

## INSTRUCTIONS FOR FILLING OUT FORM

**PURPOSE.** These forms are to be used when a landlord attempts to evict (remove) a tenant for nonpayment of rent, damage to the rental home or some other lease violation. These forms are to only be used after a notice to quit has been served on the tenant and proof of personal service of the notice to quit has been accomplished and the time for the tenant to quit the premises has passed. The notice to quit and proof of personal service need to be attached to the complaint as well as any written lease on the rental property.

**FORMS INVOLVED.** The first form is a **Civil Court Filing Statement-Contact Information** you need to fill out (there are no instructions for this form as it is self-explanatory). The second form is a **Summons** which may be required. The third form is the **Complaint**. You will need to fill in the necessary information with the help of the instructions below and file the forms with the clerk of the RST Tribal Court.

**What is a Civil Court Filing Statement-Contact Information?** This will allow the Clerk of Courts the ability to contact the parties when needed for scheduling and service of papers by mail. It will also allow the Court Process Server to locate and personally serve the defendant with the Summons and Complaint.

**What is a Summons?** A summons is a document that is served with the complaint on the opposing party you are suing them for paternity, custody and/or child support. A summons notifies the opposing party that an action for paternity in the form of a complaint has been filed against them and that the opposing party must answer in writing to both you and the court that they deny your claims in the complaint. If the opposing party fail to answer your summons and complaint within 7 days after service on them or if they fail to appear you may seek a default judgment.

**What is a Complaint?** A complaint sets out your cause of action or claim against the opposing party. A complaint puts the court and the opposing party on notice of what a plaintiff's claims are. If you file a summons and complaint you are called the plaintiff. The person you are seeking to evict is called the defendant. In this case it is letting the defendant know that the plaintiff has filed for eviction and any other claims the plaintiff has against the defendant such as past due rent or money damages for damage to the premises. Be sure to attach a copy of any lease agreement and notice to quit and proof of service of the notice to quit to the complaint before you file it with the clerk of courts.

**Filing and service fees.** The court will require payment of a filing fee unless waived to file your summons and complaint with the court. There is also a fee to have your summons and complaint served on the defendant. It is required by law that your summons and complaint be personally served on the defendant. This can be by the Court Process Server which will incur a service fee to have them serve your papers. You can file a motion to waive the filing and service fees if you can show you are indigent or don't have the resources to pay the fees. Use the **Motion to Waive Filing and Service Fees** form to ask the court to waive those costs or for a partial waiver. You can also have a tribal member over the age of 18 and not a party to the action serve the defendant

with the summons and complaint and they may do it free. If you go this route, have the person who serves the court papers on the defendant complete the **Affidavit of Service** form and you must file the affidavit with the court as proof the defendant was served.

**Jurisdiction.** Rosebud Sioux Tribal Court has jurisdiction to over all buildings, lands and dwellings on the reservation land (including all of Todd County and trust land of the Rosebud Sioux Tribe located outside of Todd County). The court also has jurisdiction over all persons and entities that rent dwellings on the reservation. This would include all Indians and non-Indians who are landlords or tenants of dwellings on the reservation.

**How to file a summons and complaint.** A summons and complaint is filed when you take them to the courthouse and file them along with the filing fee and Civil Cover Sheet-Contact Information with the clerk of courts. When you file your complaint or petition with the clerk, please date and sign the form in front of the clerk so they can notarize your signature.

**What happens if the opposing party fails to Answer.** If the opposing party fails to answer your summons and complaint within 7 days after being served with the summons and complaint, you can ask the court for a default judgment. This means you are asking the court enter judgment in your favor due to the defendant's failure to answer the complaint.

**LANDLORD'S BURDEN OF PROOF.** If the party who files a complaint has the burden of proving the claims in the complaint in court. In a typical civil case the party who brings the claim has the burden of proving their claim by a preponderance of the evidence. This means that it is the other party's responsibility to prove their case. Proving something by a preponderance of the evidence means evidence with greater weight or that is more convincing than the evidence of the opposing party(s). The landlord or plaintiff has the burden of proving by a preponderance of the evidence the following to the court:

1. Each and every allegation and fact alleged in their complaint.
2. That there is a landlord-tenant relationship between you and the landlord. The landlord can prove this by showing an oral or written rental agreement between you and them where you agreed to rent a premises from the landlord for rent (usually monthly rent payable at the beginning of each month). The landlord will need to submit a copy of the lease into evidence.
3. That the tenant violated a term or condition of the rental agreement. This would include failure to pay rent or to repair damages to the premises or for violation of any other term of the rental agreement. If the rental agreement was oral or written look to the tribal Landlord-Tenant code to see any rights and duties you have under the code as a landlord. The landlord will be required to submit evidence that the lease was violated. Some examples would be through witnesses, documents, photos and other evidence.
4. Typically, a landlord is required to show and prove that the tenant was personally served with and was given proper notice to quit the premises before the landlord can file an action for eviction in tribal court. If the landlord has failed to give proper notice to quit or vacate then the

tribal court does not have jurisdiction to hear the eviction case and cannot proceed to evict. The landlord will need to submit the original notice to quit and proof of service into evidence.

**CIVIL COURT FILING STATEMENT-CONTACT INFORMATION**

**PLAINTIFF(S):**

A. Full Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Physical Address or Direction to Residence: \_\_\_\_\_

\_\_\_\_\_

Contact Numbers:

Cell: \_\_\_\_\_ Home: \_\_\_\_\_ Work: \_\_\_\_\_

Employed? Yes No Place of Employment: \_\_\_\_\_

**DEFENDANT(S):**

A. Full Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Physical Address or Direction to Residence: \_\_\_\_\_

\_\_\_\_\_

Contact Numbers:

Cell: \_\_\_\_\_ Home: \_\_\_\_\_ Work: \_\_\_\_\_

Employed? Yes No Place of Employment: \_\_\_\_\_

Age: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Color of Hair: \_\_\_\_\_ Length: \_\_\_\_\_

Type/Location/Color/Description of Residence: \_\_\_\_\_

Make/Model/Color Year of Vehicle: \_\_\_\_\_

Other Description or Information that can Aid in Serving Papers on the Defendant: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**INSTRUCTIONS FOR FILLING OUT THE FORM.** To fill out this form follow these instructions. The number below is the number on the form where the information for that number needs to be inserted. You can print this page in its entirety or you can scroll down to the summons form and then scroll down farther to find the complaint. There will be a blank screen between these instructions and the forms and between the forms so keep scrolling or just copy this page in its entirety.

Instructions for filling out the **Summons**:

- (1) on this line insert your name.
- (2) on this line insert the name of the person you want to divorce.
- (3) on this line insert your name.
- (4) on this line insert your entire mailing address.
- (5) on this line insert the day.
- (6) on this line insert the month.
- (7) on this line insert the year.
- (8) on this line insert your name by signing.

ROSEBUD SIOUX TRIBAL COURT )  
ROSEBUD INDIAN RESERVATION )SS  
ROSEBUD , SOUTH DAKOTA )

IN CIVIL COURT

(1) \_\_\_\_\_

DOCKET \_\_\_\_\_

PLAINTIFF(S)

VS

SUMMONS

(2) \_\_\_\_\_

DEFENDANT(S)

THE ROSEBUD SIOUX TRIBE TO THE ABOVE NAMED DEFENDANT(S):

You are hereby summoned and required to answer the Complaint of the Plaintiff(s) in the above entitled action, a copy of the Complaint is attached hereto and is hereby served upon you, and to serve a copy of your answer to the Complaint on the Plaintiff, (3) \_\_\_\_\_, at the address of (4) \_\_\_\_\_, seven (7) days after service of the Summons upon you; exclusive of the day of such service; and in the case of your failure to Answer the Plaintiff's Complaint within that time, judgment may be rendered against you as requested in the Complaint.

Dated this (5) \_\_\_\_\_ day of (6) \_\_\_\_\_, (7) \_\_\_\_\_.

(8) \_\_\_\_\_  
Plaintiff

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Instructions for filling out the Complaint:

- (1) on this line insert your name.
- (2) on this line insert the name of the other party(s) you want evicted from your property.
- (3) on this line insert your name.
- (4) insert your mailing address.
- (5) insert your telephone number if you have one.
- (6) give a description of the property you are renting to defendant.
- (7) describe the rental agreement that you and defendant entered into. If it was a written agreement insert “written agreement and a copy is attached hereto. Attach a copy of the rental agreement to this complaint. If it was a verbal agreement (one not in writing) insert “verbal agreement”. Give the dates the agreements were entered into.
- (8) insert the location of the rental property.
- (9) insert the amount of rent defendant is to pay, when the rent is due and any other agreements made.
- (10) tell how defendant(s) breached the rental agreement. If defendant failed to pay rent state how much they owe and how far behind they are. If defendant damaged the property state this and describe the damage done.
- (11) insert the date the Notice to Quit was served upon defendant(s). Attach a copy of the notice to quit and proof of service to the complaint.
- (12) insert the day.
- (13) insert the month.
- (14) insert the year.
- (15) sign your name.

**ROSEBUD SIOUX TRIBAL COURT )  
ROSEBUD INDIAN RESERVATION)SS  
ROSEBUD, SOUTH DAKOTA )**

**IN CIVIL COURT**

(1) \_\_\_\_\_  
\_\_\_\_\_,  
Plaintiff(s),

DOCKET # \_\_\_\_\_

**COMPLAINT FOR EVICTION**

VS

(2) \_\_\_\_\_  
\_\_\_\_\_,  
Defendant(s).

Comes now (3) \_\_\_\_\_ (“Plaintiff”) and for her/his complaint against the Defendant, states and alleges as follows:

1. Plaintiff’s address is (4) \_\_\_\_\_  
and their telephone number is (5) \_\_\_\_\_.

2. Plaintiff is the owner of the following described property that is rented by defendant(s):  
(6) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

3. Plaintiff(s) and Defendant(s) entered into a (7) \_\_\_\_\_  
\_\_\_\_\_.

A true and correct copy of any written lease/rental agreement is attached hereto. (If a written lease is exists).

4. The location of the leased premises is (8) \_\_\_\_\_  
\_\_\_\_\_.

5. Defendant agreed to (9) \_\_\_\_\_  
\_\_\_\_\_.

5. Defendant(s) breached the agreement by (10) \_\_\_\_\_  
\_\_\_\_\_.



Notary Public  
My commission expires:  
(SEAL)