

*These forms are not, nor are they intended to be, legal advice. You should consult an attorney for individual advice regarding your own situation. You may have claims that are not identified here. You should consult an attorney to find out about the risks and possibilities your particular case might entail. There are separate [pleadings]: Defendant’s Answer (No Counterclaim) and Judgment for Defendant and Counterclaim Plaintiff. [Have your Summons and attached pleading with you at all times.]

Example and Directions
IN THE 16TH CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
 AT KANSAS CITY **AT INDEPENDENCE**
ASSOCIATE CIRCUIT DIVISION

| | | |
|-----------------------------------|---|-----------------------------------|
| (Example: Old Oak Tree) |) | |
| [LANDLORD NAME] |) | |
| |) | |
| Plaintiff/Counterclaim Defendant, |) | [SEE THE SUMMONS] |
| |) | Case No. (Example: 1617-CV000XXX) |
| vs. |) | Division No. (Example: 25) |
| |) | |
| (Example: Bob Mack) |) | |
| [TENANT NAME], |) | |
| |) | |
| Defendant/Counterclaim Plaintiff. |) | |

DEFENDANT’S ANSWER TO PLAINTIFF’S RENT AND POSSESSION COMPLAINT.
DEFENDANT’S AFFIRMATIVE DEFENSES AND DEFENDANT’S COUNTERCLAIM.

Defendant, (tenant name) makes the following response to Plaintiff’s Complaint:

(If you are being sued by your landlord, then you are the “Defendant” and your landlord is the “Plaintiff”)

1. The following statements from the Landlord-Plaintiff’s Petition are true:

List the paragraph numbers (i.e., 1, 3 and 5, not the whole statement) you agree with in your landlord’s Complaint (the document attached to the summons).

If you agree with only part of a numbered paragraph but disagree with other parts, you should state what you do not agree with in paragraph 3, below, do not place that paragraph here.

2. The following statements from the Landlord-Plaintiff's Petition are not true:

Write only the number of the paragraph statement (i.e., "2, 4 and 6"). Do not write out the entire paragraph statement.

If you agree with only part of a numbered paragraph but disagree with other parts, you should state what you do not agree with in paragraph 3, below.

3. The following statements are true but I disagree with part of the statement

because:

4. Defendant does not know the answer, or does not have enough information to

answer, the following statements from the Landlord-Plaintiff's Complaint:

List the paragraph numbers that contain information you don't know to be true or false. Write only the number of the statement (i.e., "7 and 8"). Do not write out the entire statement.

5. Defendant denies any rent is owed as alleged by the Plaintiff. The rent allegedly

due is:

- incorrectly stated and I owe _____ which I can pay today with court costs;
- overstated and contains charges and fees other than rent; I can pay any rent owed once the amount of rent due is determined;
- contains only charges and fees which are not rent;
- zero because the implied warranty of habitability is a complete defense to any rent owed as the rental value of my home with the current conditions unrepaired is zero.
- zero, no rent is due or owing and Court costs are not due as no rent was due at the time Complaint was filed.
- my rent is subsidized and Plaintiff illegally charged me for rent owed by the Housing Authority or HUD.

6. I have checked above all known reasons for dismissal of this action, other reasons may also exist.

Defendant prays that the Court find in favor of the Defendant and against the Plaintiff, dismiss this cause of action with prejudice and for any other relief the Court finds just and reasonable.

Attach the lease, any notices regarding rent owed, ledger or receipt showing how much paid or rent, etc.

BREACH OF THE WARRANTY OF HABITABILITY

7. The Landlord-Plaintiff's property was not a clean, sanitary or safe living environment.

8. From about ____/____/____ (*insert the date the problem(s) began, for example: 12/20/2015*) until present the following conditions of the Landlord-Plaintiff's property that harmed my/our health or safety and made the Landlord-Plaintiff's property unsafe, unclean and hazardous to the well-being of those who live there:

Describe the problem that made the home unclean, unsafe or unsanitary. For example: there was no heat in the house, there was a rodent infestation, the wiring was dangerous, there was mold, the doors and windows did not close, the plumbing did not work. List one problem per letter on the letters below. [If you only have one problem, only fill out "the appropriate letter."] If you have more problems, attach another sheet. State the date the problem began if different than above.

We recommend having a City inspection and good quality color pictures if possible, preferably printed out. Bring the City's letter regarding Code violations. These will be marked as exhibits.

- a. Furnace didn't work.
- b. Hot water heater didn't work.
- c. Rats were in the house, came in through hole, door, or _____.

- d. *Bats or other animals live in the attic.*
- e. *Cooking stove did not work.*
- f. *Sewage in basement.*
- g. *Holes in floor, walls, roof, doors, windows (circle all that apply).*
- h. *Leaking roof or ceiling causing problems.*
- i. *Electrical problem (describe).*
- j. *Sewer system not working.*
- k. _____.
- l. _____.
- m. _____.
- n. _____.

9. Defendant told the Landlord-Plaintiff about the problems listed above on the following date(s)

List the date and type of each communication you had with the landlord, including texts, phone calls, emails and letters; if you do not know exact dates, give the best description you can. For example: "text early in May." List one date per letter at the letters below. If you only had one communication with the Landlord about the problems, only fill out "a." If you had more than six communications with the Landlord about the problems, attach another sheet.

- a. _____.
- b. _____.
- c. _____.
- d. _____.
- e. _____.
- f. _____.
- g. _____.

h. _____.

Attach copies of written communication as exhibits and bring your originals to court.

10. The Defendant notified the City of Kansas City's 311 department on [date you called 311] regarding the state of disrepair that the property had fallen into. A code inspector from Neighborhood and Community Relations visited the property and cited Plaintiff for the following KC Code violations which show a per se breach of the warranty of habitability:

List the code violation(s) that the code inspector submitted. If you're not sure, call 311 at 816-513-1313 and ask them to tell you which code violations were "opened" for the property after you called in. You will need the order number the 311 operator gave you when the case was opened.

a. _____

b. _____

c. _____

d. _____

e. _____

11. Defendant gave the Landlord-Plaintiff reasonable notice and time to make the needed repairs but the Landlord never repaired the problems. Plaintiff has therefore breached the Implied Warranty of Habitability. Plaintiff's breach of the warranty of habitability provides a defense for non-payment of rent and rent must be reduced to the market value when the condition of the premises are considered and property is in poor repair. The amount of rent minus the decrease in value due to uninhabitable conditions equals the monthly rent which can be as little as zero.

12. Defendant also suffered additional damages for the following reasons.

a. _____.

b. _____.

c. _____.

d. _____.

e. _____.

f. _____.

g. _____.

Defendant prays that the Court dismiss Plaintiff's Petition with Prejudice and find in favor of the Defendant and award damages to the Counterclaim Plaintiff.

AFFIRMATIVE DEFENSES

SET-OFF

13. The Landlord's Complaint demands payment for unpaid rent.

14. Defendant claims payment from Plaintiff for damages caused by Plaintiff due to its failure to make repairs. Defendant owes no rent or court costs if the damages are subtracted from any rent and court costs the Court may find is owed by Defendant.

15. Since no rent or court costs are owed by Defendant, the Court should not award judgment for any court costs to Plaintiff and Plaintiff should pay all costs.

Defendant prays that the Court subtracts Defendant's damages from any rent that the Court determines is unpaid and currently owed to the Landlord-Plaintiff. Defendant further requests Judgment in Defendant's favor and against the Plaintiff and such further and other relief as the Court deems just and reasonable.

COUNTERCLAIM

COUNT 1 – WARRANTY OF HABITABILITY

16. As Counterclaim Plaintiff explained in paragraphs seven through twelve above, the Counterclaim Defendant did not provide a decent, safe and clean place to live and therefore Counterclaim Defendant breached the warranty of habitability.

17. Because the Counterclaim Defendant did not provide a decent, safe and sanitary place to live, Counterclaim Plaintiff is asking the Court for compensation for the rent paid during the period the home was uninhabitable, to determine the fair market value of the premises during the breach, and, for actual damages.

If you have out-of-pocket losses, for example: money lost to rent, money to fix the problems, then you may have actual damages. If the landlord's behavior was reckless or purposeful toward you or other tenants, you may be able to request punitive damages. You should have receipts or bills to prove actual damages. Actual damages are your out-of-pocket expenses.

Counterclaim Plaintiff prays the Court for a judgment against the Counterclaim Defendant, compensation for rent paid and for damages as found by the Court, a determination of rent value at any time the conditions affecting habitability existed and for any other relief that the Court finds just and reasonable.

COUNT 2 – SET-OFF

18. The Landlord's Complaint demands payment for unpaid rent.

19. Counterclaim Plaintiff's counterclaim demands payment from Counterclaim Defendant for damages caused by Counterclaim Defendant due to its failure to make repairs. Counterclaim Plaintiff would owe nothing if Counterclaim Defendant's damages are subtracted from any rent the Court finds is owed in Count I.

Counterclaim Plaintiff prays that the Court subtracts his/her/our damages from any rent that the Court determines is unpaid and currently owed to the Plaintiff/Counterclaim Defendant. Counterclaim Plaintiff further requests Judgment in his/her/our favor and against the Counterclaim Defendant and such further and other relief as the Court deems just and reasonable.

[First and Last Name] _____
[Address] _____
[Phone Number] _____
[Email] _____

Defendant acting *pro se*

CERTIFICATE OF SERVICE

I certify that on [DATE], I providing the above pleading to [Landlord or Attorney] by [say whether you sent it by email, mail or fax].

Defendant acting *pro se*