

# Court Service Center

## New Hampshire Circuit Court

### HOW TO FILE A LANDLORD AND TENANT WRIT

#### General information:

**What kinds of evictions use a Landlord and Tenant Writ?** Eviction using a Landlord and Tenant Writ (RSA 540) applies to most, but not all, evictions from residential and non-residential properties. Some residential properties, such as hotels, student dorms, shared facilities (RSA 540-B) and vacation rentals (RSA 540-C), do not use the Landlord and Tenant Writ. Review the law at RSA 540:1-a for more information about which properties are excluded from RSA 540.

**Who may file a Writ?** The owner, or an attorney for the owner, of a rental property may file a Landlord and Tenant Writ. The owner may also authorize an employee or person with power of attorney to file the Writ. If someone other than the owner files the Writ, a written authorization from the owner specifically authorizing the person to file against the tenant(s) named in the Writ must be attached to the Writ. The person also must attach a Rule 1.3D Statement form (**NHJB-2804-D**) to the Writ.

**Where to file a Writ?** The Writ must be filed in the Circuit Court - District Division with jurisdiction over the town where the landlord or tenant resides or the property is located. If the Writ makes a claim for unpaid rent, it may be governed by the Federal Fair Debt Collection Act (15 U.S.C. §1691 et seq.) requiring that the Writ be filed in the jurisdiction where the tenant resides or where the contract was signed. If the Writ is not filed in the court for the town where the tenant lives, the tenant may request the case be transferred. To find out which Circuit Court - District Division has jurisdiction over a town, go to [www.courts.state.nh.us/courtlocations](http://www.courts.state.nh.us/courtlocations).

**NOTE:** Landlords are required to strictly comply with the terms of the eviction law, RSA 540, and are responsible for knowing and following the law. Failure to do so may result in dismissal of your case and loss of your filing fee. The law prohibits court personnel, including the judge, from giving legal advice or counseling about how to pursue an eviction. If you have questions you are unable to answer by reviewing this document, the court's website, or doing your own research, you may want to consult an attorney.

#### What you need to get started:

**Before coming to court:** To start a Landlord and Tenant case, you must present the court with an expired Eviction Notice and Demand for Rent (if the eviction is based on non-payment of rent) that was properly served on the tenant. Expired means you cannot start a case until the day after the expiration date you listed on the Eviction Notice.

#### Forms you need:

- Eviction Notice (**NHJB-3041-D**) and Demand for Rent (**NHJB-3040-D**) (if applicable): You may use the blank forms available at the courthouse or online. You may also draft your own, but it must contain the same information, including the information for tenants, contained on the court form.
- Landlord and Tenant Writ (**NHJB-2333-DP**): Available in Clerks office.
- Affidavit of Compliance with Federal Law (**NHJB-2515-D**)
- Affidavit as to Military Service (**NHJB 2200-DFPS**) (while not required at case entry, it must be filed prior to the issuance of any Writ of Possession if the tenant defaults)
- Only if seeking back rent:** Affidavit of Damages and Statement of Claim (**NHJB-2770-DP**)
- If the Writ is filed by someone other than the owner of the property:** Written authorization/power of attorney from the owner **AND** a Rule 1.3D Statement form (**NHJB-2804-D**)

**All forms except the Writ are available online at: [www.courts.state.nh.us/district/forms](http://www.courts.state.nh.us/district/forms)**

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**Information you need:**

- Filer information:** Name, mailing address, phone, email, and photo identification (required if you want court staff to take your oath on the Affidavit of Damages or Military Affidavit).
- Owner information:** Name, organization information (e.g. LLC, corporation, trust, etc.), if applicable, physical and mailing addresses, phone, and email for each landlord.
- Tenant information:** Name, physical and mailing addresses, phone (if available), and email (if available) for each tenant/occupant. You must list (or describe, if you do not know the person's name) every person you seek to evict. Failure to list all tenants/occupants may result in the sheriff only removing the occupants named or described in the writ.
- Property information:** Type of property (e.g. commercial, single-family, multi-unit, owner-occupied), amount of rent, terms of payment (weekly, monthly, etc.), whether tenant receives any rental assistance.

**How much will this cost?**

The Landlord and Tenant Writ costs **\$1.00** and the filing fee is **\$125.00**.

You will be responsible for sheriff's service fees as well. This fee varies. If you win the case, the defendant can be ordered to repay this cost, but you must pay it up front.

**How is the Writ served on the tenant?**

Landlord and Tenant Writs must be served on the tenant by the sheriff. You are responsible for arranging service using the following steps:

- Step 1:** Court staff will give you three copies of the Writ and attached documents: the original for service and copies for you and the tenant.
- Step 2:** Contact the sheriff's department for the **county where the tenant lives**. Make arrangements for service and give the sheriff the original and tenant copies of the Writ and attached documents.
- Step 3:** The sheriff will serve the Writ on the tenant. After the Writ is served, the sheriff will enter a return day on the Writ. This is the date by which the tenant must respond to the Writ. The sheriff will also sign the return of service, verifying that the tenant was served.
- Step 4:** After the sheriff serves the Writ, you must retrieve the original from the sheriff and file it with the court by the return day. The court has no way of knowing the return day until this is done.

**Contact Information for County Sheriffs:**

Belknap County Sheriff	42 County Drive Laconia NH 03246	603-527-5454
Carroll County Sheriff	95 Water Village Road Ossipee NH 03864	603-539-2284
Cheshire County Sheriff	12 Court Street Keene NH 03431	603-352-4238
Coos County Sheriff	55 School Street Suite 202 Lancaster NH 03584	603-788-5598
Grafton County Sheriff	3785 Dartmouth College Hwy #6 Nth Haverhill NH 03774	603-787-2111
Hillsborough County Sheriff	329 Mast Road Goffstown NH 03045	603-627-5610
Merrimack County Sheriff	333 Daniel Webster Hwy Ste. 2 Boscawen NH 03303	603-796-6634
Rockingham County Sheriff	101 North Road Brentwood NH 03833	603-679-2241
Strafford County Sheriff	259 County Farm Rd. Dover NH 03821-1218	603-742-4960
Sullivan County Sheriff	14 Main Street Ste. 2 Newport NH 03773-0027	603-863-4200