

## Cheat Sheet: Preparing Po Se Parties for a Nonpayment Eviction Hearing

### A. Before the Hearing:

1. Summons: The return date on the summons is generally when they will set the hearing. However, in limited jurisdictions, the return date may also be the hearing date.
  - Check with the court to figure out if the return date is also the hearing date.
2. Some Courts will require that exhibits and witness lists be exchanged by Disclosure Statements.
  - Look at the Order setting the hearing for this detail.
3. Proceedings may be in person or via WebEx or Zoom or by phone. If the summons does not specify this detail, call the court to ask.
  - If client does not have the technology needed to do videoconference, the client can request the hearing be by phone.
  - If hearing is virtual or by phone, advise the client of the following:
    - Client will need stable and reliable internet or phone service,
    - Client should try to use a room where they can close the door.
    - Unless the client is speaking, they should be on mute.
    - For a virtual hearing:
      - a. provide the court with an email address to be sent the videoconferencing link,
      - b. set up a neutral background with no distractions,
      - c. documents and exhibits will need to be given to the Court and opposing parties in advance of the hearing.
4. Dress: Advise clients to dress appropriately (no slogans/writing on shirts, no hats, etc.). Sunday best.
5. The tenant needs to be prepared to present their case:
  - Encourage tenant to write out notes before their hearing of what they want to say, what they want to ask each witness, and how they will use their exhibits.

### B. Basic Courtroom Procedures

1. For an unrepresented tenant, only they can speak and present their case. No one can sit at the table with them or tell them what to say in a video or telephonic hearing.
2. Wait until the Judge asks you to speak. Do not speak over other people.
  - Be respectful, no raised voices.
  - Don't argue with the other party, their attorney, or the Judge.
3. Hearing Process:
  - The judge starts the case and both parties may be given the chance to make an opening statement,
  - The Landlord (LL) presents their case and calls witnesses first, then the tenant may cross-examine or ask questions of the LL and LL's witnesses. The LL can call the tenant as a witness.
  - Once the LL has completed their case, the tenant gets to present their case and must testify and present their evidence. the tenant may call witnesses (including the LL) and the LL may cross-examine the tenant's witnesses.
  - The Court may allow a closing statement or argument from both parties.
  - The Court will then enter a decision.

### C. Evidence

1. With any piece of evidence, the tenant should focus on the following:
  - 1) is the evidence from a reliable source,
  - 2) is the evidence accurate?
  - 3) what does the evidence show or prove, and
2. Types of evidence:
  - leases, rent receipts, billing statements, texts and emails, photos.
3. If the tenant wants an exhibit or piece of evidence admitted the tenant must ask the court to admit that exhibit.
  - Without the item being admitted, the court will not consider it in their decision.
4. Conversely, if the tenant does not want feel a piece of LL evidence is accurate or reliable or if its hearsay, the tenant must object to the evidence being admitted.
5. Exhibits:
  - If providing a document to the court as evidence, provide the entire document.
    - Ex: provide the full lease not just the pages with list the terms at issue.
  - Everyone in the case needs to have copies or virtual access to the exhibits
    - For an in-person hearings, the client needs at least four copies of exhibits-- one for themselves, one for the Judge, one for the witness, one for the LL.

### D. Witnesses

1. People must appear in person to testify -- letters and statements are not admissible.
2. Possible witnesses: the tenant, roommates, friends, other tenants.
  - Possible "hostile" witnesses": landlord, manager, maintenance workers.
3. Before the hearing the parties may have to exchange the names, addresses, phone numbers, and descriptions of testimony for their witnesses.
  - The description of their testimony should include a brief explanation of who are they, what do they know, and why the Court should believe them.
4. Preparing for Tenant testimony and other witness testimony:
  - Notes are good -- written out, organized, short and to the point, stick to the main parts, let the Court know what is being requested.
  - Most witnesses can only testify as to what they saw and personally know -- what other people said is generally not admissible.

### E. Hearsay Objection

1. Definition: Witnesses cannot testify as to what other people saw or heard--unless it is what the tenant or the LL said.
  - Example:
    - It is okay to testify that you saw the carpet and there were no stains.
    - It is NOT okay for the landlord to say "the maintenance man told me there were stains on the carpet".
      - a. This is hearsay because it is the LL testifying about what the maintenance person saw.
  - The tenant must object to a witness statement that is hearsay to keep the testimony out.
2. Common exceptions to hearsay:
  - Business records like leases, receipts, and billing statements.
    - Tenant should be ready to show is it accurate and true and accurate, the it can be used.
  - Pictures – Tenant should be ready to say who took it, that is it accurate, and what is it of.