

4-904B. Petition by owner for restitution.

[Sections 47-8-42 and 47-8-46 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 OWNER FOR RESTITUTION
(Uniform Owner-Resident Relations Act)

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

1. Plaintiff is an owner¹ lawfully entitled to possession of the premises located at: _____, New Mexico *(include street number and street, name of apartment complex, building, and unit number (if any), city, and 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)*:

<input type="checkbox"/> nonpayment of rent;	<input type="checkbox"/> substantial violation of, or material
<input type="checkbox"/> damage to premises;	non-compliance with, rental or other
	agreement; or
<input type="checkbox"/> other <i>(explain facts)</i> : _____	

3. A copy of any relevant rental agreement with Defendant is attached to this petition. 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)*: _____

4. On _____, _____ (*specific date*), Plaintiff gave Defendant written notice of (*check all that apply*):

- termination of the rental agreement or residency; and
- breach of the rental agreement that Defendant has failed to remedy.

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

- hand delivery to the Defendant
- hand delivery to _____

mail; _____ (full name); and

posting on exterior door.

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

5. Plaintiff certifies that Plaintiff has provided, or immediately will provide, a copy of the Resource Information Sheet³ designated for use in this particular Court to the Defendant, along with this Petition for Restitution.

(*check and complete Questions 6 and 7, if applicable*)

6. Defendant owes the Plaintiff the following itemized unpaid rent 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:

_____	_____
_____	_____
_____	_____

7. 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*): _____

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

9. Plaintiff requests separate trials on the issues of restitution and damages.

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

4. Court costs;⁵

5. Reasonable attorney fees;⁵

6. A civil penalty as provided by law;⁶

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 47-8-3 NMSA 1978 (defining “owner” under the Uniform Owner-Resident Relations Act); Section 47-8-19(C) NMSA 1978 (addressing owner disclosures under the Uniform Owner-Resident Relations Act and describing who constitutes the owner’s agent).

2. The owner must bring a copy of any written rental agreement to court for any hearing or trial on the Petition for Restitution.

3. 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.

4. See Section 47-8-33(F) NMSA 1978 (addressing the recovery of damages and injunctive or other relief); Section 47-8-35 NMSA 1978 (addressing claims for rent, damages, and reasonable attorney fees).

5. See Section 47-8-48(A) NMSA 1978 (addressing attorney fees and court costs).

6. See Section 47-8-22(F) NMSA 1978 (providing that a “resident shall . . . not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so”); Section 47-8-48(C) NMSA 1978 (providing that a “resident who intentionally violates a provision of Subsection F of Section 47-8-22 NMSA 1978 shall be subject to a civil penalty equal to two times the amount of the monthly rent.”).

[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; as amended by Supreme Court Order No. 22-8300-008, effective for all cases filed or pending on or after April 13, 2022, that are subject to the Eviction Prevention and Diversion Program.]