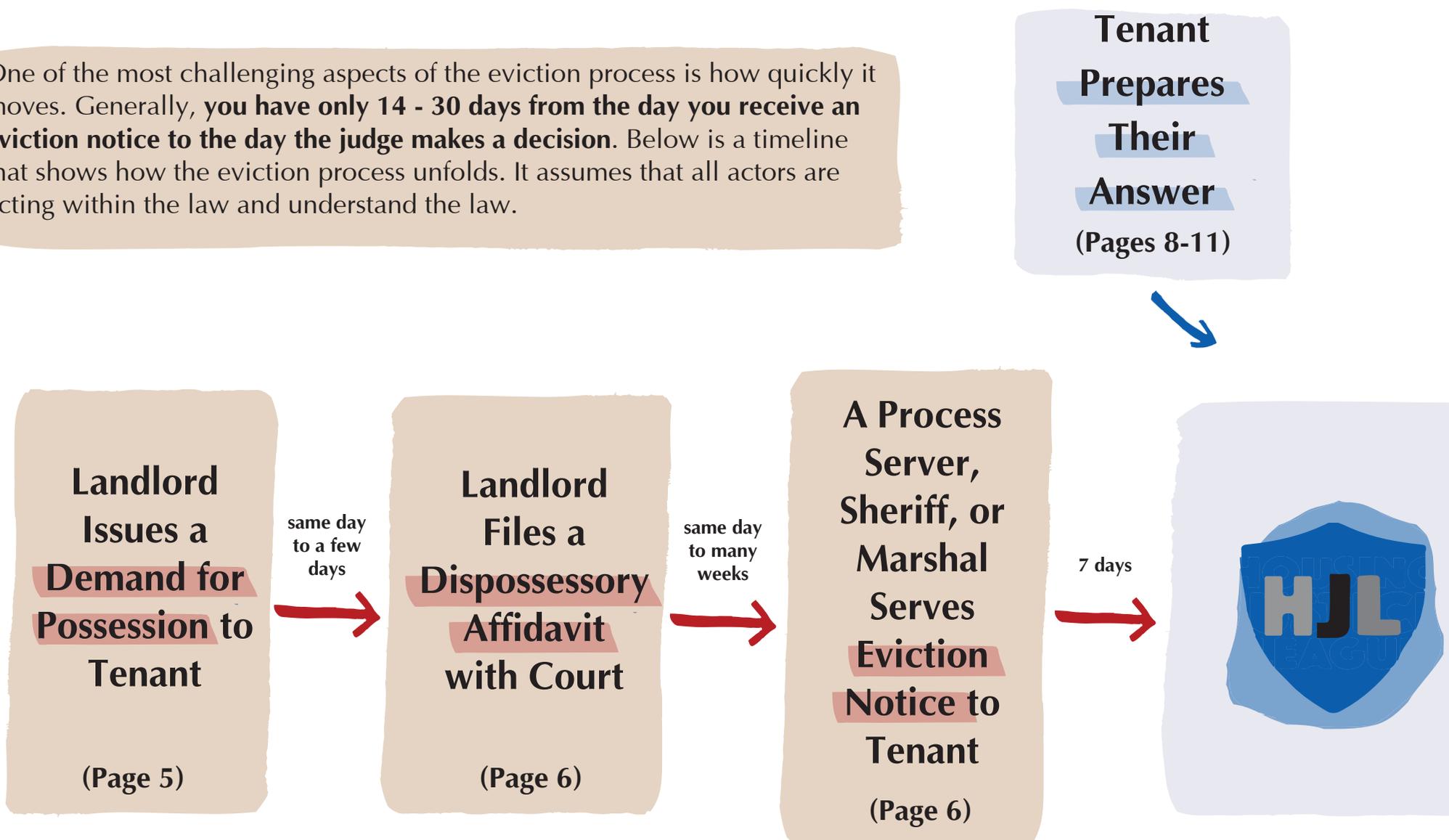
facing a brutal eviction crisis, **where close to 800 evictions are filed every week.**

When it comes down to it, you and your landlord have opposing interests. You need a safe, affordable place to live, but your landlord's top priority is to make a profit. To make matters worse, **Georgia law gives landlords powerful rights, while tenants have few rights.** All renters experience this power imbalance, but it is especially harmful for lower-income people and people of color.

Even though the law is not on your side, understanding your rights can get you a better outcome. **This manual is for you and your neighbors to learn the legal eviction process so you can defend yourselves,** buy more time, and prevent large debts.

The Eviction Timeline is Fast

One of the most challenging aspects of the eviction process is how quickly it moves. Generally, **you have only 14 - 30 days from the day you receive an eviction notice to the day the judge makes a decision.** Below is a timeline that shows how the eviction process unfolds. It assumes that all actors are acting within the law and understand the law.



How To Use This Manual

This manual will cover each step of the eviction process, starting from the day you receive the first notice, through to your court date, ending with how to cope with eviction and prevent future displacement. Even if you are not experiencing eviction, this information is very important to learn and share because informed renters means stronger communities! Any mention of *you* in this document refers to a tenant at risk of eviction. This manual is specific to renters on the private market (non-subsidized) in Fulton County and the State of Georgia. Be aware the rules of eviction in other counties and states can be different.



Beware information is in **red**! It alerts you to **illegal tactics** and **common problems** to look out for.

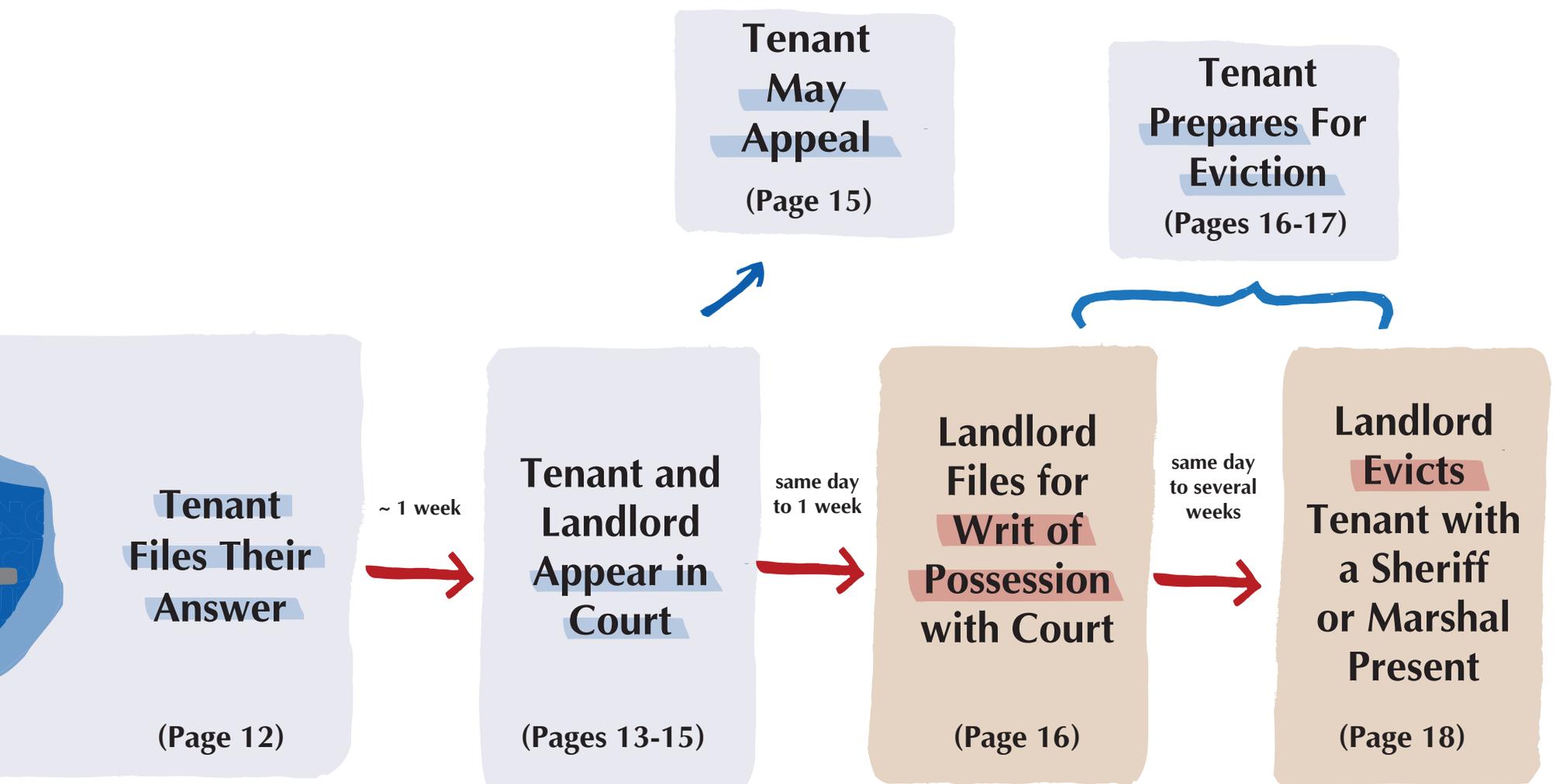


Tenant Actions - ways to **defend yourself from eviction** or **slow down the process** - are highlighted in **blue**.

Unfamiliar words and **legal terms** appear in **green** and we define them in the glossary in the back!

Yellow refers you to other **helpful resources and organizations**. When it comes to **Counter Claims, Repair and Deduct, Evidence and Subpoenas, Mediation, and Appeals**, each of these processes is pretty complex, **so we made separate guides that can be downloaded from our website here:**

www.housingjusticeleague.org/evictiondefense. Also, check the back cover for **free legal aid** information.



Eviction Defense Basics

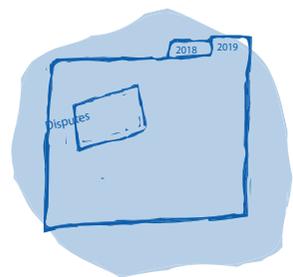
Why? Tenants should always work to protect themselves from eviction. Here is a list of important preventative practices for **every** tenant - not just those facing an eviction.



Pay Rent On Time & In Full Do not withhold rent for any reason. Under Georgia law, withholding rent will most likely give your landlord legal cause to evict you. Get a receipt for cash payments, or use money orders. Your landlord is also not required to accept partial rent payments. Even if they accept it, understand that they can decide to refuse partial payments in the future, and start the eviction process.



Keep Copies of all Paperwork & Get It In Writing Keep copies of your lease, move-in inspection reports, receipts, and any letters, emails or texts from your landlord. These can be used to build evidence if you need to dispute an eviction. Never use verbal agreements to conduct business with your landlord, especially with matters related to lease and rent. Use written communication whenever possible, such as texts, emails, or dated and signed hand written notes.



Document All Maintenance or Dispute Issues Take photos of your unit, including any damage, the day you move in. Always document maintenance issues as they arise. Record the date, time, and content of all maintenance requests you make, and keep any copies of complaints you submit to Atlanta Police Department's Code Enforcement Section. Audio record any conversations you have with your landlord for which you do not have a witness. Having a clear written record and a timeline of any disputes with your landlord is key to tenant protection.



Know Your Resources! **Legal aid information** is on the back of this manual. You can also download our tenant resource package for services available in Fulton County at www.housingjusticeleague.org/evictiondefense. Talk with your neighbors about these issues, being more connected leads to being organized. Lastly, look for our Georgia Renters Rights Manual coming out soon!

The Demand for Possession

What's Happening? Your landlord informs you of the consequences for violating your lease

Under Georgia law you can be evicted if:

#1

You don't pay your rent

#2

You don't move out at the end of your lease

#3

You violate other terms of your lease



It's Not An Eviction Notice!

Your landlord has only **demand possession**. They must file in court before you receive an eviction notice (aka: **Dispossessory Warrant**).

Tenant Action If you can't pay rent and have somewhere else to go, **you might avoid an eviction record by moving right away**. It's possible your landlord may not file for eviction if you move. Page 11 explains how this tactic saves you from a money judgment.

The First Sign of Eviction

Your landlord makes the first move to start the eviction process called the **demand for possession**, a notice that you have violated your lease in some way. This does not require you to leave your home immediately. The demand for possession is not approved by or issued by the court, but it must legally abide by a few rules. **The notice can be written or verbal**. It could say:



The **demand for possession** is also called the **notice to quit, notice for termination, demand notice, or 3-day notice**. Often, this notice has no title at all.

You must receive a demand for possession before the landlord files in court and before you receive an eviction notice. Even though **many landlords use the demand for possession as a warning tool to get you to comply**, you should work from the assumption they intend to follow through with an eviction.

Tenant Action

Negotiate Try and work out a deal with your landlord. At this point they should not have filed in court yet. You may still be able to prevent court proceedings and an eviction record.

Get it in Writing If your landlord demands possession verbally and gives you a set time to comply, immediately request this deadline in writing.

Settle Your Debt If you can pay what your landlord claims you owe (and you do owe that amount) pay it ASAP. Get a money order or a receipt for cash payments! This may not prevent the eviction case from going to court, but it can potentially save you from additional fees or accruing interest down the road.

Defense: Premature Filing is a defense you can use when filing your answer (page 9) if:

- Your landlord gave you a specific time frame to correct your lease violation, **and**
- Your landlord did not wait that amount of time before filing for an eviction notice

This is considered an unlawful practice and may help you defend yourself in court!

The Dispossessory Warrant

What's Happening? Your landlord goes to court to file an eviction lawsuit against you.

Filing in Court

After your landlord issues the demand for possession they can file a **dispossessory affidavit** in court. This means they swear their claims under oath and request the court's power to evict you.

Dispossessory warrant = "Eviction notice"

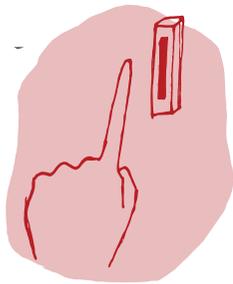
Being Served

Anywhere from one day to several weeks from when your landlord files in court, you can expect to be served an eviction notice (**dispossessory warrant**). A court Marshal, Sheriff, or private "process server" must serve it to you. If you receive this notice, you still have to pay rent. The **dispossessory warrant** requires you to give a legal response within 7 days. It tells you:

Date of service
The amount of \$ your landlord claims you owe (including late fee, court filing and process server fee.)
Your answer deadline
Where to file your answer

Landlord, management or lawyer's address and name
Your address and name
Your case number
The reason for your eviction

Eviction notice can legally be served in **two ways**:



In Person

Process server or Marshal gives the eviction notice to someone over 18 who lives at the address.



Tack and Mail

The server must knock first. If no one answers they can tape a copy to the door. They are then required to mail a copy to you on the same business day.

Watch out for Improper Service !!

Was the second copy of the eviction notice **mailed on a different date** than the day it was tacked to your door?

Did **your landlord attempt to serve you the warrant** themselves?

If this is the case, you did not receive proper service.

Tenant Action

Check for Improper Service Document the date, method, and who delivered your eviction notice.

File Your Answer The most important action you can take to protect yourself is filing an answer on time with a proper legal defense. Not doing this can result in getting evicted in as little as 8 days after receiving the eviction notice. Detailed instructions on filing an answer begin on page 8.

Stopping Your Eviction In Its Tracks

You've Received the Eviction Notice - What Now?

There are now two main legal routes you can take to prevent your eviction before going to court:

Option 1: Settle your Debt in Full

Sometimes landlords will refuse overdue payment because they want you out. There is a Georgia law that is meant to protect you from this. It requires landlords to allow you to settle your debt in full to avoid eviction.

If your landlord refuses to accept full payment for overdue rent and late fees, you can challenge them in court by claiming "tender defense." For this, you must meet all of the following:

- Your landlord is evicting you for failing to pay rent
- This is the **only time in the past 12 months** your landlord has filed against you
- You **offered full payment** (including all rent owed, late fees, & the cost of the court filing), **and**
- You **attempted to pay by the answer deadline** shown on the eviction notice

If you can check all of these boxes, include the tender defense when you file an answer!

Option 2: Come to an Agreement

Any time *after* receiving an eviction notice and *before* your court date, you can try to work out a deal with your landlord. There are two ways to file to close a case if you both come to an

Consent Agreement

You or your landlord can file a consent agreement as long as you both sign it. It can be filed online or in-person. This agreement is binding, so pay close attention to what it includes. Landlords often write the agreement to state they can evict you immediately if you break it. **Only sign it if you are sure you will be able to hold up your end of the bargain.** Bring a copy with you to court.

Voluntary Dismissal

You and your landlord make an informal agreement that you do not report to the court. Your landlord then files to voluntarily dismiss the case. Only your landlord can file this, not you the tenant. **It is not common for landlords to use this approach** because if you break the agreement, they have to start the eviction process from the beginning.

Consult a lawyer to help you decide whether to sign a consent agreement. **Whatever the case, you still must file an answer and appear in court!**

Payment Tips

Keep A Trail

Use a money order for proof in case your landlord refuses payment!

Hold Onto the Money

You will still owe part or all of it later on.

Consider Bringing a Witness

But make sure this is also someone who can appear in court if needed.



When in Doubt, File an Answer & Go to Court!

If your landlord has filed to dismiss the case too close to the court date, your agreement may not yet be in the database. **You must still file an answer and you and your landlord must both appear in court to announce your agreement.** Until you see a document in the court database that is dated, stamped, clearly indicating your case is closed, assume that it is active.

Preparing Your Answer

Time To Act! You will now learn the ins and outs of eviction defense to respond in the best way for your best outcome.



Filing An Answer Is The Most Important Step ---

Why? Filing an answer is your **chance to tell your side of the story**. From the day you receive an eviction notice, you have **7 calendar days** to file your answer by 5:00 pm on the 7th day.

What's At Stake? A lot. **You risk automatically losing your case** if you: file a **late answer**, **do not file** an answer, or file an **improper legal defense**.

Default Judgment? A **default judgment** occurs if you do not file an answer or do not appear in court. It is possible to be evicted in as little as 8 days after getting the eviction notice or within 1 day after your court date. It also requires you to pay the full amount your landlord claims you owe.

The Answer Form

The answer form can be filled out online or in person at the court clerk's office. It provides a list of reasons that tenants may choose from to respond to their eviction notice. **By checking off any of the provided answers you are claiming a proper legal defense.** Submitting an answer with a legal defense **buys you time and allows you to challenge your landlord in court.**

Choosing the Best Answer

Many tenants end up automatically lose their case because they did not file an answer with a proper legal defense. **This is one of the worst things you can do for your case, especially if you do have a legal defense. The next three pages help you choose the best answer that fits your case.**

Some Bad Answers...

I lost my job and could not pay my rent

I paid my rent late, but could not afford the late fee

I had a family emergency and was forced to spend my rent money on that

While these are completely understandable reasons for non-payment, **they are not legal defenses.** You need a legal defense in order to avoid automatically losing your case.

Thinking Ahead

If you want to bring a witness to court, you will need to also file a **subpoena** form with the court clerk. It is a good idea to file a subpoena on the same day you file your answer. It will then be served to your witness by a court Marshal.

Is your landlord refusing to provide you with a copy of your lease or other important paperwork for your case? You can subpoena for these items too! See our **Evidence and Subpoena's Infosheet** to learn how to gather prepare your evidence for court at www.housingjusticeleauge.org/evictiondefense.

Preparing Your Answer

Time To Act! You will now learn the ins and outs of eviction defense to respond in the best way for your best outcome.

Answer Set 1: Legal Reasons for Eviction

If your landlord is evicting you for one of three reasons a tenant can legally be evicted in Georgia, and you want to argue against it, the next three answer choices may apply to you.

Legal Reason #1: You Did Not Pay Your Rent

Your Defense: I paid my rent on time and my landlord accepted it.

____ “I do not owe any rent to my landlord.”

Your Defense: I offered my rent on time and the landlord refused to accept it.

____ “I offered and had money to pay my rent on or before the date I usually pay, but my landlord refused to accept it.”

Your Defense: **Tender defense** (page 7).

____ “My landlord would not accept my rent and the cost of this warrant.”

Legal Reason #2: You Violated The Terms of Your Lease

Your Defense: I do not believe I have violated my lease.

____ “My landlord terminated my lease without a valid reason.”

Legal Reason #3: You Did Not Move Out At The End of Your Lease

Your Defense: My lease has not yet ended or My landlord did not properly terminate my lease.

____ “My landlord did not give me proper notice that my lease or rental agreement was terminated or that I had to move before filing this lawsuit.”

Counterclaims

Has your landlord been neglecting to make repairs and/or have you been living in bad conditions? If so, you should include a **counterclaim** when you file an answer. Doing this counts as a proper legal defense! It will get you a court date which buys you time and allows you to challenge your landlord. Counterclaims have their own section on the answer form.

A counterclaim may also help you get money your landlord owes you for damage to the property that resulted from their failure to repair issues they knew about. If your eviction was filed for nonpayment, you can avoid eviction if you can prove the cost of the damages are more than the amount of rent you owed when you were served the eviction notice.

Including a counterclaim in your answer can be complicated - **get advice from a lawyer** and see our **Counterclaims Info Sheet** at www.housingjusticeleague.org/evictiondefense.

Preparing Your Answer

Time To Act! You will now learn the ins and outs of eviction defense to respond in the best way for your best outcome.

Answer Set 2: Landlord Mistakes

Sometimes, landlords make mistakes during the eviction process that are not legal. **Mistakes on their part may help you get into mediation, in front of a judge, or lead to the case being dismissed and therefore buy you more time.**

Mistake #1 My landlord did not issue a demand for possession prior to filling in court.

____ “My landlord did not give me proper notice that my lease or rental agreement was terminated **or that I had to move before filing this lawsuit.**”

Mistake #2 When demanding possession, my landlord gave me a time frame in which to comply with my lease again, but they did not honor the set time and instead filed before it was up.

____ “Other:”

Handwrite: My landlord gave me the opportunity to comply and failed to honor this by filing prematurely.

Mistake #3 My landlord attempted to personally serve the eviction notice **or** I did not receive proper service.

____ “Other:”

Handwrite: My landlord did not properly serve me the dispossessory warrant in accordance with the law.

Mistake #4 My landlord waited too long to act on an eviction after the time I allegedly broke my lease. (ex. 2 months)

____ “Other:”

Handwrite: My landlord is attempting to evict me for a reason they had knowledge about and did not act on for X number weeks/months.

Mistake #5 My landlord has accepted rent for a later month than the month they are claiming I owe money for.

____ “Other:”

Handwrite: My landlord accepted my most recent rent and is now trying to evict me for a previous month’s overdue rent.

Whatever You Do, Don’t Leave It Blank!

If none of the other answer options fit your case, you should still try to choose one so you can get in front of a judge and buy yourself time. This answer below is an option, because it can apply to many cases:

____ “My landlord terminated my lease without a valid reason.”

By choosing this option and not leaving the form blank, you can enter mediation or get time in front of a judge, thereby avoiding an automatic loss. **The court may disagree with your claim and “find against” you, but you will not be punished if the answer you selected turned out to not be fully true. Just be sure not to hand write a false statement, or lie under oath in court.** What matters is that you believe you filled out the form in “good faith”. Ultimately, you want to file an answer with a proper legal defense so that you can defend yourself in court. Even if your court date does not result in a good outcome, you will have bought yourself more time.

Preparing Your Answer

Time To Act! You will now learn the ins and outs of eviction defense to respond in the best way for your best outcome.

An Exception to the Rule: The **One Case** in Which you Wouldn't File an Answer

The one situation where it's better to move and not file an answer is in order to avoid a **money judgment**. A money judgment is a court order to pay your landlord, issued on your court date. Money judgments are common and **they often put people in deep debt**. If you receive a money judgment, you can have your wages garnished or money taken from your bank account to make up your payments.

Consider not filing an answer if **all** of the following are true:

- You were served the eviction warrant by **tack and mail**,
- You think you can **relocate within 7 days** (ex. at a family or friend's home,) **and**
- You want to avoid a large "**money judgment**" which you cannot afford to pay

This is the **only** instance in which not filing an answer could be beneficial. But you should **consult a lawyer!**

Wait, Are There Legal Consequences?

When a warrant is not served in person, and the tenant does not file an answer, it is not possible for a judge to issue a money judgment. When tack and mail is used, the court cannot prove you received it unless you file an answer. The only thing they know for certain is that a document was left at the property. You can then avoid having **wages garnished** or a **bank account levy** to make your payments.

In order to get any money you owe, your landlord would have to take you to small claims court. **But** - if they do not know your new address, they cannot serve you a small claims warrant. Even with a debt collector, unless a money judgment exists, there is nothing the landlord can do to force you to pay the alleged debt. Private debt collectors may contact you, but you can hang up the phone, because there is no legal way to compel you to make a payment without a money judgment.

Just In Case... something **does** end up on your credit report, you can dispute that through your credit agency.

Under the fair debt collection practices act, you can request that the debt collector sends you **proof that you owe** - which they cannot do without a money judgment.

What About My Record?

Moving without filing an answer will not risk you getting in trouble with the law. Evictions take place in civil court. An eviction can never be removed from your civil case history because they are public records and different from criminal records.

Remember! It is not a crime to move without filing an answer in any way, you are just moving.

!! Heads Up About Credit!

An eviction filing will appear on your credit report automatically for up to 7 years, no matter if you file an answer or not.

Filing An Answer

Time To Act! You will now officially respond to your landlord's claims against you.

File Your Answer -

In Person

With the clerk at the Magistrate Court of Fulton County. The clerk should write the date, place and time for you to appear on your copy of the answer form. Filing in person is free.

or

Online

By registering at <https://georgia.tylerhost.net/OfsWeb/>.
Online filings cost \$7.00 and require a bank card and an email address. The court then mails a notice with the date, place, and time to appear after you file online.

You should also find your court date by searching online using the case number in the top right corner of your **dispossessory warrant**.

A Key Tip! To buy yourself more time before having to potentially move, file your answer on the morning of the 6th or 7th day -this give you more time until your court date. But do not wait until the last minute! The deadline is very firm.

Remember!



The following will almost surely result in you **losing your case**:

Not claiming a **proper legal defense**

Filing an answer late

Not filing an answer

Failing to appear in court

Troubleshooting Tricky Answer Situations

After the answer deadline you still have some opportunities for taking action to get a better outcome.

#1. Did you file an answer without a proper legal defense or want to change it for another reason?

If you did not get advice from a lawyer before filing your answer, **it's not too late!** Lawyers can help you write a proper legal defense.

Tenant Action If you filed on time, you may file an "**amended answer**", in person or online, **up until your scheduled court time**.

#2. Did you file your answer late or fail to appear in court?

Either one of these results in losing your case by **default judgment**, with no legal right to appeal.

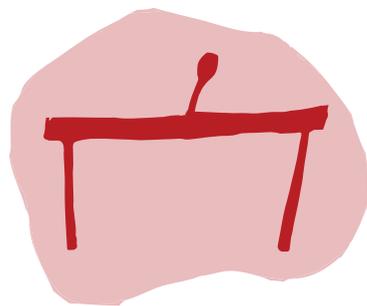
If you filed late, while the **court clerk** may have stamped your late answer, it is unlikely a judge will grant your case be heard.

Tenant Action If you feel you have a good reason for **filing late** or **missing your court date**, you may file a **motion** with the **help of a lawyer** requesting your late answer be accepted or to ask for a new court date. It is up to the judge whether or not to allow this.

Appearing in Court

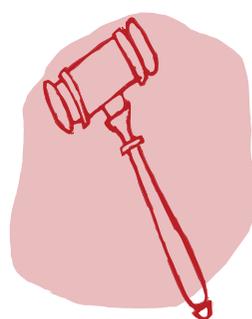
What's Happening? A judge decides if you stay in your home and whether you owe money to your landlord.

After you have filed your answer, you will be notified of your court date. **Not appearing in court results in a default judgment against you.** This means the court immediately approves a writ of possession for your landlord to evict you, and requires you to pay the full amount your landlord claims you owe. There are two types of court dates you can be summoned to:



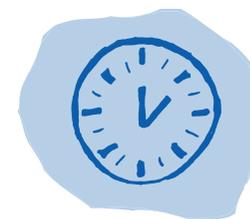
Pro Se and Represented Hearings

If you filed a legal defense, you will have the chance to enter **mediation** with your landlord, or defend yourself before a judge. **Pro Se** means **either the tenant or the landlord are representing themselves**. Represented hearings are when both parties have lawyers.



Judgment on the Pleadings

If you filed an improper legal defense (page 8) you will be in this kind of hearing. You will not be given the opportunity to defend yourself. There is no need to gather evidence. **You should still show up because this allows the judge to grant you more time to get out.**



Always Double Check

Make sure to double check your eviction notice for the correct time and courtroom.

Plus if you show up to court but your landlord fails to appear, your case will get dismissed!



If You Don't Show Up you receive a **default judgment**. The court will immediately approve a **writ of possession** for your landlord to evict you, and will require you pay the full amount your landlord claims you owe.



Preparing for Court

It can be intimidating to represent yourself in court. Stay calm, be organized and focused, take your time, and wait for your turn to speak. Remember that **you have the right to be there contesting your eviction!**



Bring Any And All Evidence you have. Your dispossessory warrant, a copy of your lease, photographs, printed screenshots of texts or emails, paperwork, or **subpoenaed** witnesses. Be sure your evidence is ready and organized so you can present it to a judge or in mediation quickly when asked.



Set Aside The Whole Morning or Afternoon for your court day. There is no way to say for sure how long this can take. There are many cases happening at the same time, and there can be unexpected delays.

Appearing in Court

What's Happening? A judge decides if you stay in your home and whether you owe money to your landlord.

On Court Day: What to Expect



Find the Court Building The Magistrate Court of Fulton County is downtown on the block between Central Avenue, MLK Jr. Drive, Mitchell and Pryor Streets. The **Central Avenue** entrance will land you on the lower level, where the **court clerk** office is located. The **Pryor Street** entrance (wheelchair accessible) will bring you to the courtrooms on the second floor.



Get to the Courtroom Upon entering the building, you will go through security to scan your belongings and step through a metal detector. **Courtrooms 1A** and **1B** are allocated for housing court. Be sure you know which one you should be in. Double check the door signage because they are side by side and each court room has two doors.



In the Courtroom There is no seating allowed in the front row. Cellphone use is prohibited, so be cautious when and how you use your phone.

On Court Day: Mediation

When you appear in court, you will first go to **mediation** to resolve your case without a judge. Mediation takes place in a side room next to the courtroom with court assistants. **The vast majority of cases are settled through mediation.** Mediators are retired lawyers and law students, but **they cannot give you legal advice.** They are there to be a neutral person to help you and your landlord settle on an agreement so that you do not go before a judge.

If you know you didn't pay rent or you did violate the terms of your lease, mediation can be a better option because it is possible to make an agreement with your landlord to **buy you extra time** (more than the 7-day maximum the judge can give you). There are two possible outcomes in mediation:



Agreement - If you sign an agreement in mediation **it is binding** and cannot be appealed or changed after the fact. **Be sure before you sign that you can live with the terms or keep up your end of the bargain.**



Impasse - If you do not reach an agreement in mediation this is called an **impasse**. In this situation, you will return to the courtroom and go before a judge on the same day.



Mediation strategy can be tricky! Be better prepared with the pro tips in our **Mediation Info Sheet** at housingjusticeleague.org/evictiondefense

Appearing in Court

What's Happening? A judge decides if you stay in your home and whether you owe money to your landlord.

Seeing a Judge

The judge will normally make a decision on your court date. This will involve one or two decisions about your eviction case:



If you can stay in your home. If you get an order to leave, you will have 7 days to move out.



If you owe money to your Landlord. If yes, the Judge will issue a **money judgment**.

Tips for Representing Yourself

Have all of **your evidence organized** and ready to present when your case is called.

Listen carefully to what the judge is saying. Do not be afraid to **ask for clarification** when you need it.

When the landlord is speaking, do not interrupt. You will have your turn to speak. **Take notes** so you can remember!

Watch Out for Unfair Late Fees!

Sometimes landlords attempt to add huge late fees to the rent they claim you owe. If you get to court and your late fees are more than total rent owed, you could argue an **unfair penalty**.

Late fees should never be more than a **reasonable administrative cost** of you not paying rent on time. While there is no clear rule or law that sets a limit, you could argue that a very high amount is **a penalty and no longer a late fee**. **Consult a lawyer** to see if your late fees are unreasonable.

Appealing Your Case

As long as you filed an answer **and** appeared in court, you have the right to appeal the judge's decision to a higher court within 7 calendar days. **You do not have the right to an appeal if you failed to file an answer, failed to appear in court, or settled in mediation.** Appealing will allow you to stay in your home, but only if you are able to continue to pay your rent to the court.

Appealing is expensive (~\$250.00), and it is best to **have the help of a lawyer**. If you are eligible to appeal, please see our **Appeals Info Sheet** online for more details on the process.

Drop the Fee! You can get the appeal fee waived by filing a **pauper affidavit**. This is to show the court that you fall within a low enough income bracket to qualify.



The Writ of Possession

What's Happening? Your Landlord files paperwork to put you out. You must move or you will be forced out by eviction.

A Tight Timeline

Your landlord is required to file for a **writ of possession** in order to evict you if you lose your case. In rare cases a judge will rule a landlord can evict immediately.

You will not receive any notice that the court approved the writ of possession. **And once the writ is approved, you can be evicted at any time.** The landlord and Marshals are under no obligation to notify you when they are coming. You can find out if a **writ of possession** has been filed in court database. (<https://publicrecordsaccess.fultoncountygga.gov/Portal/Home/Dashboard/29>)



Without a writ it is illegal for your landlord to evict you.

After 7 days, you remain **at your own risk.** Don't wait until the last minute to make arrangements, or your possessions may end up on the curb.

Eviction

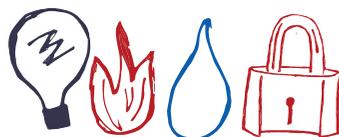
What's Happening? Your Landlord files paperwork to put you out. You must move or you will be forced to leave.

Watch Out! Illegal Eviction Tactics

Is your landlord threatening you with eviction or utility shut off?

Your landlord cannot **evict you without going through the court process.** They also **cannot turn off the electricity, water or gas.** Contact **ALAS or AVLF** and they can notify your landlord that this is illegal. Having a lawyer advocate for you can be impactful.

Did they change the locks, shut off utilities, or move your belongings where you cannot access them?



All of these actions are illegal without a **writ of possession**, and your landlord could be criminally prosecuted. Visit the **Clerk of Superior Court** to file an injunction. You may be able to see a judge on the day you file, and low income tenants can apply to waive the fee.

Cause emotional distress or damage to your personal property?

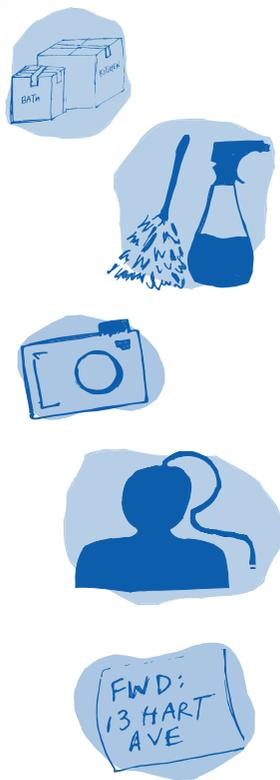
If your landlord tries to illegally evict you and **you experience damages, loss of property, or emotional distress**, you can claim trespass and file a lawsuit against the landlord in small claims court. This is a simple filing, and court clerks can help you with this paperwork.

Eviction

What's Happening? Your Landlord files paperwork to put you out. You must move or you will be forced to leave.

Moving Out

Try to get out before your landlord files for a **writ of possession**. This saves you the stress and uncertainty of the Marshal's arriving at your door.



Clear out all of your possessions.

Leave the apartment or home **clean**.

Take photos of the condition you left the unit in.

Bring a witness or **get a receipt** when returning the keys.

Leave a forwarding address so your landlord can return your deposit. Use a mail forwarding service if you do not want your landlord aware of your new location.



Without taking these steps, you could be sued for further damages, not get your security deposit back, and be charged a key fee!

Eviction Day

Landlords are legally required to schedule Marshal Service to supervise move out. A Marshal must be present during an eviction, but the landlord or a moving company will do the actual moving. They will move your belongings out even if you are not home. Any guns and alcohol are taken to the police station and held if you are not home. All other belongings are left on the curb, rain or shine.

Safety and Community Care

The experience of being evicted can be brutal and cause lasting trauma. During an eviction, tenants run the risk of altercations with police, theft, or destruction of their belongings. **It is important to be as prepared as possible.**



Reach out to friends and family - don't be afraid to ask for help with packing, moving and storage, or just having loved ones present on the day for support.



From the moment the Marshal is at your door, you will be given no time to gather the belongings you want to keep. **Have a plan for the things you want to keep ahead of time.** Once you are removed from your home, you will not be allowed to re-enter.

Eviction

What's Happening? Your Landlord files paperwork to put you out. You must move or you will be forced to leave.

Safety and Community Care *(continued)*



Watch Your Back! Eviction movers are notorious for breaking and stealing people's belongings during evictions. Especially once the tenant is forced outside and cannot oversee the moving process. **Avoid losing valuable or important items by packing them up and relocating them ahead of time. Don't wait until they are at your door!**



The number one safety risk to you on eviction day is an escalation with police where they become aggressive. This can sometimes occur when tenants are reluctant to leave their home, or want to take a stand and refuse to leave. This is completely understandable - it is your home after all! Here are some tips if you want to **avoid police escalation:**

Do not put up a struggle or use verbal threats of any kind.

Avoid language or suggestions about defending your home space. This makes the police think that you will not cooperate.

Do not create any type of barricade that prevents police from entering or having a line of sight.



If your pet is presenting possible harm to the eviction crew it can be taken. You will be allowed to keep your pet as long as it is kept under control. If you say you don't have anywhere to take your pet, the Marshal may call animal control to take it.

Living With An Eviction Record

An eviction does not count as a criminal record. It is a civil court case, which are public court records. Evictions show up on credit reports in 2 ways - in the "public record" section, if there was a money judgment, **or**, if there was no **money judgment** the landlord could still contact a credit reporting agency and report the debt you allegedly owe them.

3rd party data companies check for evictions on background checks, which can effect your future access to safe and secure housing. Even in false cases, such as an eviction filed accidentally or under a child's name by mistake. It is very difficult to get your name removed even for a false eviction. **Consult with a lawyer** about your options under consumer protection laws when it comes to your credit report.

Glossary of Terms

Administrative Fees (or Costs) - The sum total of the fees the landlord claims against you in addition to alleged rent owed.

Affiant - The person who signs the **dispossessory affidavit**. Either your landlord, property manager or their lawyer.

Amended answer - You can change your answer and refile it up until the court date, only if you answered within the deadline.

Answer / Answer form - Official document of your response in court to your landlord's claims against you.

Answer Period (or Answer Deadline) - The 7-day time period you have to file your answer after receiving an eviction notice. This includes weekends. If the 7th day falls on a weekend or public holiday you have until the following business day.

Appeal - The process for taking your case to a higher court to try and reverse the decision of a lower court. You can appeal if you did not receive a **default judgment**.

Bank Account Levy - A process the court uses to make you pay your **money judgment** that would remove funds from your bank account.

Caucus Meeting - Your right to meet with the mediator separately from your landlord during court **mediation**.

Clerk of Superior Court - A higher court that can intervene in illegal actions by your landlord if you file an **injunction**.

Consent Agreement - A binding agreement you work out with your landlord to close the court case and stop your eviction. You or your landlord must file the agreement in order to close the case.

Continuance - Where you, your landlord, or their lawyer ask that the hearing be rescheduled.

Counterclaim - A claim you can make for money against your landlord due to their failure to make repairs, which have lowered the value of your unit.

Court Calendar - Time slots the court sets for different types of eviction hearings.

Court Clerk - A court employee in the main office who maintains the court's records. They cannot legally consult with you, but can answer basic questions about the process.

Dismissed With Prejudice - When a judge dismisses a case or a monetary claim so that it can never be refiled. Dismissed "without" prejudice means it may be refiled with certain time limits.

Default judgment - An immediate court ruling within the landlord's favor. Results when a tenant fails to file an answer or appear in court.

Defendant - In the case of eviction, "defendant" is you the tenant being accused in court.

Demand for Possession (aka: notice to quit; notice for termination; demand notice; 3-day notice) - The notice required under Georgia law that a landlord must give a tenant before filing for eviction.

Dispossessory affidavit - Your landlord must file this with the court in order to be granted a **dispossessory warrant** summoning you to file an answer and appear in court.

Dispossessory warrant (aka: eviction warrant; eviction notice) - Served to tenant, official court summons to file an answer and appear for a court date.

Impasse - When you do not reach an agreement with your landlord in **mediation**, and you will now go before a judge.

Improper Service - When the process for delivering an eviction notice is not followed by your landlord or their process server as required by law.

Legal Defense (aka: proper defense) - The argument you put on your answer form that gets you the opportunity to defend yourself in court.

Mediation - A free service offered by the court on your court date where an independent mediator assists landlords and tenants to resolve their case to avoid going before a judge.

Money Judgment - A court order to pay your landlord, issued by a judge as part of the eviction judgment.

Motion - A letter to the judge, requesting that something happen in the case (ie: "file a motion").

Pauper Affidavit - A sworn oath you submit to the court where you explain you cannot afford the cost of an appeal to have it waived.

Plaintiff - The person who brings a case against another person in a court of law (ie: Landlord).

Premature Filing - When a landlord files in court without first issuing you a **demand for possession**, or waiting the amount of time they gave you to comply with your lease.

Pro Se - The status of representing oneself, either the tenant or landlord.

Process Server - A third party private person authorized by the court to serve you the **dispossessory warrant** (eviction notice).

Proceedings Against a Tenant Holding Over - The official court name of your **dispossessory warrant**. It appears on the top left.

Service - Delivery of the eviction notice by a court appointed **process server** or private **process server** asking you to file an answer and appear in court.

Subpoena - A writ ordering someone to appear in court. These are normally served by court Marshals. People can also be 'subpoenaed' for material evidence and documents.

Tack and Mail - A method of serving the eviction notice used when you are not home. It must be tacked to your door and mailed on the same day in order to count as proper service.

Voluntary Dismissal - When a landlord dismisses your eviction voluntarily, because you have come to an agreement before the court date. Only your landlord can file a voluntary dismissal.

Writ of Possession - An order issued by a judge that grants the landlord permission to possess their property, therefore evicting you. The landlord must apply for this writ to the court clerk after a judge has given a decision in the landlords favor.

Wage Garnishment - A process the court uses to make you pay your **money judgment**, that would "garnish" or keep a portion of your wages directly from your employer.

Free Legal Aid

Housing Court Assistance Center (HCAC)

Located in the Court Clerk's office, TG100; fultonhacac.com

Walk-in hours: Tuesday & Wednesday, 9:00 am - 12:00 pm

If your landlord has filed to evict you, volunteers at HCAC can provide advice on how to file your answer. Bring all documents related to your case for a lawyer to review, including your lease, eviction notice, notices from your landlord.

Atlanta Legal Aid Society (ALAS)

404-524-5811; atlantalegalaid.org

Income requirements for ALAS vary by county and legal issue. Call to see if you qualify and to set up a consultation with a lawyer or paralegal. ALAS may be able to provide you with legal representation.

Atlanta Volunteer Lawyers Foundation (AVLF)

404-521-079; avlf.org/issues/evictions

If you meet AVLF's income requirements, they will provide you with detailed legal advice and possibly legal representation. Call to see if you qualify.

About the Authors

Housing Justice League

Fighting against displacement alone can be difficult. When tenants unite, they can be an unstoppable force!

Housing Justice League is here to walk you through the process of organizing your fellow tenants. Power in numbers is on our side. Remember, we greatly outnumber landlords and we create their wealth. **Housing Justice League** is an Atlanta based grassroots organization that empowers renters and other long term residents to self-organize and defend their right to remain. To start organizing a tenant association all you need is one tenant – and that could be you! **Contact us for more info: evictiondefense@housingjusticeleague.org**

Manual Atlanta collaborates with local community organizations to produce resource guides intended to protect, empower, and liberate Atlanta neighbors through open access resources and education. We specialize in community writing, information and graphic design, and print and web campaigns that maximize accessibility, exposure, and positive social outcomes! **Let's work together - email hello@manualatlanta.com**

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