

CAO TR INSTRUCTION 1
COMPLAINT FOR SPECIFIC PERFORMANCE AND FOR EXPEDITED HEARING

This Complaint is used to file an action against your landlord to require the landlord to make necessary repairs which are vital to health or safety and/or involve reasonable water-proofing and weather protection or failure to maintain in good working order electrical, plumbing, heating, ventilation, cooling or sanitation facilities supplied by the landlord at the rented property. You must have served a written demand that the repairs be made at least 3 days (not counting the day of service) before you can file a Complaint. (You can use form TR 1 for the written demand.)

Talk to An Attorney, If Possible.

Warning: When you represent yourself in a court case you are held to the same standard as an attorney. This applies to your preparation of paperwork and your conduct at all hearings and/or trial. Your lack of legal knowledge may cause you to make serious errors in handling your case. These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee that your rights are protected or that you will be satisfied with the result. You should always talk to a lawyer about your legal problems before filing any legal paperwork. Even if you do not hire a lawyer to appear in your case, a lawyer can give you more information about your rights. Call the Idaho State Bar (208-334-4500) to provide you with the name of an attorney who handles landlord/tenant cases.

Fill in the forms by typing or printing neatly and legibly in **black ink**. Always keep a copy of the completed form for your records.

Instructions for filling out the Complaint:

- In the top left hand corner of the document, put your name on the first line and mailing address and zip code on the second and third lines. Put your phone number, including area code, on the fourth line.
- Inside the box write in your name(s) as the *plaintiff(s)*. The landlord is/are the *defendant(s)*. Write those names in the box.
- The blank after "Case No." is there for the court to place a case number when the case is filed. Do not put anything on that line.
- In paragraph 1 fill in the address of the rented property, including city and county.
- In paragraph 3 check which boxes apply and describe the specific repair to be made. If you have written documentation of the problem(s), you can make copies, label each as a specific **Exhibit (C, D, E, etc.)** and attach the copies to the Complaint.
- In paragraph 6, check one of the boxes to indicate defendant's military standing.

Sign and date the Complaint in front of a Notary Public.

Prepare the Summons for Specific Performance Pursuant to Idaho Code §6-320 (TR 1-2).

Make two copies of each document.

Take the Summons with copies and the Complaint with copies to the Courthouse and file in Magistrate Court. You may want to call ahead of time to see how much money you will need to bring for the filing fee. The filing fee must be paid in cash or by money order.

Service of Complaint on Defendant/Landlord: A person over the age of 18 and not a party to the law suit must personally serve the defendant(s). An Affidavit of Service or Return of Service is then filed with the Court to prove that the Defendant has been served. You can use form TR 2-1 for this. Be sure to make a copy of the service documents to keep for yourself.

Procedures at Trial: Attend the trial at the time scheduled—BE ON TIME. Make sure you notify the Court if the problem gets resolved before the court date. At the trial, you (tenant/plaintiff) must present testimony under oath and provide exhibits establishing a right to a Judgment and Order for Specific Performance. In this action, the plaintiff is entitled to only an order for specific performance such as repairs and bringing the rental premises into compliance, not a judgment for money. However, the judge can award the plaintiff the amount of money it cost them to file the case in court, along with other miscellaneous costs, and may award the plaintiff attorney fees if you are represented by an attorney at the trial. The testimony presented in court and the exhibits offered must establish:

- a. the defendant/landlord is/are the owner/s of the property described in the Complaint.
- b. the defendant/landlord entered into an agreement with the plaintiff/tenant for the rental of the property. (If the agreement was in writing, provide a copy of the agreement to the court and ask the judge to mark the rental agreement as an exhibit and admit the agreement into evidence.)
- c. the defendant/landlord failed to make repairs. (If the plaintiff/tenant has copies of written requests to the defendant/landlord requesting specific performance such as repairs, they may be introduced into evidence as an exhibit. Plaintiff/tenant should have certified mail receipts, copies of letters or requests, or written statements from or personal appearance by individuals who know that requests for specific performance were presented to the landlord either by mail or personal delivery.)
- d. the defendant/landlord tenant was served a 3-Day Demand for Specific Performance. A copy of the 3-Day Demand letter and proof of service of the 3-Day Demand should be marked as an exhibit and offered into evidence.