

# YOU'VE LOST IN EVICTION COURT.\* NOW WHAT?

This information only applies after a tenant has lost in small claims court, not district court.

## If I lose and want to appeal:

You have a right to appeal for any reason, even if you were not present in court. Appealing gets you a new court date in District Court. You have ten calendar days to file your appeal. If the last day falls on a weekend or holiday, you have until the end of the next day the courthouse is open. If you file on the last day, check the clerk's office hours to avoid being late. The ten days start on the day after the hearing.

To appeal and stay in your home until the District Court hearing, you must file appeal documents at the courthouse and pay rent as it becomes due to the clerk of court.

## If I lose and do not appeal:

If you do not appeal, your landlord must wait 10 calendar days after the judge orders the eviction to schedule the lockout.

If you do not file an appeal, the eviction and/or money judgment will become final after ten days.

Only the Sheriff's Department can legally lock you out and/or remove you from the home.

After the ten days are up, your landlord can file paperwork with the clerk's office to schedule a lockout with the Sheriff's Department.

## What forms do I need to fill out to file an appeal?

### Notice of Appeal to District Court

This is the form that says you want to appeal. It gets you a new court date & puts your Landlord on notice that you have appealed once served on them.

### Bond to Stay Execution on Appeal of Summary Ejectment Judgment

This is the form that gets you longer than 10 days to stay in your home. It requires you to pay a rent bond to the Civil Clerk's Office until you get a new court date.

### Petition to Proceed as an Indigent

This is the form that allows you to avoid paying court costs and additional rent bond if you receive Food Stamps, SSI or TANF. If you DO NOT receive any of these benefits, then you can fill out an additional form called the CIVIL AFFIDAVIT OF INDIGENCE.

These documents are available in this packet, at the civil clerk's office, or on [www.nccourts.gov](http://www.nccourts.gov)

## What do I need to file my appeal?

- Appeal Forms (required)
- Valid ID (required)
- Rent Bond In Cash (if applicable)
- Food Stamp Card, SSI, or TANF verification (if applicable) or
- Civil Affidavit of Indigency Form (if applicable)

# What is a rent bond?

Your rent bond is the amount of rent money you pay to the civil clerk's office if you plan on staying in your home longer than 10 days.

## Will I have to pay money when I file my appeal?

You will probably have to pay a "prorated rent bond." The clerk will calculate the amount of your prorated rent bond. If you pay your rent monthly and rent is due on the 1st, it will be a portion of rent calculated from the day you had court to the last day of the month.

For example, if you are evicted in the middle of the month, your prorated rent bond will be about half a month's rent.

If you do not file as an indigent, you will have to pay a prorated rent bond AND additional fees (i.e.: \$150 filing fee, back rent.)

You must pay your full rent to the clerk's office every month until your case is heard in District Court. Failure to pay full rent on time to the civil clerk's office can result in your home being padlocked.

## I filed my appeal. What's next?

### SERVICE

You must serve your landlord with a copy of your Notice of Appeal by mail or in person.

### PAYING RENT

You must continue to pay your rent to the clerk of court every month within five days of the date it is due (if you pay your rent monthly.)

### FINDING INFORMATION ABOUT YOUR COURT CASE

You can find all documents filed at the eCourts Portal website (<https://portal-nc.tylertech.cloud/Portal/>). Click on Smart Search and enter your name or file number to find your case. During your case, check the site regularly for information about your next court date, time, and court room.

### PREPARING FOR DISTRICT COURT

Filing an appeal to district court means that you are requesting a new trial before a judge. A district court appeal can be difficult, legally complex, and more expensive. You may receive written requests to provide information to your landlord or you may receive court documents that require you to respond. If you receive a motion to dismiss, you must file a motion, answer, or counterclaim to prevent your appeal from possibly being dismissed. You may want to talk with an attorney.

### DISTRICT COURT HEARING

At the District Court hearing, you have a right to raise legal defenses. (For more information, please go to <https://legalaidnc.org/resource/eviction-guide/>). District court is more formal than small claims court. You will be expected to follow the rules of civil procedure and the rules of evidence. Your landlord may hire a lawyer in district court, even if the landlord did not have a lawyer in small claims court.

If you fail to appear at the District Court hearing, you are at risk of a judgment being entered against you.

Losing in District Court means that a judgment was entered against you. After the judgment is entered, your landlord can file a writ of possession and begin the padlocking process. The padlocking may take place 5 to 7 days from the date the landlord got the writ of possession.

### ADDITIONAL FEES

If you appeal to district court, then you must pay the court costs to appeal unless you qualify as indigent (financially unable to pay). Also, you may owe your landlord additional fees if you lose your case.