

4-923A. Petition by landlord for termination of tenancy and judgment of possession.

[Sections 47-8-35, 47-10-4 to 47-10-6 and 47-10-9 NMSA 1978; for use only with the Eviction Prevention and Diversion Program]

STATE OF NEW MEXICO
COUNTY OF _____
_____ COURT

_____, Plaintiff(s),

v.

No. _____

_____, Defendant(s).

**PETITION BY LANDLORD FOR TERMINATION OF TENANCY
AND JUDGMENT OF POSSESSION
(Mobile Home Park Act)**

Plaintiff, whose name is _____
_____ (include names of all Plaintiffs, if more than one), alleges:

1. Plaintiff is the landlord,¹ or an authorized representative of the management, of _____
_____ (name of mobile home park), and is lawfully entitled to
possession of the premises located at _____ (mailing address), _____
_____ (mobile home space no. or location), _____ County, New
Mexico _____ (zip code).

2. Defendant entered into possession of the premises under a rental agreement² and has
breached the terms of the agreement by (check all that apply)³:

<input type="checkbox"/> nonpayment of rent;	<input type="checkbox"/> noncompliance with local ordinance or state
<input type="checkbox"/> condemnation;	law or regulation concerning mobile homes;
<input type="checkbox"/> change of use; ⁴	<input type="checkbox"/> tenant conduct constituting annoyance to
<input type="checkbox"/> noncompliance with mobile	other tenants or interference with park
home park rules or regulation; ⁵ and	management.

A copy of any relevant rental agreement with Defendant is attached to this Petition.

3. The mobile home (is) (is not) subject to the security interest of a first lienholder.⁶
(If there is a first lien, complete the following.)
The first lienholder is _____, as evidenced by (select one): the
resident's application for tenancy or motor vehicle division title search statement. The
address of the first lienholder is _____
_____.

4. Defendant's contact information is as follows (*check one of the following*):
- Per Plaintiff's good faith search, Defendant's last known contact information is as follows (*include for all Defendants, if more than one*):
 Physical address: _____

 Mailing address (*if different*):

 Phone number with area code: _____

 Email address: _____

- Despite Plaintiff's good faith search, Plaintiff has been unable to determine Defendant's current physical, mailing, or email address or phone number, and Plaintiff states that Plaintiff communicates with Defendant as follows (*include information for all Defendants, if more than one*): _____

5. Plaintiff gave Defendant written (*check all that apply*):
- notice of nonpayment of rent on _____, _____ (*specific date*), and Defendant has failed to pay the amount due; and
- (*thirty*) (*sixty*)⁷ day notice to quit on _____, _____ (*specific date*), and Defendant has failed to vacate the premises.

This notice was given by (*select all delivery methods Plaintiff used*):

- hand delivery to the Defendant; certified mail, return receipt requested; &
 posting on the mobile home's main entrance.

A copy of any relevant written notice given to Defendant is attached to this Petition.

6. Plaintiff certifies that Plaintiff has provided, or immediately will provide, a copy of the Resource Information Sheet⁸ designated for use in this particular Court to the Defendant, along with this Petition for Termination of Tenancy and Judgment of Possession.
7. Plaintiff certifies that the property at issue in this case (*check one*):
- IS subject to federal 30-day notice to vacate requirements;
- IS NOT subject to federal 30-day notice to vacate requirements.⁹

(*check and complete Questions 8 and 9, if applicable*)

8. Defendant owes the Plaintiff the following itemized unpaid rent, utilities, and/or other charges in the total amount of \$ _____ as of the date of this petition.

(*attach an itemized list or insert amounts below for the monthly rent and other charges due through the date of this Petition, as may be evidenced by the rental agreement(s)*)

Itemized charges: _____

9. Plaintiff has received \$_____ in total government emergency rental assistance on behalf of the Defendant for the premises listed in Paragraph 1. \$_____ addressed back rent, and \$_____ was applied as future rent.
- Plaintiff is aware of a pending government rental assistance application made on behalf of Defendant for the premises listed in Paragraph 1 by:
- Defendant
- Plaintiff
- Other (*specify*): _____
10. Plaintiff holds \$_____ as a damage deposit for Defendant under the rental agreement.
11. Plaintiff requests separate trials on the issues of restitution and damages.
12. Plaintiff requests judgment against Defendant, remedied by (*select all remedies that Plaintiff seeks*):
1. Immediate possession of the premises;
2. Unpaid rent of \$_____, plus future rent calculated as \$_____ per _____ (*time period*) up to the date of restitution;
3. Unpaid utilities of \$_____;
4. Damages as may be determined by the Court;¹⁰
5. Court costs;¹¹
6. Reasonable attorney fees;¹¹
7. Other relief as the court may deem reasonable.

AFFIRMATION

(required, unless signed by an active New Mexico attorney)

I SWEAR OR AFFIRM, under penalty of perjury under the laws of the State of New Mexico, that the statements in this petition are true and correct to the best of my knowledge.

Dated: _____

Plaintiff Signature

Plaintiff Name (*print*)

Plaintiff Address (*print*)

City, State and Zip Code (*print*)

Plaintiff Telephone Number

Plaintiff Email Address

USE NOTES

1. *See* Section 47-10-2(A) NMSA 1978 (defining "landlord" or "management" under the Mobile Home Park Act).
2. The plaintiff must bring a copy of any written rental agreement to court for any hearing or trial on the petition for termination of tenancy and judgment of possession.
3. One of these reasons must apply. *See* Section 47-10-5 NMSA 1978 (listing permissible reasons for termination); Section 47-10-6 NMSA 1978 (addressing termination for nonpayment of rent).
4. If the plaintiff seeks to terminate the tenancy to change the use of the property and applicable zoning law permits the change of use, the plaintiff must provide six (6)-months notice. *See* Section 47-10-5(E) NMSA 1978.
5. *See* Section 47-10-5(C) NMSA 1978 (addressing when rules and regulations of the mobile home park are applicable).
6. *See* Section 47-10-2(K) NMSA 1978 (defining "first lienholder"); Section 47-10-9(F)-(J) (providing additional definitions); Section 47-10-9(L) (describing process if first lienholder has paid in full).
7. The law requires sixty (60)-days notice if the tenant must remove a multisection mobile home. *See* Section 47-10-3(C) NMSA 1978.
8. Provide the Resource Information Sheet designated for use in the applicable court. For example, separate sheets exist for: (1) unincorporated areas of Bernalillo County; (2) Doña Ana County; and (3) Albuquerque and other parts of the State of New Mexico.
9. This may be a complicated legal determination, and Plaintiff is encouraged to consult an attorney. *See* generally the commentary to this form.
10. *See* Section 47-10-10(D) NMSA 1978 (allowing actual damages, equitable, and injunctive relief); Section 47-10-18 NMSA 1978 (applying Uniform Owner Resident Relations Act ("UORRA") unless Mobile Home Park Act is in direct conflict); Section 47-8-52 NMSA 1978 (same); Section 47-10-4(A) NMSA 1978 (stating that termination actions are "commenced and prosecuted in the manner described in" UORRA); 47-8-33(F) NMSA 1978 (addressing the recovery of damages and injunctive or other relief); Section 47-8-35 NMSA 1978 (addressing damages for breach of the rental agreement and reasonable attorney fees).
11. *See* Section 47-10-18 NMSA 1978 (applying UORRA unless Mobile Home Park Act is in direct conflict); Section 47-8-52 NMSA 1978 (same); Section 47-10-4(A) NMSA 1978 (stating that termination actions are "commenced and prosecuted in the manner described in" UORRA); Section 47-8-48(A) NMSA 1978 (addressing attorney's fees and court costs).

[Provisionally adopted by Supreme Court Order No. 22-8300-003, effective for all cases pending or filed on or after February 1, 2022, that are subject to the Eviction Prevention and Diversion Program.]