

1 **4-923A. Petition by landlord for termination of tenancy and judgment of possession.**

2
3 [Sections 47-8-35, 47-10-4 to 47-10-6 and 47-10-9 NMSA 1978; for use
4 only with the Eviction Prevention and Diversion Program]

5
6 STATE OF NEW MEXICO
7 COUNTY OF _____
8 _____ COURT

9 _____, Plaintiff(s),

10
11 v. No. _____

12
13 _____, Defendant(s).
14
15

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

19
20 Plaintiff, whose name is _____
21 _____ (include names of all Plaintiffs, if more than one), alleges:
22

23 1. Plaintiff is the landlord,¹ or an authorized representative of the management, of _____
24 _____ (name of mobile home park), and is lawfully entitled to
25 possession of the premises located at: _____
26 _____ (mailing address), _____
27 _____ (mobile home space no. or location), _____ County, New
28 Mexico _____ (zip code).
29

30 2. Defendant entered into possession of the premises under a rental agreement² and has
31 breached the terms of the agreement by (check all that apply)³:
32 [] nonpayment of rent; [] noncompliance with local ordinance or
33 [] condemnation; state law or regulation concerning mobile
34 [] change of use;⁴ homes;
35 [] noncompliance with mobile home [] tenant conduct constituting annoyance to
36 park rules or regulation;⁵ and other tenants or interference with park
37 management.
38 A copy of any relevant rental agreement with Defendant is attached to this Petition.

39
40 3. The mobile home (is) (is not) subject to the security interest of a first lienholder.⁶
41 (If there is a first lien, complete the following.)
42 The first lienholder is _____, as evidenced by (select one): [] the resident's
43 application for tenancy or [] motor vehicle division title search statement. The address of

1 the first lienholder is _____
2 _____.

3
4 4. Defendant's contact information is as follows (*check one of the following*):

5 Per Plaintiff's good faith search, Defendant's last known contact information is as
6 follows (*include for all Defendants, if more than one*):

7 Physical address: _____

8
9 Mailing address (*if different*): _____

10
11 Phone number with area code: _____

12
13 Email address: _____

14
15 Despite Plaintiff's good faith search, Plaintiff has been unable to determine
16 Defendant's current physical, mailing, or email address or phone number, and
17 Plaintiff states that Plaintiff communicates with Defendant as follows (*include*
18 *information for all Defendants, if more than one*): _____

19
20
21
22 5. Plaintiff gave Defendant written (*check all that apply*):

23 notice of nonpayment of rent on _____, _____ (*specific*
24 *date*), and Defendant has failed to pay the amount due; and

25 (*thirty*) (*sixty*)⁷ day notice to quit on _____, _____
26 (*specific date*), and Defendant has failed to vacate the premises.

27
28 This notice was given by (*select all delivery methods Plaintiff used*):

29 hand delivery to the Defendant; certified mail, return receipt requested; &

30 posting on the mobile home's main entrance.

31 A copy of any relevant written notice given to Defendant is attached to this Petition.
32

33 6. Plaintiff certifies that Plaintiff has provided, or immediately will provide, a copy of the
34 Resource Information Sheet⁸ designated for use in this particular Court to the Defendant,
35 along with this Petition for Termination of Tenancy and Judgment of Possession.
36

37 7. Plaintiff certifies that the property at issue in this case (*check one*):

38 IS subject to federal 30-day notice to vacate requirements;

39 IS NOT subject to federal 30-day notice to vacate requirements.⁹
40

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

42 8. Defendant owes the Plaintiff the following itemized unpaid rent, utilities, and/or
43 other charges in the total amount of \$ _____ as of the date of this petition.
44

1 (attach an itemized list or insert amounts below for the monthly rent and other charges
2 due through the date of this Petition, as may be evidenced by the rental agreement(s))
3

4 Itemized charges: _____
5 _____
6 _____
7

8 9. Plaintiff has received \$ _____ in total government emergency rental
9 assistance on behalf of the Defendant for the premises listed in Paragraph 1.
10 \$ _____ addressed back rent, and \$ _____ was applied as future rent.
11

12 Plaintiff is aware of a pending government rental assistance application made on
13 behalf of Defendant for the premises listed in Paragraph 1 by:

14 Defendant

15 Plaintiff

16 Other (specify): _____
17

18 10. Plaintiff holds \$ _____ as a damage deposit for Defendant under the rental agreement.
19

20 11. Plaintiff requests separate trials on the issues of restitution and damages.
21

22 12. Plaintiff requests judgment against Defendant, remedied by (select all remedies that
23 Plaintiff seeks):

24 1. Immediate possession of the premises;

25 2. Unpaid rent of \$ _____, plus future rent calculated as
26 \$ _____ per _____ (time period) up to the date of
27 restitution;

28 3. Unpaid utilities of \$ _____;

29 4. Damages as may be determined by the Court;¹⁰

30 5. Court costs;¹¹

31 6. Reasonable attorney fees;¹¹

32 7. Other relief as the court may deem reasonable.
33

AFFIRMATION

34 (required, unless signed by an active New Mexico attorney)
35

36
37 I SWEAR OR AFFIRM, under penalty of perjury under the laws of the State of New Mexico,
38 that the statements in this petition are true and correct to the best of my knowledge.
39

40 Dated: _____

_____ Plaintiff Signature

_____ Plaintiff Name (print)

_____ Plaintiff Address (print)
45

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).

1 [Provisionally adopted by Supreme Court Order No. 22-8300-003, effective for all cases filed or
2 pending on or after February 1, 2022, that are subject to the Eviction Prevention and Diversion
3 Program.]
4

5 **Commentary** — Question 7 requires the plaintiff to state whether the property at issue is subject
6 to federal thirty (30)-day notice to vacate requirements. Most properties associated with the U.S.
7 Department of Housing and Urban Development (HUD) are subject to this requirement at this
8 time. *See* Extension of Time and Required Disclosures for Notification of Nonpayment of Rent,
9 86 Fed. Reg. 55693 (proposed Oct. 7, 2021) (to be codified at 24 C.F.R. pts. 247, 880, 882, 884,
10 966) (specifying application to public housing and project based rental assistance, including
11 "Section 8, Section 8 Moderate Rehabilitation, Section 202/162 Project Assistance Contract,
12 Section 202/162, Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC,
13 Section 236 Rental Housing Assistance Program and Rent Supplement").
14

15 Other properties, including those subject to a federally backed mortgage loan, may fall under a
16 thirty (30)-day notice requirement in the Coronavirus Aid, Relief, and Economic Security Act
17 ("CARES Act"). *See generally* 15 U.S.C. § 9058 (2021). A federally backed mortgage is any loan
18 secured by the real property and made, "insured, guaranteed, supplemented, [secured,
19 administered,] or assisted in any way" by any federal officer or any part of the federal government.
20 *See id.* at §§ 9058(a)(4)-(5).
21

22 While the current HUD and CARES Act provisions may or may not expire, some federal thirty
23 (30)-day notice to vacate requirements are permanent. *See, e.g.*, 24 CFR § 92.253(c) (2021).
24

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26 pending on or after February 1, 2022, that are subject to the Eviction Prevention and Diversion
27 Program.]