

# **FORM DC 111b ANSWER, DAMAGE/HEALTH HAZARD TO PROPERTY**

**Use this form if:**

- you get a copy of DC 102b, Complaint, Damage/Health Hazard to Property and you want to file with the court a written answer to the statements made in the complaint.

## ANSWER CHECKLIST

Use the following checklist to make sure you have done all the steps that are needed.

### DID YOU...

1. Fill out all requested information on the form? YES ☐
2. Attach a copy of any supporting documents? YES ☐
3. Make all necessary copies of the form and supporting documents? YES ☐
4. File the answer and supporting documents with the clerk of the court? YES ☐
5. Have the answer and supporting documents served on the landlord? YES ☐
6. Keep one copy of the answer and supporting documents for yourself? YES ☐

By using this form packet you are representing yourself in a court action for eviction. In order to receive the action you seek, you must follow the instructions in this packet. If you fail to do even one of the required steps, the court may not give you the result you want.

**If you have questions about any step in the process, refer to pages 3 through 5 of this booklet for details. MichiganLegalHelp.org also has tools that can help you complete this form.**

## **INSTRUCTIONS FOR USING FORM DC 111b FILING AND SERVING AN ANSWER TO A COMPLAINT**

### **»»DECIDING TO FILE AN ANSWER**

If you received a complaint from the landlord for damage or health hazard to property (form DC 102b), you are required to appear and answer the complaint by the date on the summons. If you do not appear and answer as required, the court may enter a default judgment against you. This means the judge may grant a judgment for the plaintiff (landlord) without hearing from you and an immediate order of eviction may be entered.

You can appear and answer be either: 1) filing a written answer or motion and serving the plaintiff (land-lord) with that answer or motion; or 2) orally answering each allegation in the complaint at the hearing. The following courts require a written response to be filed with the court before the hearing/trial will be scheduled: 1st District Court (Monroe County), 2-A District Court (Lenawee County), 12th District Court (Jackson County), 18th District Court (City of Westland), 81st District Court (Alcona, Arenac, Iosco, and Oscoda Counties), 82nd District Court (Ogemaw County), and 95-B District Court (Dickinson and Iron Counties).

If you decide to file a written answer, you can use the instructions in this packet to complete and file your answer.

### **»»FILING AN ANSWER**

#### **1. Do you need an attorney?**

You must file your answer with the same district court where the complaint was filed. You can either hire an attorney or you can represent yourself. If you can follow all the steps outlined in this packet, you may not need an attorney. However, if after reading this packet you think you need assistance, you should call an attorney.

#### **2. What does it cost?**

There is no fee for filing an answer. However, if the judge rules in favor of the landlord (plaintiff), any of the fees paid by the plaintiff may be added to the judgment amount against you. This can be anywhere from \$75.00 to several hundred dollars. Also, if you demand a jury trial, you must pay a jury demand fee of \$50.00.

#### **3. Fill out the Answer form.**

Fill out form DC 111b (Answer, Damage/Health Hazard to Property) on the website or get a paper copy of the form from the court to fill out. Follow the instructions on page 6. After completing form DC 111b, print four copies.

#### **4. File the Answer form with the court.**

You can file your answer form with the court in person or by first-class mail.

## 5. Serving the Answer form.

You must serve a copy on the plaintiff by first-class mail. If the plaintiff has an attorney, make sure you serve the answer form on the attorney instead of the plaintiff. It is important to serve the answer before the date of the hearing.

After you mail the answer form to the plaintiff, complete the certificate of mailing on the bottom of the form. It must be filed with the court. You can do this either in person or by first-class mail. Keep the remaining copy of the answer form for yourself. You will need it at the hearing.

## 6. Prepare for the hearing/trial.

To prepare for the hearing, gather the evidence you need to prove your case. This might include a receipt, guarantee, lease, contract, government inspection report, or accident report. If a damaged article is too big to bring with you, photographs can be presented as evidence.

It is unlikely that a letter or affidavit from a witness will be accepted as evidence by the court without the witness being physically present at the hearing/trial. Therefore, it is strongly recommended that witnesses appear with you at the hearing/trial. If a witness is unwilling to appear, you can ask the clerk of the court to issue an order to appear (subpoena), requiring the witness to appear at the hearing/trial. The order to appear must be served on the witness (along with any witness fee) no later than two days before the hearing/trial. You can pay the clerk of the court to make arrangements for service of this order.

## »»INFORMATION ABOUT ATTENDING THE HEARING

**Bring with you to the hearing your copy of the summons and complaint packet and, if you prepared one, your written answer.** Also, bring with you all the evidence you gathered and any witnesses who are willing to testify. The hearing will usually take place at the location stated in the summons/notice to appear. It is important for you to arrive at the court on time. If you are not in court when your case is called, the court may enter a default judgment against you.

1. If you are representing yourself, you are expected to conduct yourself in a professional manner and to follow the same general rules as an attorney.
2. Make a list of information you think is important for the judge to know. You can use this list as a reminder to bring up the points you think are important.
3. If you need someone to attend this hearing who is unwilling to attend, follow the procedure in MCR 2.506 to get an order to appear (subpoena) or consult with an attorney.
4. Go to the court on the scheduled day and time. Dress neatly. Arrive 10 or 15 minutes early. Bring your witnesses with you.
5. Go to the clerk and tell him/her your name and that you are there for a hearing. Follow the clerk's directions and do not interrupt any hearing in progress.

6. The court will call the case and the plaintiff will have an opportunity to explain the case to the judge and to prove: 1) that you willfully or negligently caused a continuing and serious health hazard or extensive and continuing damage to the property, 2) that you were given notice to remove the health hazard or repair the damage or move out and that this notice was given within 90 days of discovering the health hazard or damage, and 3) that you did not remove the health hazard or repair the damage or move out within 7 days of the notice. Evidence that you present is subject to the Michigan Rules of Evidence. Witnesses will be allowed to tell the court about facts they know firsthand that support your evidence.
7. When you are called, go the front of the courtroom and follow the directions of the judge. The hearing/trial will generally be conducted following the procedure in MCR 2.507. Make sure you read this court rule before the hearing/trial.
8. After the judge makes a decision, in most cases the court will prepare an appropriate judgment.
9. The judge will instruct you about what to do next.

## **»»EVICTING THE TENANT**

If the court enters a judgment in favor of the plaintiff (landlord), but does not grant an immediate order of eviction, and you do not move out as stated in the judgment, the plaintiff can file an application with the court to have you evicted. See MCR 4.201(K)(5) and (L)(1). If an order of eviction is entered, the plaintiff must serve the order on you as stated in MCR 2.602(D)(1). An order of eviction can only be enforced by those persons specified in MCR 3.106(B).

## **»»COLLECTING A MONEY JUDGMENT**

If a money judgment is awarded and it is not paid when ordered, additional papers must be filed with the court to collect on the judgment by having wages or a bank account garnished or property seized. This cannot occur until 21 days after the judgment is entered. The court may ask that information be provided for these collection efforts. See <http://courts.mi.gov/self-help/center/collect/pages/default.aspx> for details.

## INSTRUCTIONS FOR COMPLETING “ANSWER, DAMAGE/HEALTH HAZARD TO PROPERTY”

**Please print neatly. After filling in the form, you will need to make at least three copies of the form.**

Items A through J must be completed before your answer can be filed with the court. Items K and L are completed only if applicable. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- (A)** Fill in the district court number, the court address, and the court telephone number.
- (B)** Write in the names, addresses, and telephone numbers of the plaintiff and the defendant. You, the tenant, are the defendant. The landlord is the plaintiff.
- (C)** Check the box if you want a jury trial. You must pay the jury fee at the time of filing if you check this box.
- (D) - (I)** For each of the items on the complaint from numbers 3 through 8 check only one box whether you agree or disagree with the statement in the complaint, or whether you do not have enough information to respond to the statement in the complaint. For each item for which you disagree, explain in detail why. For items 6 and 7, check only when items 6 and 7 are checked on the complaint.
- (J)** Check only one box whether you agree or disagree with the plaintiff’s request for judgment and costs as stated in item 9 of the complaint. If you disagree, explain in detail why.
- (K)** Check only one box whether you agree or disagree with the plaintiff’s additional request for money damages as stated in item 11 of the complaint. If you disagree, explain in detail why.
- (L)** Write any additional statements you want to make that are related to this case that you have not already stated.
- (M)** Write in today’s date and sign your name.
  - Read pages 3 through 5 of this booklet for details on filing and serving this form.
- (N)** After you serve this form, complete the Certificate of Mailing and file it with the court. See page 4 of this booklet for details.

**You must read this booklet for directions on the legal process.**