

# Basic Steps for Handling a Small Claims Case for Eviction Waukesha County



## Table of Contents

1. Basic Steps for Handling a Small Claims Case for Eviction
2. Important Court Related Offices and Services

<https://myforms.wicourts.gov>

## Basic Steps for Handling a Small Claims Case for Eviction

Any forms mentioned in this basic guide may be obtained from the Clerk of Court or online at <http://www.wicourts.gov/forms1/circuit.htm>.

Before filing an eviction action, you must serve proper notice terminating tenancy according to Chapter 704 of the Wisconsin Statutes. Some counties require proof of this notice before an eviction will be granted. You must also determine if the eviction is due to a foreclosure action per §799.41(2).

1. **Decide in which county you will file your case.** This will usually be the county where the subject property is located.
2. **Fill out a Small Claims Summons and Complaint form.** The form (SC-500i) has step-by-step instructions on the left side.
3. **Determine if the eviction is to remove a tenant whose tenancy is terminated as a result of a foreclosure judgment and sale.** Use the check boxes on SC-500 to provide this information.
4. **Once you have filled out the form, you should make at least two copies** for each tenant you are suing and a copy for yourself.
5. **File the Summons and Complaint.** The Summons and Complaint and **all copies** must be filed and a fee paid to the Clerk of Court in the county where you are filing your case. Follow local court rules or procedures for combining eviction with money claims.
6. **Have each tenant you are suing served with a copy of the Summons and Complaint.** For the court to hear the case, each tenant must be provided with a copy of the Summons and Complaint far enough in advance of the first court date. A sheriff or private process server must attempt to personally serve all tenants. If personal service cannot be accomplished, the sheriff or process server may post notice on the property and mail copies of the Summons and Complaint to the tenants. See Pre-Judgment: Basic Steps to Small Claims Service (SC-6050V) for additional information.
7. **Complete an Affidavit of Nonmilitary Service (GF-175) for each tenant you are suing.**
8. **File your proof(s) of service and Affidavit(s) of Nonmilitary Service with the Clerk of Court.** File the Affidavit(s) of Nonmilitary Service and the proof(s) of service you received from the sheriff or private process server at or before the first court date.
9. **Attend the first court date.**
  - All parties are required to attend the first court date.
  - The defendant Specific instructions apply for Waukesha County cases - call the Clerk's office for information. 262-548-7525 OR 262-548-7556.
  - The defendant may file a written answer, but it is not required.
  - If both the plaintiff and the defendant attend the first court date and the matter is contested, Answer must be filed for all matters except evictions, if not already on file. Parties may be sent to mediation orientation; if not resolved, matter will be scheduled for a pre-trial conference. Exception: contested eviction matters are referred to a circuit judge.
  - If the plaintiff attends the first court date but the defendant has neither attended the first court date nor filed a written answer, the plaintiff wins and the judgment is granted.
  - If the plaintiff does not attend the first court date but the defendant does, The defendant may ask for dismissal and the court official will decide.
  - If neither the plaintiff nor defendant attend the first court date, Case is set on dismissal calendar with one final notice to each party.
  - If the plaintiff is granted a judgment by default (the defendant does not appear at the first court date), the defendant must file a "Petition to Answer or to Reopen Small Claims Judgment and Order" in order to get the case reopened.
  - If the defendant is granted a dismissal (the plaintiff does not appear at the first court date), the plaintiff must file a "Petition to Answer or to Reopen Small Claims Judgment and Order" in order to have the case reopened.

If the court grants you an eviction judgment, skip to number 10 below and file the necessary paperwork.

10. **If your case cannot be settled at the first court date, the court will schedule a trial.** Before the trial, you may contact the other party to try to settle your case. We provide mandatory mediation orientation for pro se parties on most small claims matters EXCEPT evictions; the mediation process is optional. It is recommended the parties attend mediation. Mediators are available at a cost. If you reach an agreement, put your agreement in writing and file it with the Clerk of Court before the trial. You may use the form Stipulation and Order for Dismissal (Eviction) (SC-5300V) to do this. If you have not reached an agreement before the trial, organize your paperwork and evidence in support of your claim and make enough copies for the court and all parties. If you have witnesses, arrange for them to attend. Practice what you are going to say. Bring your documents or statements to the trial.
11. **Attend the trial.** Be on time and be polite. Don't get emotional. Explain why the court should give you what you are asking for. The court will review your evidence and listen to your witnesses, if any. When the court makes its decision, listen carefully. See the instructional packet, Basic Guide to Wisconsin Small Claims Actions (SC-6000V) for additional information about preparing and attending trial.
12. **Complete any post-decision activities.** If you are granted an eviction judgment and the tenants will not move out, you must have the sheriff help you remove the tenants. You must pay a fee to obtain a Writ of Restitution form (SC-512) from the Clerk of Court. Take the writ to the sheriff. You will be required to pay a service fee to the sheriff. You may also be required to provide a bond to the sheriff. Contact the local sheriff's department for additional information.

If you are granted a money judgment, you may have the judgment docketed by paying a fee to the Clerk of Court so it becomes a lien on the other party's real estate. The other party will be required to complete a Financial Disclosure of Assets form (SC-506) and send it to you within 15 days of entry of judgment unless they have already paid the judgment. If the other party does not complete the disclosure, you may file a Motion and Order for Hearing and Contempt (SC-507). The court does not collect your judgment for you, but there are actions you can take to collect your judgment. See Post-Judgment: Basic Steps Guide for Handling a Small Claims Earnings Garnishment (SC-6070V) and the Execution Against Property form (GF-115).

## Important Court Related Offices

### Small Claims Division

**Physical Address:**  
 Courthouse  
 P.O. Box 1627  
 515 W. Moreland Blvd  
 Waukesha, WI 53187-1627

**Mailing Address:**  
 Same

**Phone:** 262-548-7525

**Contact:** Customer Service Representative

**Directions:** Located on 1st floor of the courthouse in Room C-167

### Court Self-Help Center/Services

Self-Help Services are not available in Waukesha County, however it is recommended that you have a friend or relative review your forms for completeness.

**Forms are available at:**

**Location:** Room C-167

**Cost of Small Claims Form Packets:** None

### Americans With Disabilities Act

If you need accommodations for a disability contact:  
 Small Claims Calendar Clerk  
 262-548-7557

### Notary Public Services

**Directions:** Civil Division - 1st floor - Rm. C-167

**Fee:** None

**Location:** Clerk of Courts

### Copy Services

A copy machine is available in the Courthouse. It is located in Courthouse, Room C-112 for \$0.25 per page.

The Clerk's office will not be able to make copies for you.

### Process Service

**Sheriff's Department**

**Name/Agency/Unit:** Waukesha Sheriff Process Division

**Address:** 515 W. Moreland Blvd  
 Waukesha, WI 53188

**Phone:** 262-548-7151

**Fee:** Contact sheriff for current amount

**Other Professional Process Services Available Locally**

There are private process servers in Waukesha County.