

Filing a Petition Under RSA 540-A

What is a 540-A petition?

[RSA 540-A](#) is a law designed to provide quick relief to tenants whose landlords have tried to force them out of their apartments by:

- locking them out,
- entering their apartments without permission,
- turning off their utilities, or
- seizing their property.

Although the statute applies to both landlords and tenants, it is used most often by tenants to protect their rights against landlords.

Even if you are behind in rent or have done something that might give your landlord reason to evict you, he must use the lawful eviction process. Your landlord cannot deny you the right to use your apartment or personal property unless he has obtained a court order. If he tries to force you out without using the lawful eviction process, he has violated the law and you can file a petition under RSA 540-A.

Read [RSA 540-A](#) to see everything that the law prohibits. This process is designed for tenants to represent themselves and, if the situation is urgent, to get emergency help. Either [download the petition](#) or go to the district court for your town and ask the clerk's office for a blank petition form, which you can then fill out yourself. You can also go to the superior court, but it is generally easier to get swift action from the district court.

Since the law was designed to deal with emergencies, in most cases you should be able to obtain the form, fill it out, and obtain a temporary court order, all on the same day.

How does the process work?

If the court accepts your petition, a hearing will be scheduled within 30 days for both you and your landlord to be heard. Generally, the only reason the court might reject your petition entirely would be because you did not fit the definition of a tenant under the statute.

Emergency order

If you tell the court that you have an emergency, such as being locked out of your apartment, and the court agrees, the court will issue a temporary order. This order will be served on your landlord and he is required to follow it, even if he disagrees. If he does disagree, he can ask for an immediate hearing and the court will schedule one within 5 days. This then becomes the final hearing at which both sides can tell their version of events. Until the final hearing, however, he must follow the order.

Final order

The final hearing is when the court will decide whether your landlord violated the law, whether he should be permanently ordered to stop the violation, and whether you are entitled to damages.

Tips for filling out the petition

1. Be sure to use the correct name and address (preferably home, not work) of the building's owner.
 1. If you are not sure of the owner's name or address, you can go to the Tax Assessor's Office in your town. If the owner lives out of state, you may be able to get the name of his agent or representative from the Secretary of State's Office in Concord.
 2. If a property manager is the one causing you the problem, you can name the manager as a defendant. In this case, you should also name the owner as a defendant.
2. Be sure to check the box next to each kind of help that you want the court to order.
 1. In addition to any orders you want the judge to make right away (such as putting you back in your apartment, turning your utilities back on, returning your personal property), you may ask for final orders, including money damages, and that the defendant pay for service and filing fees.
 2. If you want to ask for damages, you should check that box now. You do not have to name an amount at this stage. If you do not check this box now, it may be difficult to ask for damages at the final hearing. The law allows the judge to award damages of \$1000 at the time the petition is filed. More damages may be awarded if violations continue to occur after the petition is filed.

What happens next?

When the court has made its temporary order, get a copy of the petition and the order, and take both to the Sheriff's office in the county in which the landlord lives. Ask the Sheriff to serve both the petition and the order on the landlord directly, as soon as possible.

1. The Sheriff is supposed to serve the papers without charge and then bill the losing party for the service fees.
2. If you cannot get to the Sheriff's office, the police in the town where you live should serve the papers on the landlord.
3. After the Sheriff or police officer returns the papers to you, showing that the landlord has been served, you should file a copy of this "return of service" with the clerk's office at the court.

Final Hearing

The court's temporary order will include a date for a final hearing at which the landlord can present his defense. At this hearing, you should be prepared to present your case, describing what happened and explaining why you needed to file the petition. If you do not attend this hearing, your case will be dismissed and the temporary order will no longer be in effect.

Your presentation should include a request for an order that your landlord permanently stop doing whatever acts were violating the law, and a request for money damages for past violations, if appropriate. The statute provides for damages of \$1000 per violation, and each day of a continuing violation is considered a separate violation.

Bring copies of any papers you want the judge to see and witnesses who can back up your version of what happened. If you need further advice when you get to this stage, feel free to call 603 Legal Aid.

What if the landlord doesn't obey the order?

Once the sheriff has delivered a copy of the court's temporary order to the landlord, the landlord is legally obligated to do what the court has ordered. If the landlord does not obey the order, you can file a motion asking the Court to enforce its order. The courts have blank motion forms that you can use. Ask the Court Clerk.

You can ask the court to take whatever action is necessary to get the landlord to comply, including fines or the threat of jail. You should also point out that the landlord cannot claim ignorance of the law once he is served with the court's order. This makes his violation knowing and willful, and willful violations allow the court to double or triple the damages, although this will probably not be decided until the final hearing.

Note: If you are represented by an attorney in a 540-A case, your chances of success will greatly increase. If you win, the court can order the landlord to pay your attorney's fees, so you may be able to find an attorney who will take your case and agree to seek fees from the landlord.

This information is based on the law in effect at the time the information is generated and is not a warranty at times thereafter.

Try also reading...

- [Tenant's rights overview](#)
- [Do you smoke and live in public housing?](#)
- [Fair Housing Laws](#)
- [Rental Housing and Service Animals: ADA and FHAA- when does each apply?](#)
- [To Withhold Rent Or Not To Withhold Rent - That Is The Question](#)
- [Saving Your Personal Property Left in Apartment](#)
- [Discovery in Landlord and Tenant Cases](#)
- [Bed Bugs in New Hampshire & The Law](#)

Date: August 2014

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