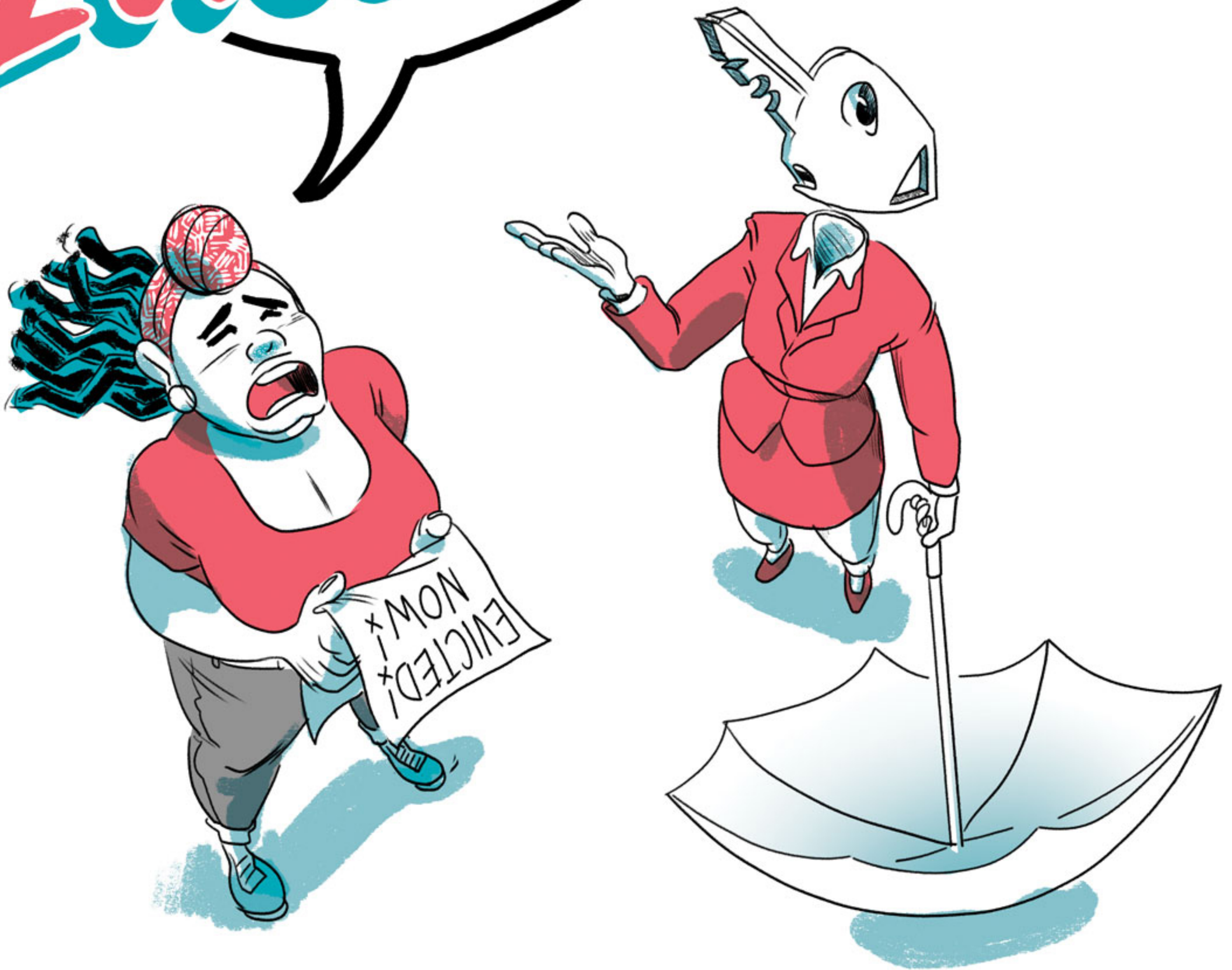


I NEED HELP! I'm Being Evicted!

A Step by Step
Guide for Renters
in New Orleans



Presented by:

*Jane Place Neighborhood
Sustainability Initiative*

JPNSI.ORG

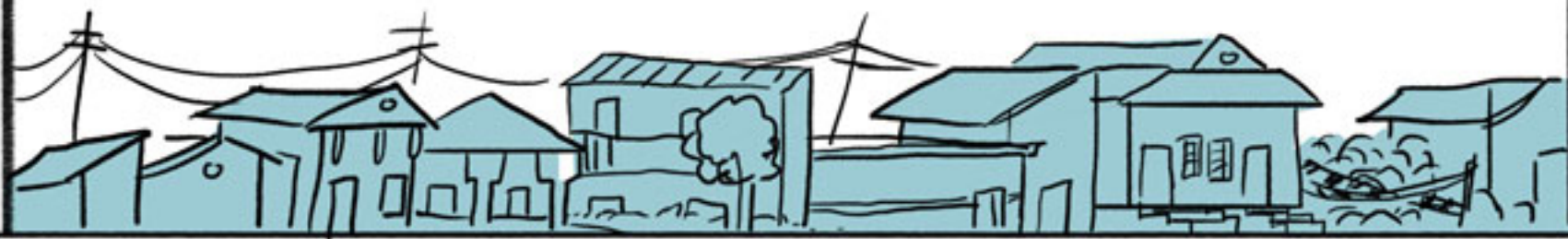
Artwork by:

Erin K Wilson

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Jane Place Neighborhood Sustainability Initiative

...is a community land trust and housing rights organization based in New Orleans. We envision a New Orleans where our most vulnerable community members are able to access housing that is truly affordable, housing rights that are deeply empowering, and housing policies that create just and equitable neighborhoods across our city. Our mission is to build the permanently affordable, community-controlled housing that we all need, and to build power within our community to win equitable housing policies and laws so low and moderate-income New Orleanians can enjoy housing security and resist displacement.

www.jpnsi.org

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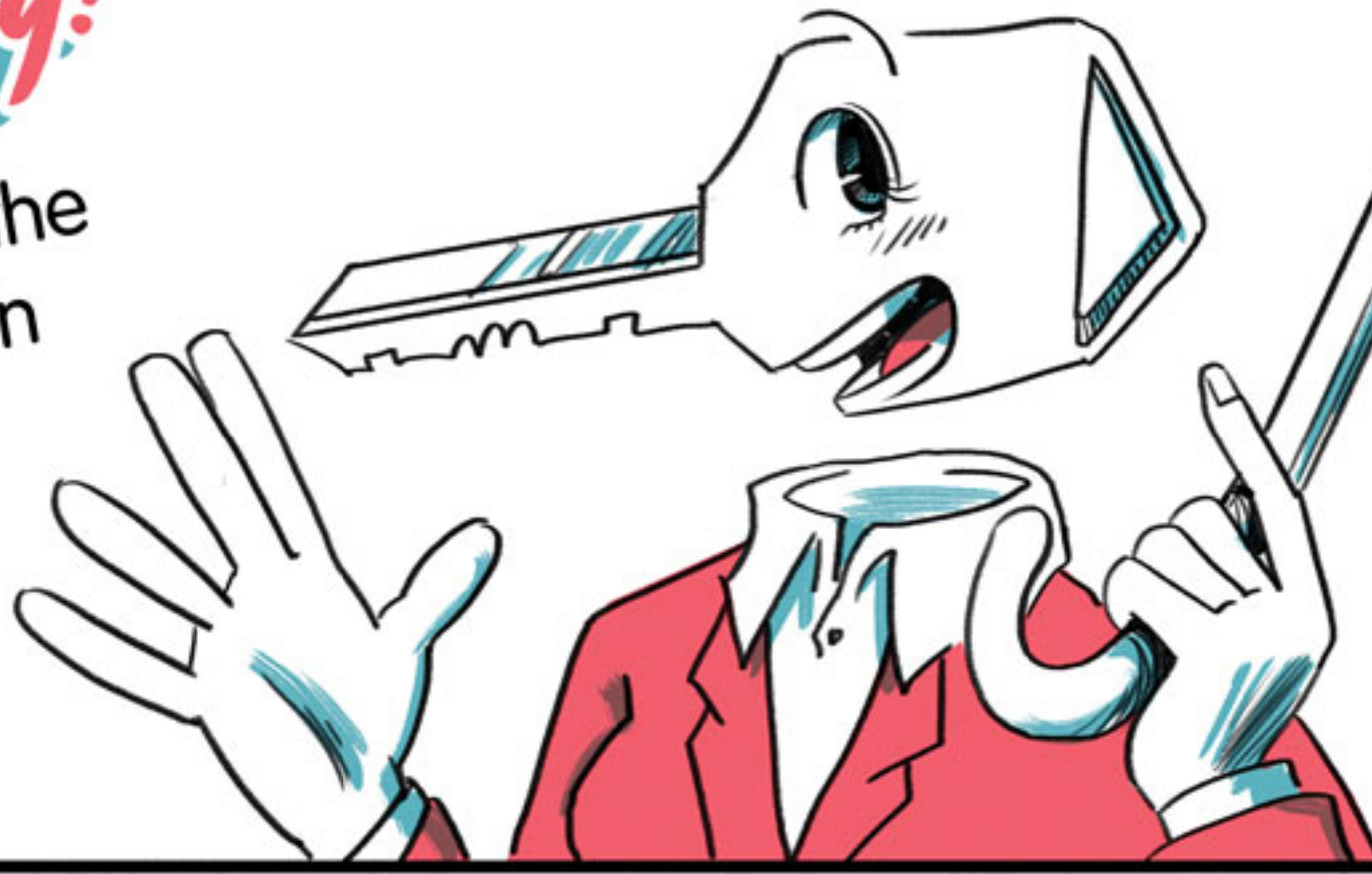
This comic was made possible through the generous support of Enterprise Community Partners, and Councilmember-at-Large Jason R. Williams and Councilmember Jay H. Banks, who both supported the project through the Harrah's Casino Community Support Grant Program. Additional support came from individual donors and members.

Thanks

The staff and board of JPNSI would like to thank the following individuals and organizations for their tireless work on, and support of, tenant rights and housing justice for New Orleans: Davida Finger, Shana M. Griffin, Theo Hilton, Michael E. Esnault, Anne Tucker, Athelgra Landry, David McLean, Southeast Louisiana Legal Services, the Louisiana Fair Housing Action Center, HousingNOLA, and the many members and individuals who attend Renters Rights Assemblies and help build the vision for housing justice for our city.

Hi I'm Miss Key!

I'm here to explain the eviction process in Louisiana!



Please note this is not legal advice. If you receive an eviction notice you may want to consult an attorney about all your available options.

First things first.

What is an Eviction?



An eviction is a legal process where your landlord petitions the court for possession of your home, i.e. to put you out.

Your landlord must go through the legal eviction process even if your lease is expired, and even if you do not have a written lease.

If you have an oral lease (nothing written down), it is assumed to be month to month.

Does my landlord need a good reason to evict me?



Yes

... if the eviction is during your lease.

No

...if the eviction is at the end of your lease or after your lease expires. *

*Unless you live in certain kinds of government subsidized housing.

What qualifies as a "good reason"?



A good reason is something you did or didn't do, like not paying rent, or making too much noise. A good reason is NOT your landlord's desire to move in a relative, raise the rent, or turn your home into a vacation rental.

Help! I Got an Eviction Notice!

Is it a Notice to Vacate from your landlord?

Evictions for not paying rent or other lease violations require a 5-day Notice to Vacate. The 5 days does not include the day the notice was served, the weekend, or holidays. However, your lease might waive the 5-day notice. If you signed a lease like this, you agreed that your landlord does not need to give you a 5-day notice, and can go straight to court. But if you have a Section 8 voucher, your landlord **MUST** give you a 5-day notice.

What kind of notice is it?



OK

NO WAY!

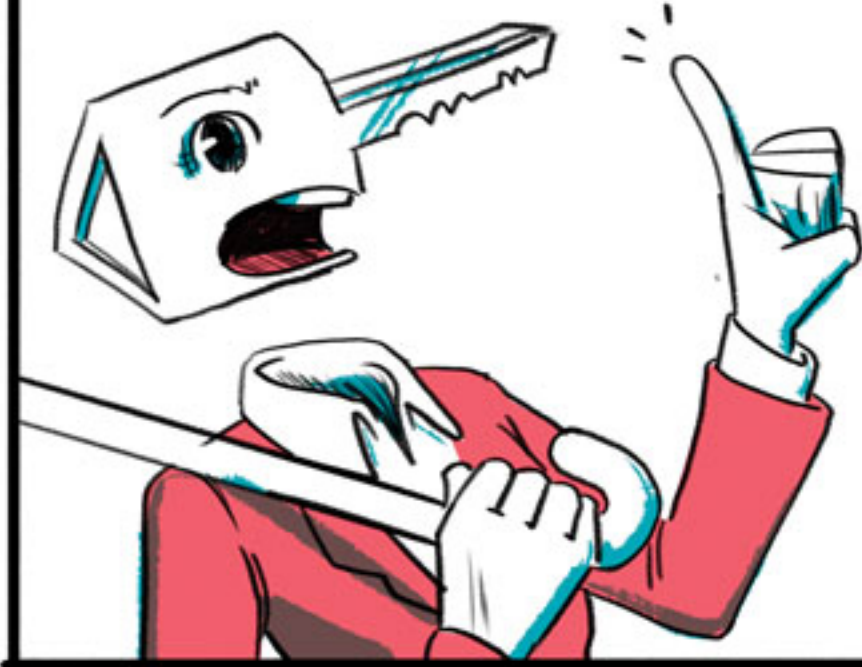
The Notice to Vacate can come from your landlord or the constable. A note scrawled on a napkin and taped to your door can be a valid Notice to Vacate. However, a text message is **NOT** a valid Notice to Vacate.



Is it an eviction notice from the court with a hearing date?

This notice is called the "Rule for Possession."

If your lease expires and your landlord does not want to renew, he has to give you 30 days' notice (if a year lease), or 10 days' notice (if a written or oral month-to-month lease). Your landlord has to follow the lease if it has a different notice requirement. If you don't leave, your landlord still has to go to court to evict you.



The Rule for Possession will have a court date where you can argue your case.

COURT ADDRESSES:
 East Bank of New Orleans: 421 Loyola Avenue
 West Bank of New Orleans: 225 Morgan Street

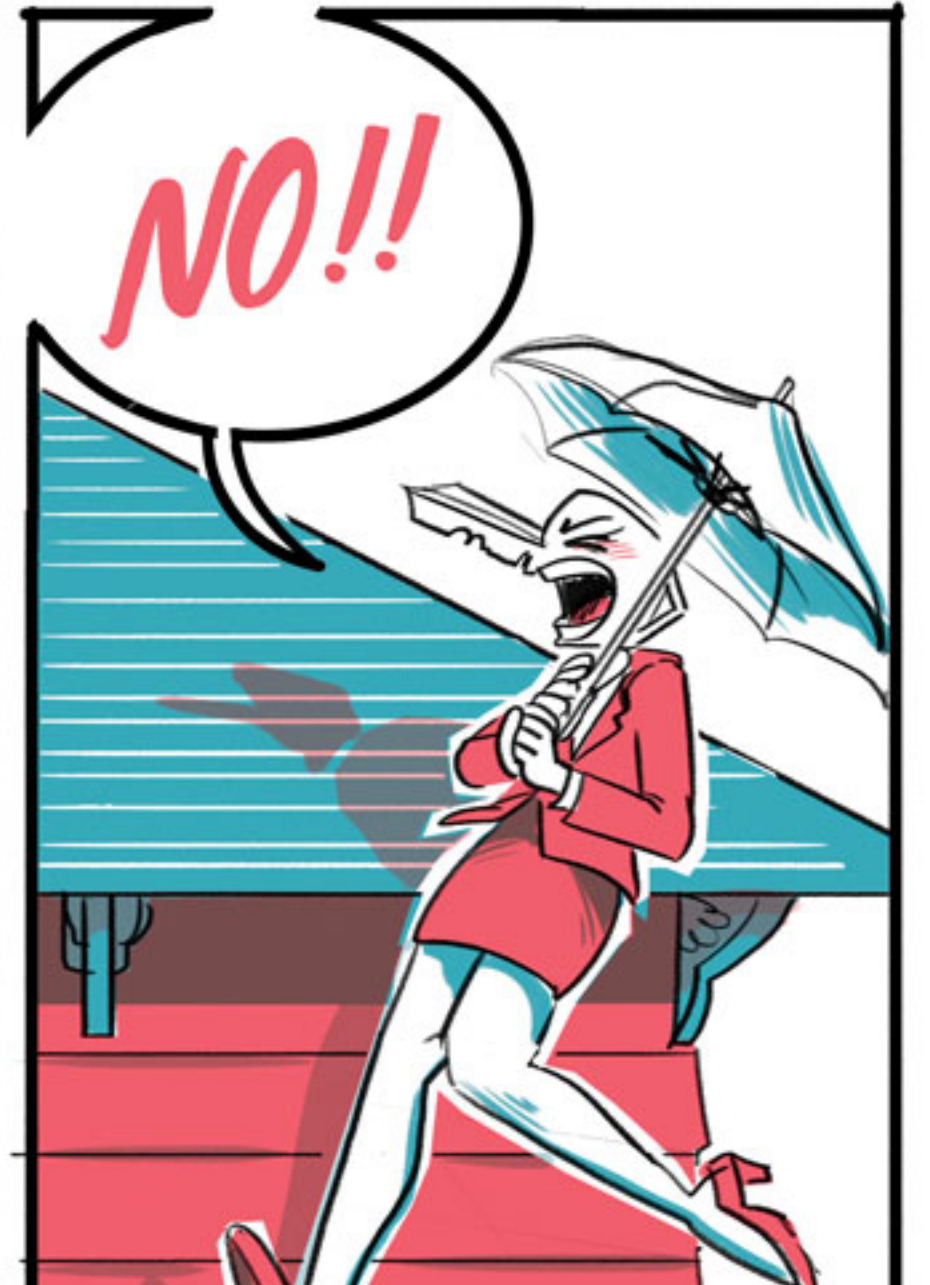
Tip!

Even if you move out before the court date, you should go to court and tell the judge. If the judge does not know you are out of the house, she can still put an eviction on your record.

The reason for the eviction must be on the Rule for Possession, and it must be the same reason listed on the Notice to Vacate



Can My Landlord...?!



Do I Have a Legal Defense to My Eviction?

What is the reason for eviction and do I have any legal defenses?



I'm glad you asked!

Is it for nonpayment of rent?



\$\$?

Did your landlord accept rent from you after the date the eviction was filed?

Do you have proof that you had to live somewhere else while your landlord made a major repair? If so, you may not owe rent for the period of time you were displaced.



Do you have receipts or money order stubs showing you paid the rent?

I'M TRYIN!



Do you have proof that you attempted to pay your rent on time? For example: text messages with your landlord, a dated money order, or post office receipt.



Do you have receipts showing you used your rent money to pay for necessary repairs? This only works if you notified your landlord of the issue and they failed to take action. Your notice should be in writing, but a text message is OK.

Do you have proof that you don't actually owe the amount your landlord is charging you? For example, you are on Section 8, or another program, and your landlord is trying to charge you the Housing Authority's portion of rent?



Is it for lease violations?



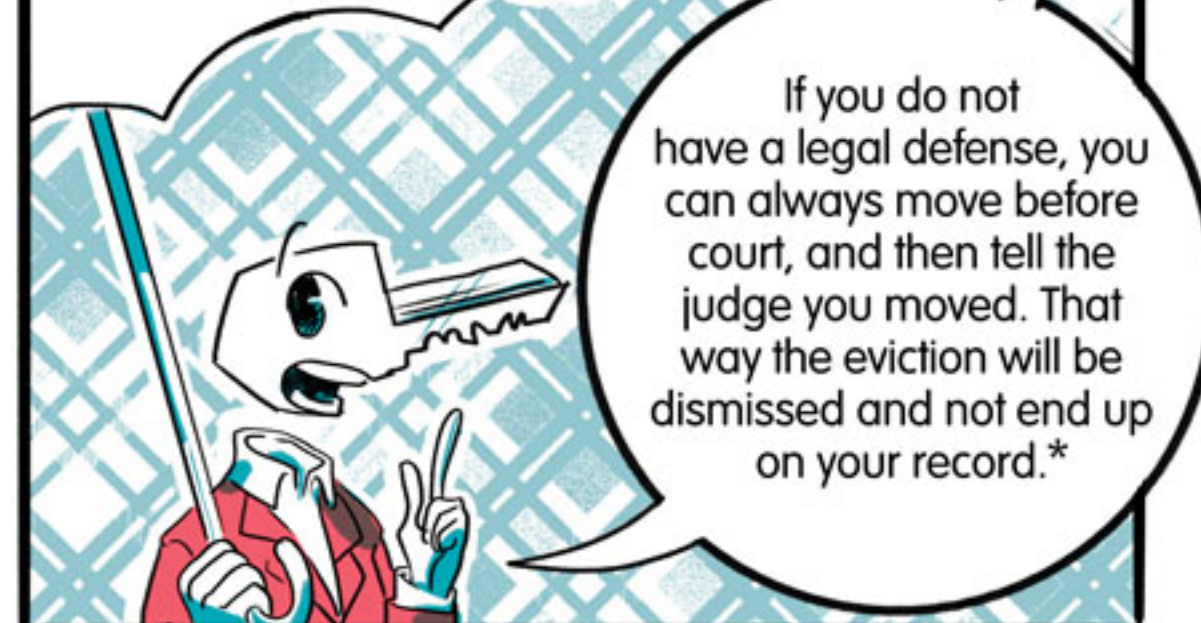
Do you have witnesses or documents showing that you did not violate the lease?



Does your lease say your landlord must give you an opportunity to fix or correct a violation before he can evict you for it?

*ARNO (Animal Rescue of New Orleans) is a local, non-profit, no-kill shelter.

You can use all these things to defend yourself at court!



If you do not have a legal defense, you can always move before court, and then tell the judge you moved. That way the eviction will be dismissed and not end up on your record.*

*TALK TO A LAWYER FOR MORE DEFENSES. IF YOU LIVE IN SECTION 8 OR PUBLIC HOUSING CONSULT WITH AN ATTORNEY BEFORE DOING THIS.

My Landlord Won't Fix Anything!

I refused to pay my rent because my landlord refused to make repairs. Is this a defense?



No, your landlord's refusal to make repairs is not a legal defense to nonpayment in Louisiana.



If you are displaced from your house while your landlord is making repairs, you may not be responsible for rent during the period of time you are not living there.

If you give your landlord notice of necessary repairs (ideally in writing), and your landlord fails to make them in a reasonable time, you can make the repairs yourself or hire someone to make them. You can deduct the amount you spent from future rent.

You must be able to show receipts for the repairs, and show that the repairs were necessary with photos or other evidence.

For example, if you notify your landlord in writing on July 10 that your AC is broken and your apartment is 100 degrees, and they do not do anything, you could hire someone to make the repair on July 25. Then you can deduct the cost from August rent (but not July rent). This is called "Repair and Deduct".

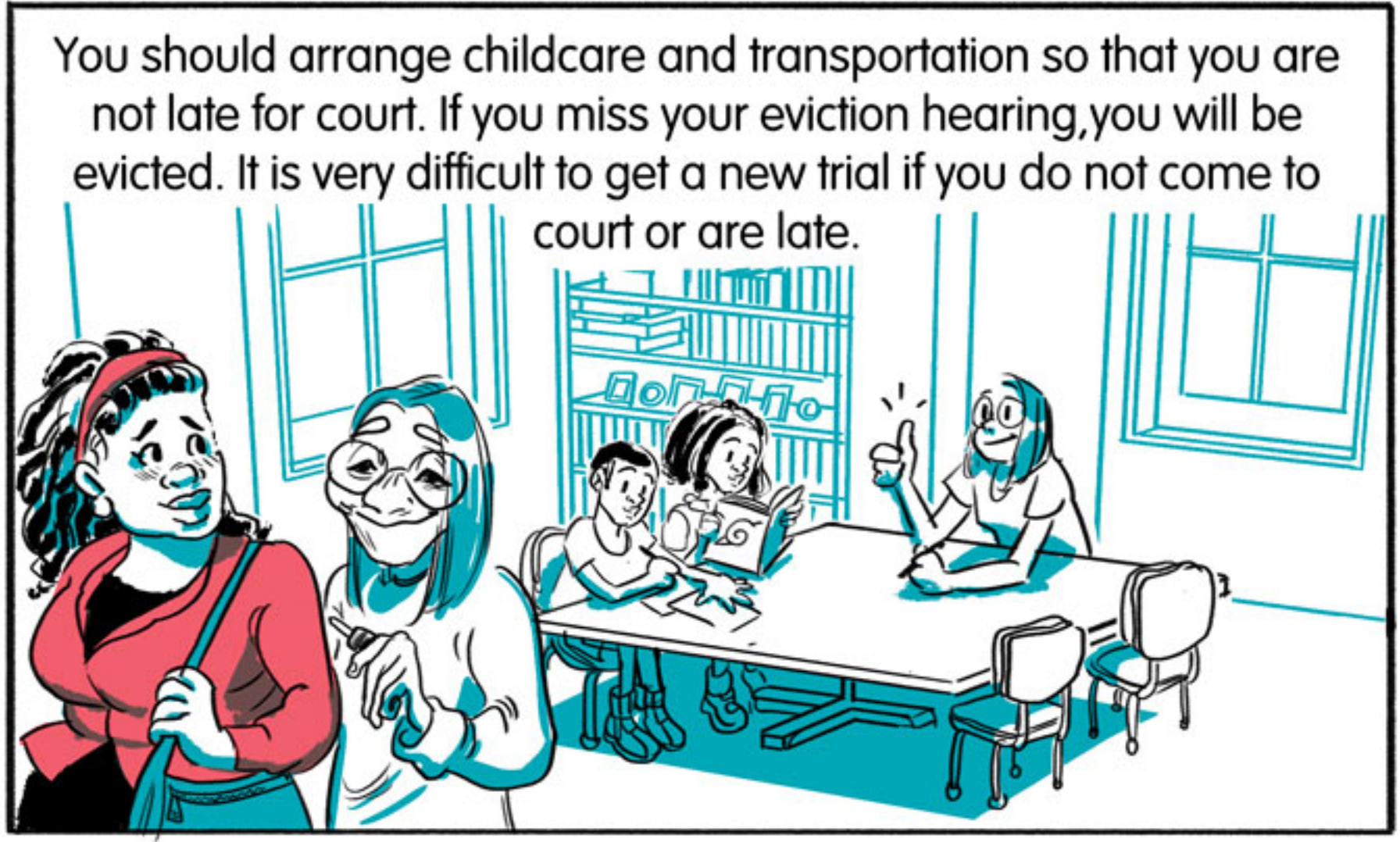


What Do I Need Before Court?



Before court you should pull together all of your evidence and witnesses (see page 8).

You should arrange childcare and transportation so that you are not late for court. If you miss your eviction hearing, you will be evicted. It is very difficult to get a new trial if you do not come to court or are late.




Planning ahead...

If you want to be able to appeal your eviction and stay in your home during the appeal, you must file an "Answer" before your court date. This is a document where you can explain your side of the story to the Judge. In addition to filing the Answer at the clerk's office, you must mail or give a copy to your landlord.

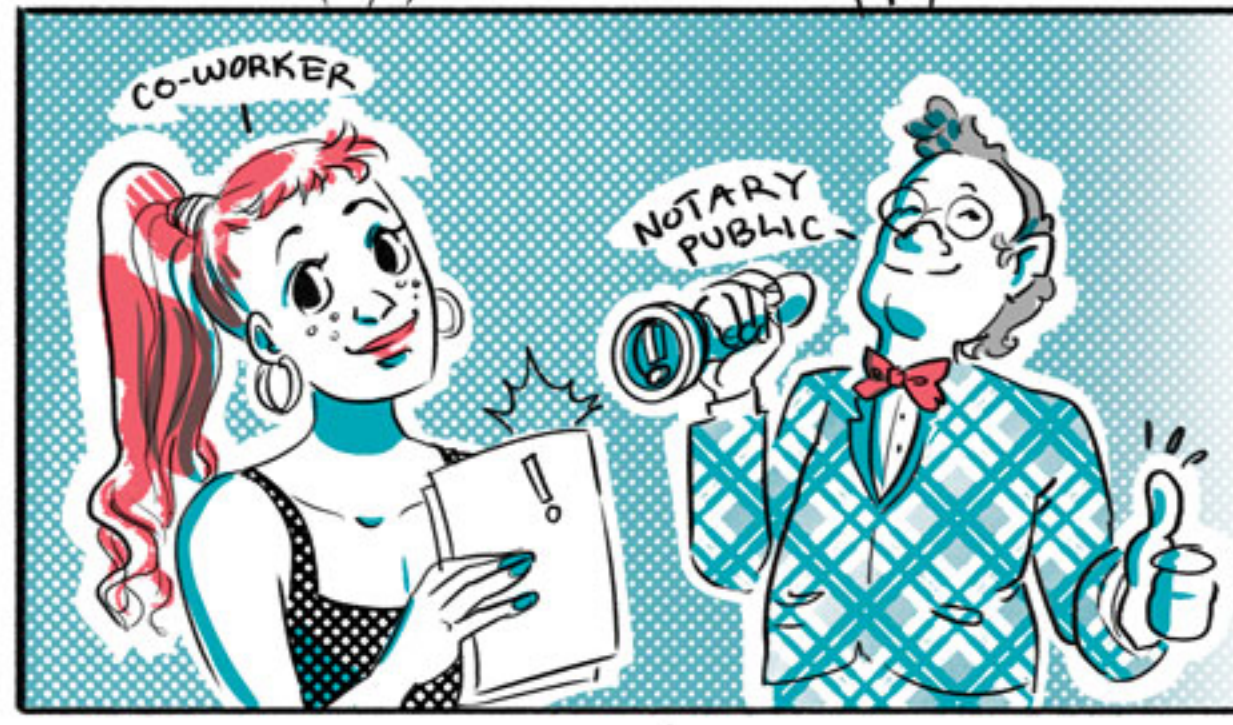
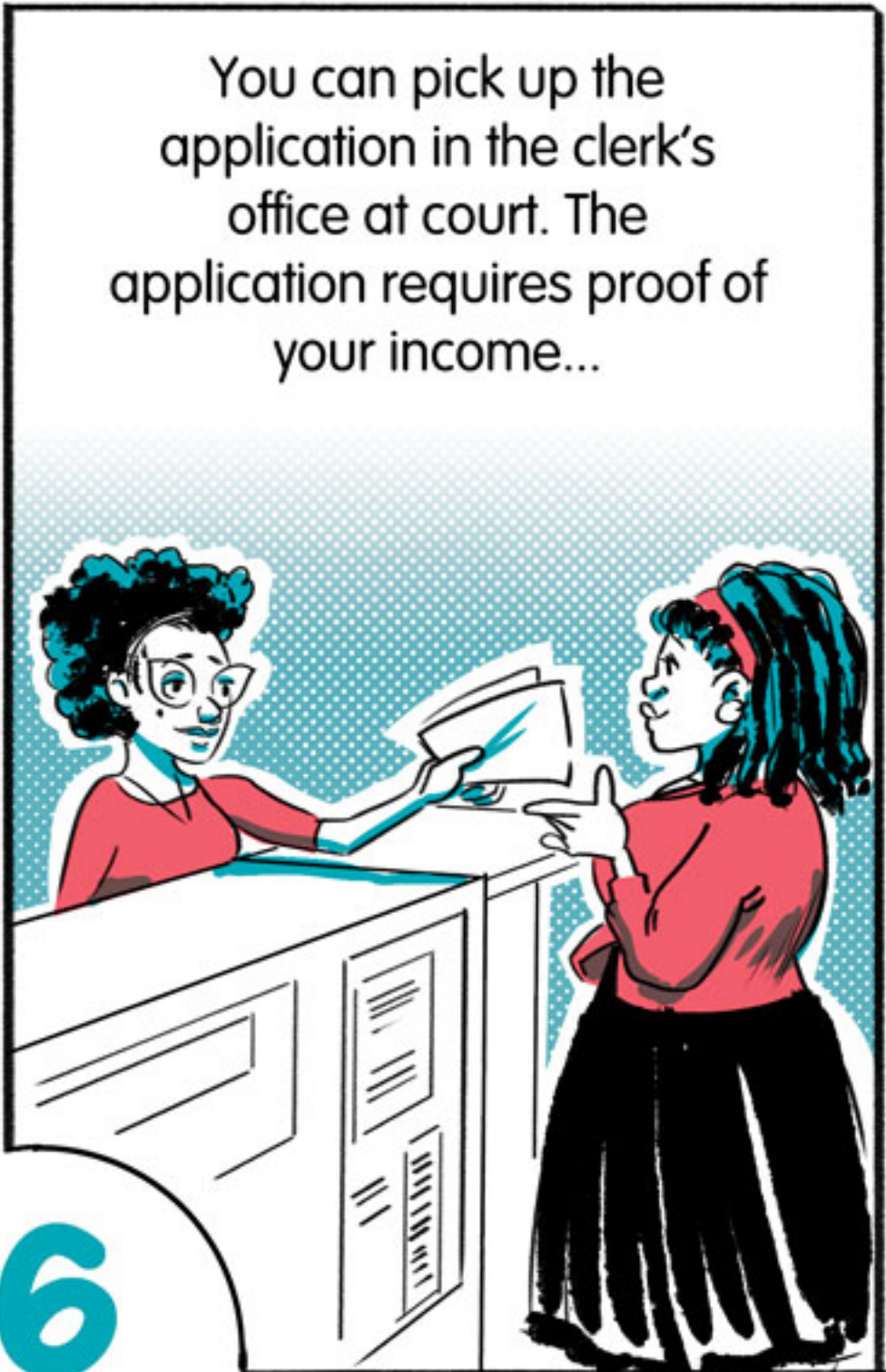


[Red scribble in speech bubble]

It costs money to file an Answer, but if you are low income you can avoid paying the costs up front by filling out an "in forma pauperis" (IFP) application.



You can pick up the application in the clerk's office at court. The application requires proof of your income...




CO-WORKER

NOTARY PUBLIC

...and verification that you are low-income by another adult that knows you but does not live with you (and it must be notarized).

If you don't file an answer before court you can still appeal, but you must move out of the house while the appeal is pending.



Consider getting a lawyer... page 14

What Happens in Court?



Be sure to get there early and check in with the staff in the courtroom.



In court all of the landlords and tenants sit in front of the judge and her staff.



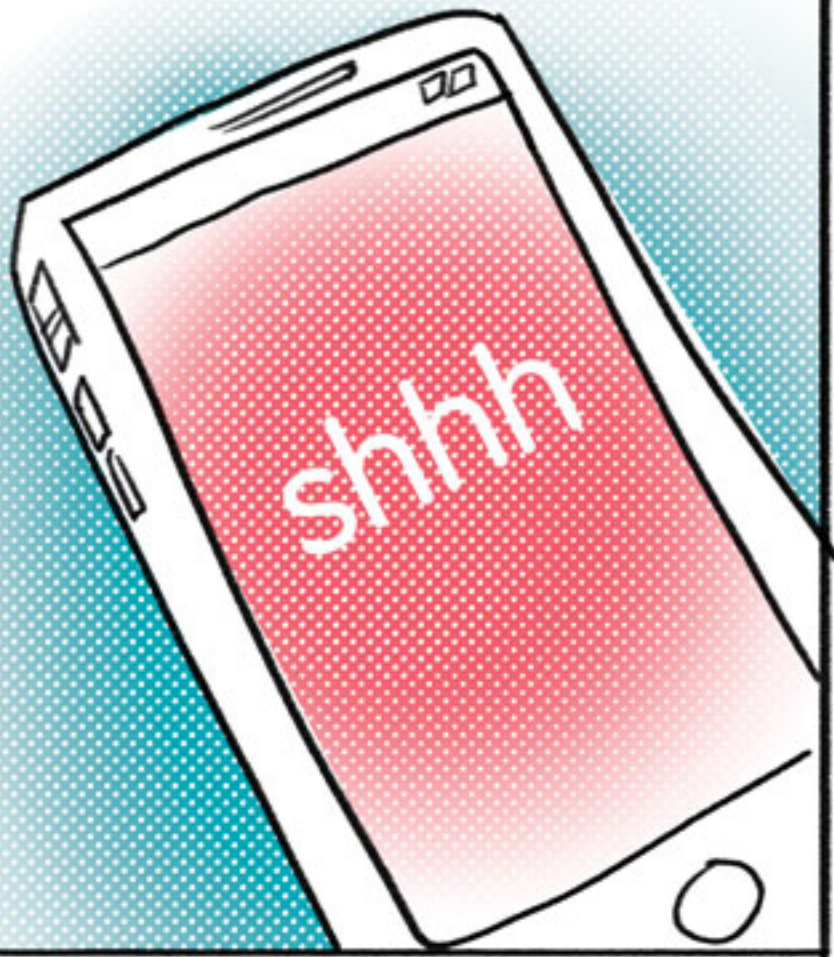
You should make sure to dress for court (no shorts, tank tops, or non-religious head coverings). The judge might kick you out of court if you are wearing these!

APPROPRIATE FOR COURT

CUTE, BUT NOT FOR COURT



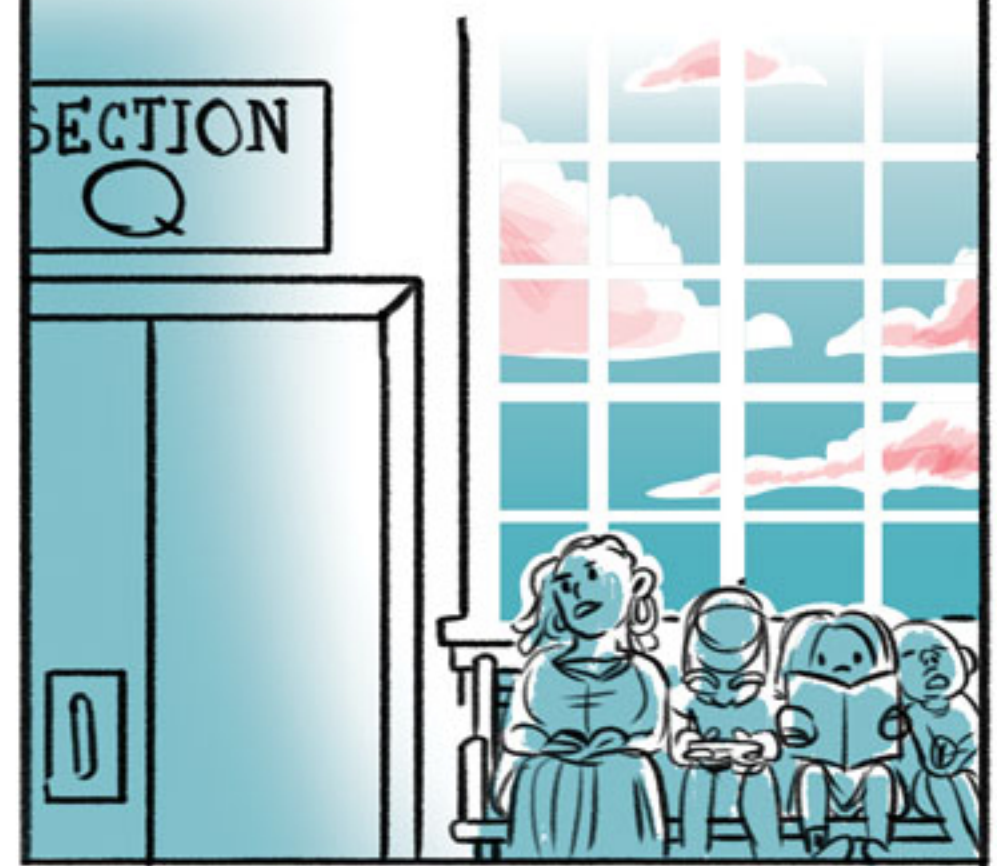
Make sure your phone is off or on silent.



You must be respectful of the judge and not talk over her or the landlord.



If you bring your kids to court, you may have to wait in the hall until your case is called.



The judge will first ask the landlord why they are evicting you.



If the landlord tries to show any photos or documents to the judge, you have a right to see them. You must ask the judge to let you see what is being presented.



Then you will have an opportunity to defend yourself.

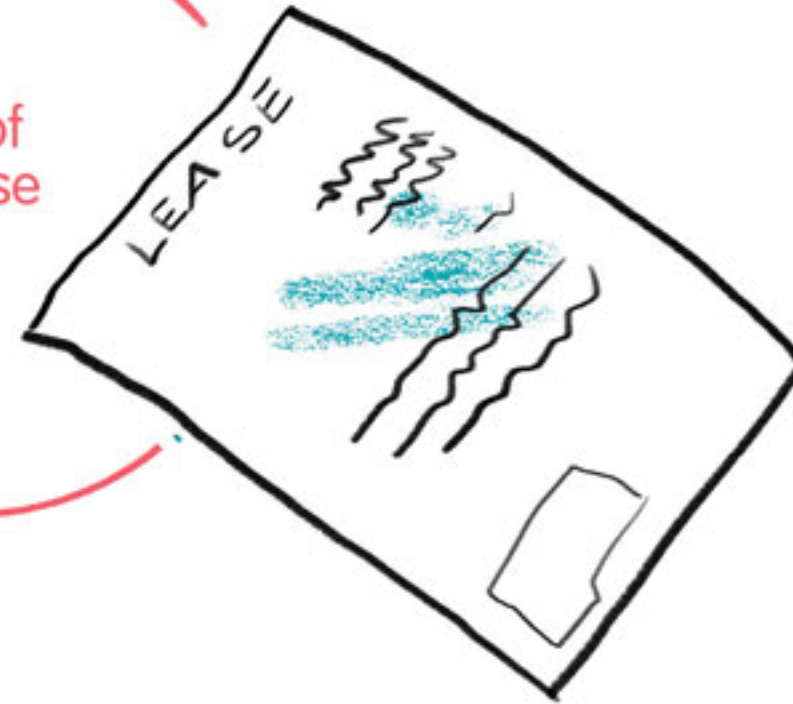


What Should I Bring to Court?

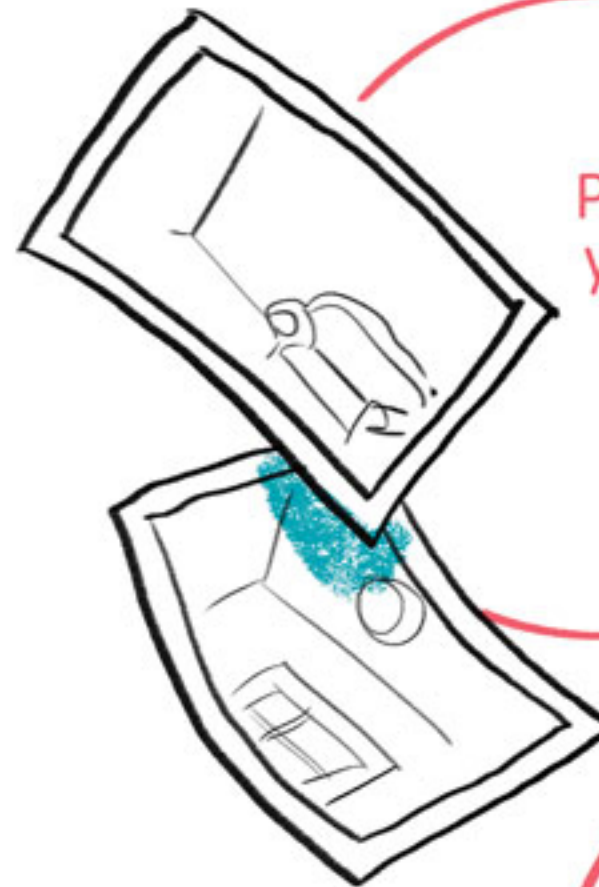


It is your responsibility to bring everything you need to prove your case. This might include...

A copy of your lease



Photos of your unit



Text messages or written correspondence with your landlord



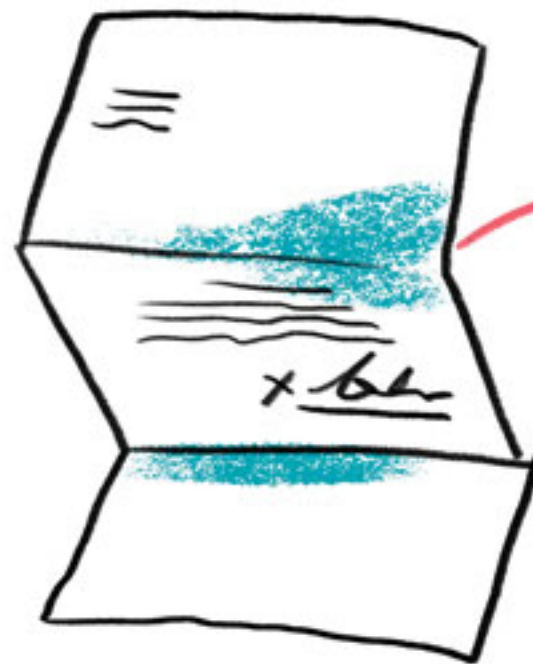
Witnesses who can support your side of the story



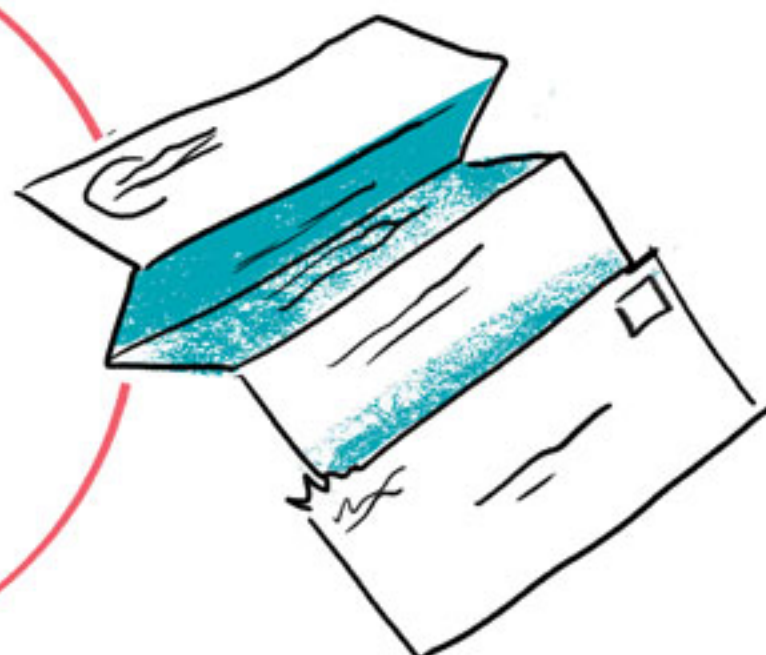
Receipts for repairs



Receipts for rent



Relevant documents from Section 8 or other government housing programs (for example the notice saying how much your rent portion is)



How Do I Defend Myself in Court?



"Your Honor, my landlord did not give me a notice to vacate and my lease does not contain a waiver of notice."

"Your Honor, the notice says we're here for nonpayment, but now my landlord is arguing I got in a fight with the neighbor. I did not receive proper notice of these accusations."

"Your Honor, my lease says the landlord has to give me a 7 day notice to cease and desist if I violate the lease. My landlord did not provide me with the required notice to move my car from the neighbor's parking spot."

Objections to the process your landlord used to evict you...



Defenses to your landlord's allegations...

"Your Honor, I paid my rent and here are the receipts."

"Your Honor, I tried to pay my rent before the 5th but my landlord wouldn't take it. Here is the money order dated the 4th to prove it."

"Your Honor, I'm on Section 8 and my Tenant Portion is only \$100. The landlord is trying to charge me the Housing Authority's portion of rent because they stopped paying due to failed inspections."

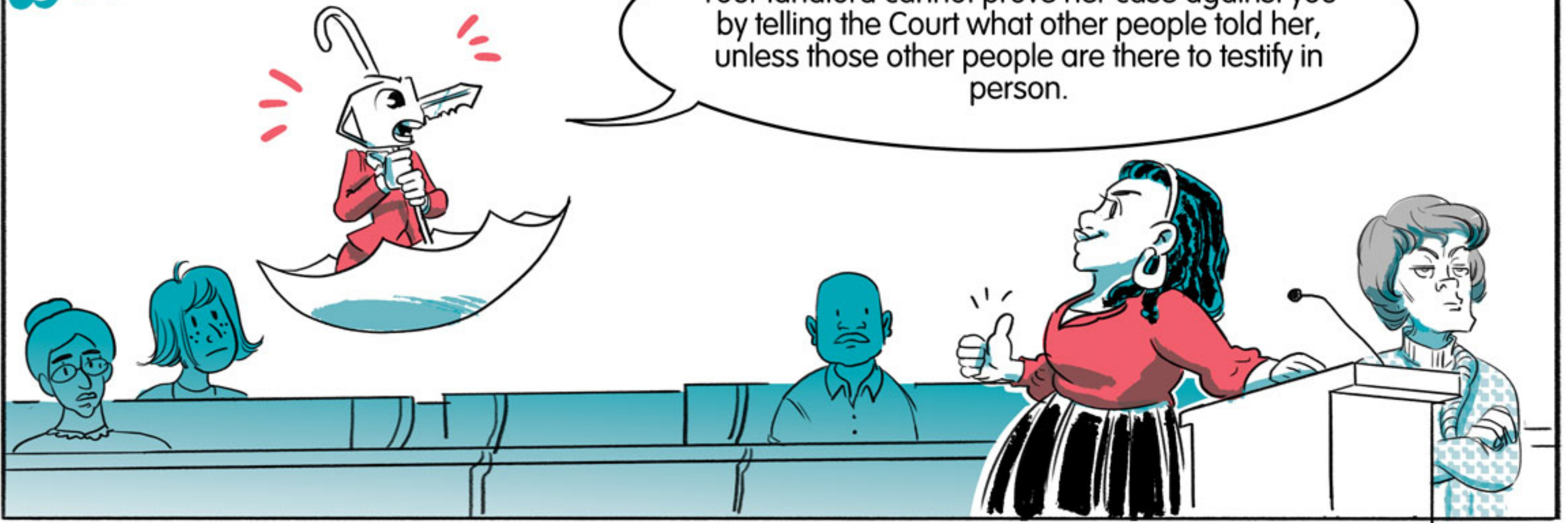
"Your Honor, I did Repair and Deduct. Here is a copy of the text message I sent my landlord in April that my plumbing was backing up. He did not do anything. Here are my receipts showing I had to pay a plumber \$600 to repair the issue in May. So I deducted \$600 from my June rent."

"Your Honor, I did not commit the violation my landlord is accusing me of. I did not damage the unit. Here are photos showing the scratch on the wall when I moved my bedroom set in, and more photos showing that I painted over it so it looks as good as new."



****WHATEVER YOU SAY, MAKE SURE YOU ARE RESPECTFUL TOWARD THE JUDGE AND OTHERS IN THE COURTROOM.****

Watch Out For Hearsay



"The upstairs neighbor told me..."

HEARSAY!

"I have a letter from the upstairs neighbor saying..."

HEARSAY!

"The Housing Authority told me..."

HEARSAY!

"This police report says..."

HEARSAY!

If the judge tries to let any of this in, you can object.

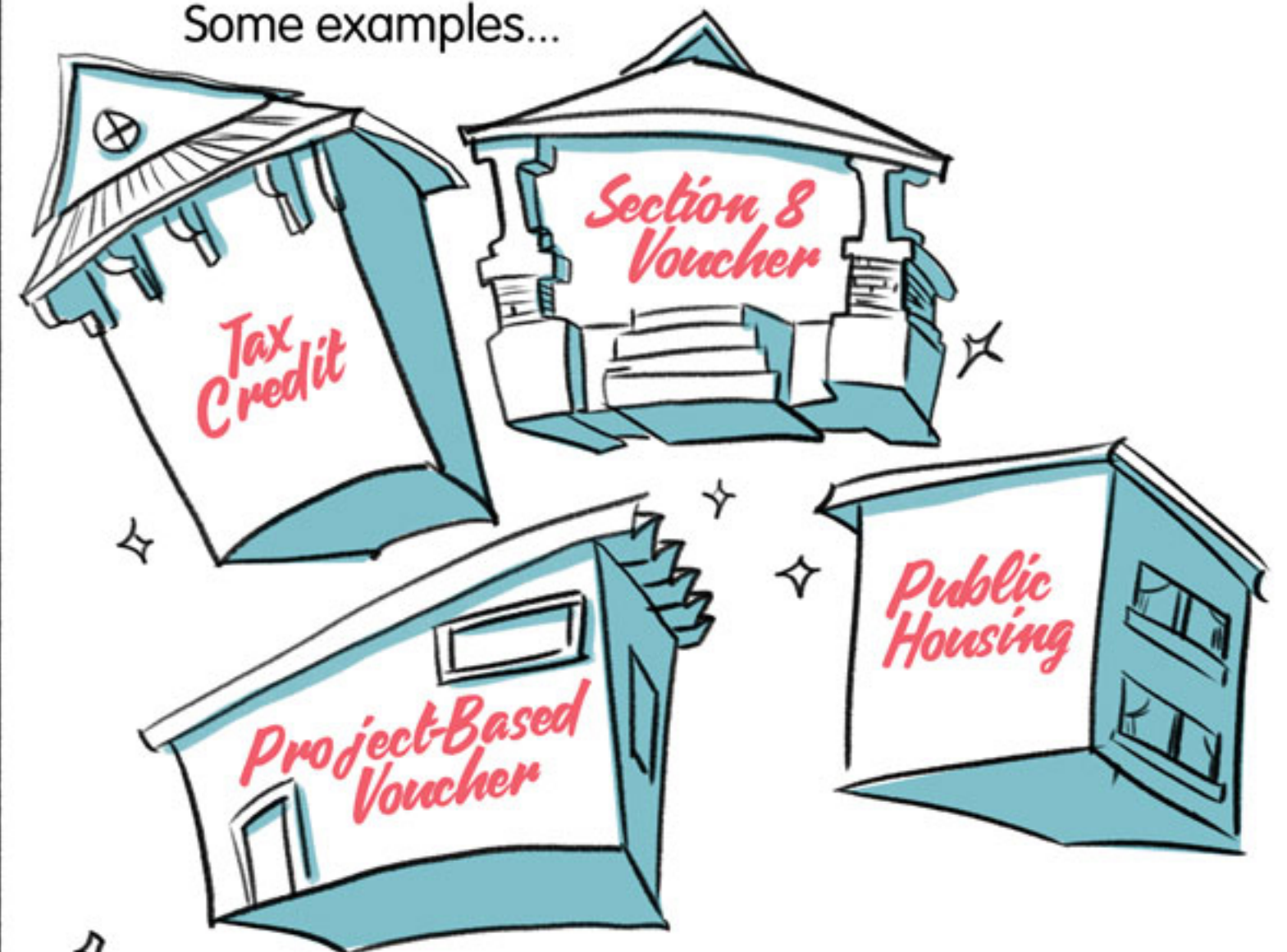
"Your honor, that's hearsay! The upstairs neighbor/Housing Authority/police officer is not here to testify."

Government Subsidized Housing Programs

I'm on a federal housing program like public housing or Section 8. Do I have additional rights?



Some examples...



Sometimes! There are many types of government subsidized housing programs and all of them have different rules. You should talk to a lawyer about the specific rules of your housing program.



Some types of government subsidized housing programs like public housing and tax credit housing require a good reason for lease non-renewal.



If you live in traditional public housing, you have a right to a grievance process before eviction in most cases.



This includes an informal meeting...



and a formal hearing...



STOP in the name of love, friendship, and tenant's rights!

If your landlord tries to evict you before going through the grievance process, the eviction cannot go forward.



Possible Outcomes at Court



If the judge agrees with your side of the story, the eviction could be dismissed. Then you get to stay in your house.



If the judge agrees with the landlord, you may have to vacate within 24 hours of the judgment getting tacked on your door (usually the same day as court or the next day).*



*If you are evicted by a justice of the peace, you will have 24 hours from the judgment being rendered.

If you do not vacate, your landlord can go back to court and get a "warrant for possession." This is NOT an arrest warrant! However, it does allow the constable to come out and physically remove you and your belongings from the house.



Consent Judgments

If you and your landlord agree to a payment plan, or a later move-out date, you can ask the judge for a "consent judgment". Even if you are not able to come to an agreement before court, it is still worth asking the judge for a consent judgment. A consent judgment is different than an eviction judgment because you are voluntarily agreeing to whatever is in the judgment. This is a good way to avoid an eviction judgment on your record. If you have a Section 8 voucher or live in government subsidized housing, it may help you keep your assistance.



After Court?



If you lose in court, you must move in the time period specified in the judgment.

If you think the judge decided your case wrongly, you can...

File a motion for a new trial.

You have 7 days to file a motion for a new trial with the judge who heard the case. As a practical matter, you must file it before the period of time specified in the judgment expires, which could be 24 hours. You must have some reason why you need to go in front of the judge again, for example new evidence.



Appeal to a higher court.

In order to stay in your house during the appeal, you must file a motion for appeal and put a money bond in the court registry within 24 hours of the eviction judgment. The bond is set by the judge, and it is usually about a month's rent. You must also have filed an answer before court (page 6). You can still appeal if you don't do these things, but you will have to move during the appeal. If you plan on moving during the appeal you have 10 days from the eviction judgment to file a motion for appeal, and you do not need to pay a bond. You should get an attorney if you are going to appeal.



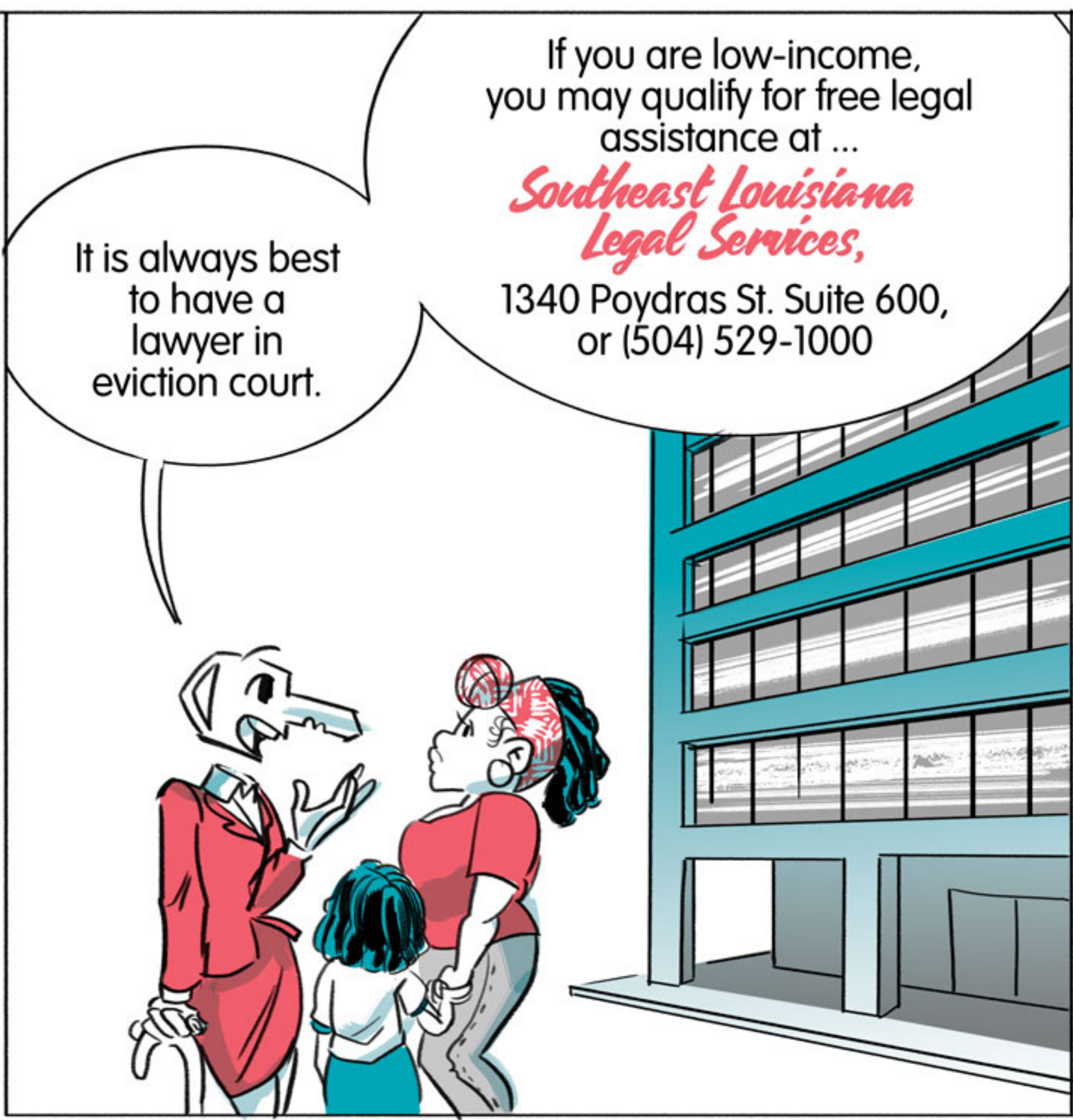
Note:

If you get evicted by a Justice of the Peace, you have a right to a new trial at parish or district court. You have 15 days to file for the new trial, called a "trial de novo." However, as a practical matter you must file for the new trial before the deadline set by the court for you to move. So if the court gives you 24 hours to move, you must file a petition for a new trial within 24 hours.

Tip!

Don't let the clerk's office tell you that the bond has to be a certain amount! It is up to the **judge** to set the bond on a case-by-case basis. Consult an attorney if you have problems.





If you are low-income, you may qualify for free legal assistance at ...
Southeast Louisiana Legal Services,
1340 Poydras St. Suite 600,
or (504) 529-1000



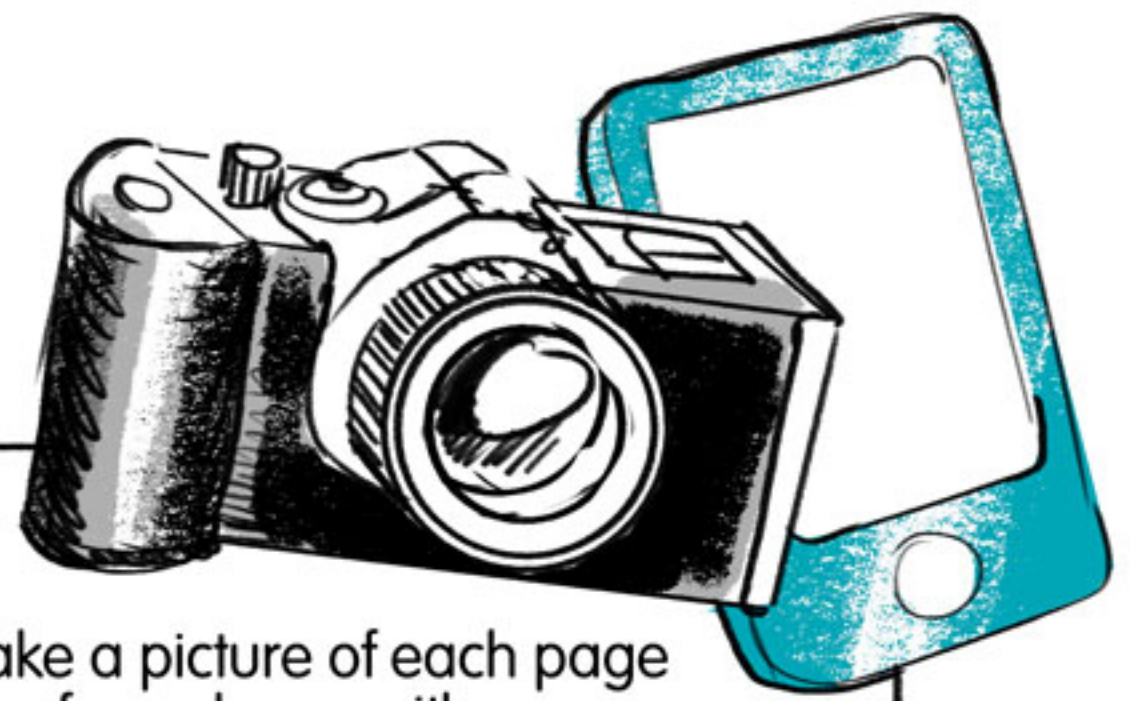
If you receive an eviction notice and want representation, you should talk to a lawyer right away. An attorney may be unable to represent you if 1) there is no time to prepare and 2) they are unavailable due to other appointments.

How to Protect Yourself From Eviction



2.

Do not pay in cash; always pay in a money order or check so you have proof of payment!



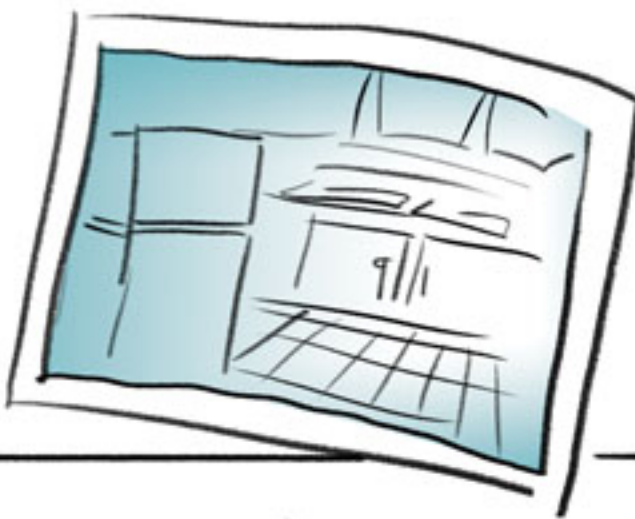
1.

Take a picture of each page of your lease with your phone. You can also download an app that will take scans, like "GeniusScan."



3.

Get receipts and keep them somewhere safe. Keep your communications with your landlord in writing. You can always text your landlord so you have a written record.



4.

Take date-stamped pictures of your house when you move in and/or complete a move-in checklist with your landlord.



5.

Get a copy of your lease. If you stay after the first year, ask your landlord for a new lease.



6.

Be a responsible tenant—communicate with your landlord, pay your rent on time, and abide by your lease.

My Landlord is Selling My House!



Does my lease apply to the new owner?

The new owner does not need to follow your lease unless your lease is recorded at the Land Records Division of the Clerk of Court's Office before the sale.

This office is located on the 4th floor of 1340 Poydras Street.

Can the new owner evict me?

The new owner can also evict you if they want the property. The owner should give you at least 10 days notice before the end of the month. Then they have to go through the legal eviction process if you don't leave. Unfortunately, there may not be a way to stop the eviction if your lease is not recorded, unless your landlord agreed in writing to follow your lease and began collecting rent.



Who should I pay rent to after the sale?

The new owner should give you notice of who to pay rent to. If she does not, you should get a money order or certified check dated before rent is late and keep it somewhere safe. Then you should contact an attorney about next steps.

What about my security deposit?

By law your security deposit is supposed to transfer to the new owner as part of the sale. You can make a claim for your deposit to both the new owner and the old owner after you move out.



What if my landlord gets foreclosed on?

You are protected by the Protecting Tenants in Foreclosure Act. The bank or other purchaser must give you at least 90 days to move, and may have to let you stay until the end of your lease. Consult a lawyer if this is your situation.



JPNSI holds monthly

Renters Rights Assemblies

to fight for housing justice. We hope to form a tenant union—a group made up of renters who band together to hold their landlord(s), public officials, and others accountable. We do renter education, fight against unjust evictions, court watch, and more. Additionally, we believe in expanding affordable housing for the community!

You can join us at 6pm on the first Thursday of every month at our offices. Dinner is provided and we have an attorney available to provide free legal information if you have any issues or questions about your housing situation.

*2533 Columbus Street
New Orleans, LA 70119*

For more information please call or e-mail **Y. Frank Southall**. He would love to talk to you one-on-one or as a group.

E-mail, text or call him at frank@jpnsi.org or (504) 517-5470





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