



A hub for self-help resources and information. Get 24/7 access to hundreds of plain language forms, videos, and guides. Scan the QR code below to access a calendar showing clinics in your area.



**FREE LEGAL ADVICE**

Join PBI's virtual or call-in clinic to speak with a volunteer attorney for brief legal advice on housing related civil legal issues, including:

- ★ Residential Evictions
- ★ Tenant's Rights
- ★ Damages Hearings
- ★ Sealing Evictions



**FIRST AND THIRD FRIDAY EACH MONTH 10:00 AM until 2:00 PM (EST)**

**Zoom Meeting ID:** 881 6720 9757

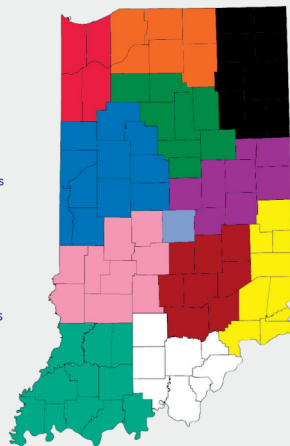
**Phone Number:** 312-626-6799

Phone line only open during clinic hours



Need civil legal assistance for something other than eviction? Interested in volunteering your legal training to help those in need? **CONTACT YOUR LOCAL PBI OFFICE!**

- Bloomington**  
District 10 Pro Bono Project  
812-339-3610
- Columbus**  
River Valley Legal Aid  
877-378-0358
- Evansville**  
Volunteer Lawyer Program of Southwestern Indiana  
812-402-6303
- Hobart**  
NWI Volunteer Lawyers  
219-942-1799
- Indianapolis**  
Heartland Pro Bono Council  
317-762-9655
- Jeffersonville**  
Southern Indiana Pro Bono Referrals  
812-288-8002
- Kokomo**  
Wabash Valley Volunteer Attorneys  
765-450-9524
- Lafayette**  
Wabash Valley Volunteer Attorneys  
765-421-6558
- Lawrenceburg**  
Legal Volunteers of Southeast Indiana  
812-537-0123
- New Castle**  
Legal Aid of East Central Indiana  
800-910-4407
- South Bend**  
Volunteer Lawyer Network  
574-277-0075



● The Volunteer Lawyer Program of Northeast Indiana (Fort Wayne) operates independently of Pro Bono Indiana.



# EVICITION IN INDIANA

Brief overview of the eviction process and what to expect in court.

This project is supported by the Indiana Bar Foundation and funded by the IHCDA.



## Indiana has **bifurcated** eviction hearings.

Bifurcated means "divided into two parts." The first part determines if the landlord should be allowed to reclaim the property (issue of **possession**). The second part, often at a later date, decides any owed money, such as unpaid rent or **damages** (monetary issues). Splitting the hearings (rather than opting for a unified hearing) allows courts to quickly resolve possession matters while thoroughly considering claims of money owed.




Some counties or cities will have special rules, so check for brief legal advice events in your area to speak with an attorney at no cost. Scan the QR code below to find a clinic near you.



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See back cover for local resources or contact us:

-  1-888-674-6198
-  [info@probonoindiana.org](mailto:info@probonoindiana.org)
-  [facebook.com/ProBonoIN](https://www.facebook.com/ProBonoIN)

## DAMAGES HEARING OVERVIEW

The damages hearing is the second stage of the eviction process where the court evaluates monetary claims from both landlord and tenant. This could include outstanding rent or damage costs claimed by the landlord; or claims from the tenant such as a refund for overpaid rent or (though this is rarely successful) compensation for a violation of the tenant's rights. The goal of this hearing is to determine if any financial liability exists between the parties and calculate the amount to be paid.

### Do mention...

- ...any incorrect deductions or fees.
- ...overpayments of rent.
- ...issues with the unit.
- ...repairs made on behalf of the landlord to maintain a safe home.
- ...costs paid due to uninhabitable conditions in the unit.

### Do NOT mention...

- ...personal disputes with the landlord.
- ...disagreements with the decision made during the possession hearing.

### EXAMPLES OF DAMAGES:

#### In favor of landlord:

- ★ Back rent or utilities
- ★ Damage to property
- ★ Service fees
- ★ Late fees

#### In favor of the tenant:

- ★ Over paid rent
- ★ Cost of necessary repairs.
- ★ Hotel stays or medical bills associated with issues in the unit.

**Bring *PAPER PRINTOUTS* of anything you want the court to see. This includes receipts, emails, texts, photos, or anything else that would help a judge make a decision.**

# DAMAGES HEARING

## KEY TERMS

### Default Judgment

A court decision made in favor of the plaintiff (suing party/landlord) when the defendant (party being sued/tenant) fails to respond to the summons or appear in court.

*If the tenant doesn't appear, the judge could grant a default judgment without hearing the tenant's side of the story.*

### Pro Se

A party representing themselves without an attorney is said to be participating pro se.

### Designated Representative

A person who does not own the rental unit in question but is legally allowed to represent the owner during an eviction hearing, often a property manager.

### Bond

If paid by the landlord to get immediate possession, a bond provides a tenant with insurance if the eviction is later found to be wrongful. The damages owed to the tenant is taken from the total paid to the sheriff.

### Small Claims Maximum:

This refers to the maximum amount a plaintiff can win in a judgment in small claims court. The limit is different depending on how the owner of the unit in question is represented in the case.

**Designated Representative: \$6,000**  
**Direct Owner: \$10,000**

*If a tenant doesn't appear at the damages hearing, these are the maximum amounts the landlord can claim in damages.*

### Continuance

Refers to postponement of a hearing. They can be requested by either party for many reasons, including for conflicts with work or childcare.

### Eviction Sealing:

Under certain circumstances, an eviction record can be removed from a tenant's public record. Completing this process may help a tenant qualify for future apartments by limiting the number of eviction records future landlords can view during the application process. For more information on this process, contact a local PBI office or join our virtual clinic (see back cover).

*If there is a default judgment against the tenant, the eviction is ineligible to be sealed.*

# GENERAL TIPS FOR ATTENDING COURT

1.

### DON'T MISS COURT!

Even if you know you're likely to lose, you are better off appearing before a court to present your side of the story. The consequences of missing court are often far more severe than when you appear in person and lose. (See "default judgment" in key terms for more on this.)

2.

### SEEK HELP SOONER RATHER THAN LATER

The eviction process moves very quickly. If you know you will miss a bill or a rent payment, reach out to the landlord, utility service, legal aid provider, or other relevant service providers to get help before the issue escalates.

3.

### DOCUMENT, DOCUMENT, DOCUMENT

Be wary of verbal agreements. Communicate through written methods whenever possible and record important phone calls if the other person won't communicate through writing. Save all emails and texts. Get receipts, ESPECIALLY for large payments like rent. Keep a log of important events or issues.

4.

### SHOW UP PREPARED

Leave your cell phone in your car, you aren't allowed to use it inside the court. Make sure you have **physical copies** of any evidence or documents you may need for your case. Bring 3 copies: one for yourself, one for the opposing party, and one for the court.

5.

### STAY CALM AND TELL THE TRUTH

Judges are professional lie detectors. Even if your truth is ugly, sharing it will help the court to understand you and trust your retelling of events. Don't make excuses: offer brief explanations, and move on.

# POSSESSION HEARING

## KEY TERMS

### 10 Day Notice or Notice to Quit

A legal document provided by a landlord to notify a tenant they must correct a violation of the lease or vacate the property. If the violation isn't fixed in the time provided, the landlord can proceed with the eviction process.

### Service

The legal process of officially delivering or providing notice of a court process to all relevant parties. This ensures everyone is aware of legal action being taken and provides information on the time and place of relevant hearings.

### Pro Se or Self-Represented Litigant

A party representing themselves without an attorney is participating pro se.

### Designated Representative

A person who does not own the rental unit in question but is legally allowed to represent the owner during an eviction hearing, often a property manager.

### Continuance

Refers to postponement of a hearing. They can be requested by either party for many reasons, including for conflicts with work or childcare.

### Possession

The legal right to occupy and possess a property. When a landlord and tenant sign a lease, the landlord grants possession of the rental property to the tenant according to the terms of their rental agreement.

# POSSESSION HEARING

## OVERVIEW

During the eviction process, the landlord is trying to regain possession of the property due to a violation of the lease agreement (ex: nonpayment of rent, having pets when it isn't allowed, etc.). This hearing is where the court will determine who should possess the rental unit according to the contract between the parties. Tenants have no right to withhold rent in Indiana, and nonpayment is the most common cause of eviction.

### Do mention...

- ...if the eviction is retaliation for requesting repairs or calling code enforcement.
- ...rental assistance applications or payments expected from external parties.
- ...if the landlord has accepted partial payments since the eviction was filed.
- ...if you are willing to move out and need time to get out of the unit.

### There two types of possession:

**FINAL** is the most common. If the cause of the eviction is for nonpayment of rent, this is the most likely outcome (unless the parties come to an agreement). The court will set a date for when the tenant will need to return possession to the landlord. This date depends on the court but is typically two to three weeks away. The Tenant must be out of the unit by the end of the notice period.

**IMMEDIATE** allows the landlord to regain control of their property shortly after a possession hearing. To obtain immediate possession, a landlord must pay a bond to the court. The amount of the bond is set by the court or landlord and provides a safety net for the tenant if the eviction is later deemed unjust during the damages hearing. Tenants can pay a **counter bond** at equal cost to stay the possession of the unit until a decision is made in the damages hearing.

### Do NOT mention...

- ...personal disputes with the landlord.
- ...monetary disputes (save for damages hearings at a later date).