

## HOW TO STOP OR DELAY AN EVICTION

*As detailed in another statement, in New York State, only a marshal, sheriff, constable, or similar official (not a landlord!), with a court order, can legally lock a person out of their home, and only a court order will stop the scheduled eviction.*

### How do Tenants Ask Courts to Stop or Delay an Eviction?

Tenants can ask judges to order marshals or other officials to delay an eviction (or even to restore the tenant to the rental after an eviction) by filing an emergency motion called an "Order to Show Cause." Tenants can file these emergency requests with or without attorneys, but it is always better to work with an attorney, if possible. Judges use their discretion when deciding whether to delay evictions. Judges are not required to delay evictions, and tenants should not assume they will. Unless a judge orders the marshal or other official to delay the eviction, tenants should assume the official will evict them as scheduled.

*Note that this relief is generally only appropriate when a tenant received an eviction notice from a designated official.*

### How to file an Order to Show Cause

- Each housing court clerk has standard Order to Show Cause form packet which tenants can complete with or without an attorney.
- Tenants with eviction notices can request these forms from the clerk's desk or window at the courthouse.
- When completing these forms, tenants should list their "excuse" (i.e. their reason for missing a court date, if any), and a "defense" (or, a reason why the judge's decision should be changed).
- Tenants who cannot list an excuse and defense should simply describe their circumstances.
- Judges can use their discretion to delay evictions when tenants are facing compelling hardships, such as an illness, even if they do not have a proper legal defense.
- Once the forms are completed, the clerk will forward them to a judge for evaluation.
- If the judge signs the order to show cause, the judge will assign a new court date.
- The tenant then must serve a copy of the signed forms to the landlord or landlord's attorney, and the marshal or other official, as directed in the forms, and then return to court to file an affidavit of service, before the new court date.
- If the judge declines to sign the document, then the tenant should prepare for eviction, gathering all important documents, medications, and other valuable items in an easily portable container. (Tenants can appeal a judge's refusal to sign an Order to Show Cause, but these appeals are even less likely to succeed.)
- If you need assistance, contact HVJC immediately!

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