

Defendant's Motion to Contest Rent Determined in Eviction Judgment

If the rent amount determined in your judgment doesn't account for your government subsidy.

IMPORTANT You must file a Defendant's Motion to Contest Rent Determined in Eviction Judgment within **5 calendar days** from the date your eviction judgment was signed.

❖ Who should file a Defendant's Motion to Contest Rent Determined in Eviction Judgment?

This information only applies to you if:

1. You received an eviction judgment based on **nonpayment of rent**;
2. You plan on timely appealing that judgment by filing a Statement of Inability to Afford Court Costs ([SOI](#));
3. A government agency, such as Opportunity Home (formerly the San Antonio Housing Authority/SAHA) or the Bexar County Housing Authority, is responsible for all or a portion of your rent***, and;
4. The portion of monthly rent you are responsible for, as stated in your eviction judgment, is wrong, because it does not include the portion of rent that the governmental agency is responsible for paying each month.

***If you are considering filing a Motion to Contest Rent Determined in Eviction Judgment, it is recommended that you already have or can readily get documentary evidence proving that a government agency is responsible for paying all or a portion of your rent.

❖ Why does it matter that the judgment correctly states the portion of rent that you are responsible for and the portion of rent the governmental agency is responsible for?

Under the Texas Property Code, if an eviction case is based on nonpayment of rent and a tenant appeals by filing a SOI, the tenant is required to pay rent, as it becomes due, into the Justice Court or the County Court registry for the time that the tenant remains on the property throughout the eviction appeal process.

The amount of rent that the tenant is required to pay into the Justice Court or County Court registry is the amount determined by the judge and stated in the eviction judgment. If a government agency is responsible for all or a portion of your rent under an agreement with your landlord, you are only required to pay the portion of rent that you are responsible for.

If your portion of rent stated in the judgment is wrong and does not include the portion of rent that the government agency pays, this will affect what you must pay to the court registries throughout the appeals process. If the rent portion determinations are not accurate in your eviction judgment, then you will have to pay the full monthly rental amount throughout the appeal process.

Disclaimer: These instructions are for informational purposes only and do not themselves constitute legal advice.

For more information on the appeal process in nonpayment of rent cases, including information on court registry payments, you can watch our Eviction Appeal for Non-payment of Rent video, [here](#).

❖ **What is a Defendant’s Motion to Contest Rent Determined in Eviction Judgment?**

Section 24.0053(c) of the Texas Property Code allows either party to contest the portion of the rent that the Justice Court determined must be paid into the court registries by the tenant during the eviction appeal process.

The contest must be filed **within 5 calendar days** from the date the eviction judgment was signed.

If a contest is timely filed, then the Justice Court must notify the parties and hold a hearing to determine the amount owed by the tenant. After hearing evidence, the Justice Court must determine the portion of the rent that must be paid by the tenant into the court registries during the eviction appeal process.

You can find a link to Section 24.0053 of the Texas Property Code [here](#).

❖ **Where can I get a copy of this Motion?**

You can get a copy of a Form Defendant’s Motion to Contest Rent Determined in Eviction Judgment and a Draft Order on Defendant’s Motion to Contest Rent Determined in Eviction Judgment, [here](#).

Every time a party files a motion in a civil lawsuit, they should also file a draft order with the motion. When you file a motion, you are asking the court to do something or take some sort of action. The draft order is what the court uses to officially grant or deny whatever action you are requesting in the motion.

❖ **How do I fill out the Form Motion and Form Draft Order?**

Form Motion

The Defendant’s Motion to Contest Rent Determined in Eviction Judgment is 3 pages long and has blank spaces for you to fill in information specific to your case.

1. Fill out the case caption at the top of the document. You can find your case caption information at the top of your eviction judgment (e.g. your cause number, the names of the parties, and the precinct and place number for the justice court that heard your eviction case).
2. Read through the Motion, carefully, and fill in the blanks with information about your case.
3. No. 9 – If you have an email address that you regularly check, you may wish to write that email address in the blank space. By including your email address in the blank space, you are telling the court that you agree any documents filed in the case should be sent to your email. If you do not have an email address that you regularly check, or do not want documents filed in the case sent to your email, you can right “not applicable” in the blank space.

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4. No. 10 – As mentioned above, it is strongly recommended that before filing this Motion you already have documentary evidence showing that a government agency is responsible for paying all or a portion of your rent. You should include that documentary evidence with your Motion and write a brief description of the documentary evidence in the blank space for No. 10 (e.g. “Current Re-Certification Letter.”)
5. Fill out the signature block with your signature, the date, and your other contact information.
6. Certificate of Service – You must serve (give to) the Motion and draft Order to the Plaintiff on the same day that you file it with the Court. The Certificate of Service is you swearing to the Court that you gave the opposing party a copy of the documents you are filing with the Court. You can find more information on serving documents below.

Form Draft Order

As explained above, the draft order is used (and filled out) by the judge to officially grant or deny whatever action you are requesting in the motion.

The **only** thing you need to fill out in the draft Order on Defendant’s Motion to Contest Rent Amount Determined in Eviction Judgment is the case caption at the top.

The rest of the form will be filled out by the judge.

Fill out the case caption at the top of the document. You can find your case caption information at the top of your eviction judgment (e.g. your cause number, the names of the parties, and the precinct and place number for the justice court that heard your eviction case).

❖ How do I file the Motion and Draft Order with the Court?

You will file your (1) completed Defendant’s Motion to Contest Rent Determined in Eviction Judgment, (2) any attachments to your Motion (documentary evidence of your current government subsidy); and (3) the Draft Order – with the Justice Court where you had your eviction hearing.

You can call the Justice Court to see how they want you to file your document – online, in person, by email, etc. If you cannot reach the court by phone, filing with the clerk in person is always acceptable.

❖ How do I serve (give) the Motion to the Plaintiff?

You must give the documents you filed with the Justice Court to the other side. This means you need to give a copy of the filed and stamped Motion to the Plaintiff or the Plaintiff’s attorney if they have one (the clerk or eFiling system will stamp the Motion when you file it).

You can give them a copy by hand, mail, or fax. If you and the Plaintiff agree in writing, you can email them a copy.

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❖ **What happens after I file and serve a Motion to Contest Rent Determined in Eviction Judgment?**

If the judge grants your Motion, then the Justice Court will notify the parties and hold a hearing to determine the portion of rent you are responsible for and the portion the government agency is responsible for.

Go to the court hearing. Bring copies of all your documents with you, including the Motion and any evidence.

After hearing evidence, the Justice Court must determine the portion of the rent that must be paid by the tenant into the court registries during the eviction appeal process.