

How to Stop a Landlord from Denying your Housing Application Because of an Eviction

Introduction

Many landlords automatically deny rental applications from anyone with any kind of “eviction record.” Having an “eviction record” typically means an unlawful detainer (eviction) lawsuit appears on your tenant-screening report. These reports usually include all filed cases dating back at least seven years, even if settled or dismissed. An eviction record can lead to the denial of housing even if the judge or landlord dismissed the case before trial, the tenant won, or the case is many years old.

Starting June 9, 2016, a new law may allow you to get an order from the eviction court stopping **tenant screening companies** from using your eviction record when you apply for housing.

How can I keep my eviction record from being used against me?

You may be able to ask the court to **redact** (black out your name) or change the court record, so your name does not appear. This is only allowed in very limited cases, such as for domestic violence victims who were not at fault for their eviction.

For everyone else, the court may now grant an Order of Limited Dissemination. If you get one of these orders, tenant screening companies cannot tell your landlord about the eviction or use the eviction record in calculating a score or making a recommendation. You must:

- Ask the court to order the companies to not use the eviction record.
- Send a copy of the order to any company doing a tenant screening for your landlord to make sure they do not report your eviction. This packet includes a sample cover letter you can use.

This order **does not** keep a potential landlord from asking if you have ever been evicted or looking up the records on their own. It **will** keep the tenant screening report, which many landlords use, from telling the landlord about the eviction.

Can I get an Order of Limited Dissemination?

Possibly, if you were a defendant in an eviction case AND you have “good cause” for the court to limit dissemination of the record. There are three ways to establish good cause:

- The first is if the court found that the landlord’s case was “sufficiently without basis in fact or law.” This generally means you won the case by showing the landlord was wrong.

- The second way to establish good cause is by “reinstating” a tenancy: an eviction was filed, but you then fixed the problem with the landlord (such as by paying off a rent balance) and stayed in the unit.
- The third way to establish good cause is to persuade the court that there is “other good cause” to limit dissemination of the eviction record. Some **examples** could be: you had a good defense to the eviction case and settled the matter out of court; the landlord agrees you have good cause to limit dissemination; you have strong evidence of changed circumstances since the eviction (such as a new job or a housing voucher, or treatment for mental health issues or a substance abuse problem that caused the eviction).

I am currently in an eviction. Can I get an Order of Limited Dissemination?

Possibly. You can ask the court to order limiting dissemination of the court record. You can also ask the opposing landlord or attorney to “stipulate” (agree) to the entry of an order for limited dissemination. The landlord may agree to this if you agree to something in return, such as paying rent you owe or promising to move out.

If your case is already over, you can also use the process below.

My eviction case is already over. How do I get an Order of Limited Dissemination?

You must file a motion and have a hearing before a judge or commissioner. You must give your landlord a copy of the paperwork. The landlord can come to the hearing and object to the order.

Filling out the Forms

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- ❖ The landlord in the eviction is the **plaintiff**. You and any others that lived with you are the **defendants**.
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This packet has blank forms for you to use.

1. Instructions for the Motion for Order of Limited Dissemination

Fill out the caption with your name (Respondent), landlord’s name (Petitioner), court’s name, and court case number from the eviction.

I. Relief Requested. In the first blank, put your full legal name. In the second blank, put the case number.

II. Statement of Facts/Statement of Grounds. In the first short blank, put the case number. Then put the facts that support your motion.

- **Example 1:** My landlord filed the eviction action on August 1, 2015. The court dismissed the case on August 3, 2015 after the landlord and I came to agreement about different issues. I still live in the unit.
- **Example 2:** The landlord filed the eviction action on August 1, 2015. I filed an Answer and Counterclaims on August 5, 2015. After a trial on August 30, 2015, this court ruled in my favor.
- **Example 3:** The landlord and I entered into a one-year lease agreement on February 1, 2015. The landlord filed the eviction action on August 1, 2015. At trial on August 30, 2015, this court found I owed \$300 in late rent plus fees. On August 31, 2015, I paid the entire amount owed, plus the landlord's attorney fees, into the court registry.

III. Statement of Issues. In this section, you connect the facts of your case to the relevant section of the new law. You must state the issue as a question.

- **Example 1:** Does the dismissal of this unlawful detainer on August 3, 2015, constitute a finding that plaintiff's case was sufficiently without basis in fact or law?
- **Example 2:** Does the court's ruling in the plaintiff's favor in the eviction action constitute a finding that plaintiff's case was sufficiently without basis in law or fact?
- **Example 3:** Did plaintiff's payment of the judgment and costs constitute reinstatement of the tenancy?

IV. Evidence Relied Upon. List any declarations or other evidence you are filing with your motion.

Legal Authority. This section is very important. Check all boxes that apply.

Person making this motion fills out below. Sign and date the motion on the last page. Print or type your address.

2. ***Instructions for the Notice of Hearing (ask the clerk if your county has their own form for this. If so, use theirs.)***

Fill out the caption as you did for the motion.

❖ **Getting a hearing date and time:** Call the court clerk for the Superior Court in your county. Tell them what type of motion you are filing, and ask for a hearing date. Every county has its own rules about many days before a hearing to file a motion. Ask the clerk when you must file the motion. In most counties, it is at least seven days before the hearing. Put the information they give you in the appropriate spaces.

Sign your name and put the date you signed.

3. Instructions for the Declaration of Defendant

Fill out the caption.

On the first line, put your name.

Fill out the declaration statement after “I declare” with the facts you put in your motion under Statement of Facts. Put the date and place you are signing this form. Then sign.

4. Instructions for the (proposed) Order

Fill out the caption.

In the first blank, put your hearing date.

a) Put your name.

b) Put your name.

At the end of the Order, sign on the bottom left signature line. Below that, print your name, address and phone number.

❖ LEAVE THE REST OF THE ORDER BLANK. This is your proposed Order **only**. The judge will fill out and sign this **if** s/he decides in your favor.

I filled out the forms. Now what?

Now you must

1. make copies
2. make sets of those copies
3. have a set served on the landlord
4. file your original papers with the court

Copy your papers: Make **three** copies of every paper, including the proposed order and financial documents.

Make sets of the copies: Make **three full sets of copies** of your papers:

- One for you
- One for the landlord or landlord’s attorney
- One for the judge for “working papers”

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- ❖ **Working papers** (also called **working copies**) are a courtesy set for the judge. Sometimes the originals do not make it into the court file in time for the judge to read them. Our publication called [What are Working Copies?](#) has more info.
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Here is the full list of court papers:

- Motion for Order of Limited Dissemination
- Declaration of Defendant
- Any other attachment you are including (any attachments you mentioned in your Declaration)
- Order (your proposed Order)

Serve the papers: You (or someone else age 18 or over) must deliver a set of copies to the landlord or landlord's attorney, either in-person or by mail. If you bring the papers to the landlord's or attorney's office, ask someone who works there to sign the Affidavit of Service. This is your proof they got their copies. After serving the landlord or landlord's attorney, you fill out the Affidavit of Service with

- the date you served the landlord or landlord's attorney AND
- how you served him/her

If you mailed the papers, you must put

- the name of the person who mailed it
- the date they mailed the motion to the landlord or landlord's attorney

Save all receipts for proof that you served the landlord or landlord's attorney.

After you have filled out the form, have the server sign and date it.

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- ❖ Have the papers served **before** you go to the clerk's office to file.
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Filing your motion: Go to the Clerk's office in the courthouse where your eviction action was filed. Explain that you are filing a motion and scheduling (setting) a hearing. Give the Clerk the set of originals for filing. Ask the Clerk to stamp your set of copies with the "Filed" stamp, and how to leave the judge a working copy.

❖ Keep your copy of your forms for your own records.

I served and filed the motion. Now what?

Check your mail. The landlord might (but does not have to) file and give you a copy of his/her **response** to your motion. If s/he does, read the response so you know ahead of time what the landlord's arguments are, if any.

How do I represent myself at the hearing?

Before the hearing date: Practice presenting your case. You will not have much time to talk. Your presentation should be organized and short. Write a list of important points you want to remember. You can bring this list with you to your hearing.

Day of the hearing: Try to arrive at least 30 minutes before your hearing is scheduled. When you get to the court room, have a seat. Wait until the judge calls your case or name. Let them know you are there.

Do I let the landlord know about the hearing?

Yes. You must make have a copy of the motion and notice of the hearing delivered to the landlord. You should mail the motion and notice of the hearing to the landlord, or, if an attorney represented the landlord, to the landlord's attorney. The notice of hearing has a part where you can state when you mailed the landlord these forms.

After the motion has been mailed or served on the landlord, you should file it with the court. Keep copies for yourself.

❖ If you do not serve the landlord the paperwork, the court may not give you the order.

I won the hearing! Now what?

Tenant screening companies should not disclose the existence of your eviction. **They may still do so unless you take extra steps to protect yourself.** You should send a copy of this order to all the tenant screening companies that commonly screen eviction records for landlords. Here are some of the most common ones:

<p><u>ACRANET (Airfactz):</u> 1-800-304-1249 521 W. Maxwell Ave Spokane, WA 99201</p>	<p><u>Moco Inc:</u> PO Box 2826 Seattle, WA 98111 Direct Line: (206) 505-8213 Toll Free: (800) 814-8213 Fax: (206) 505-7480 Toll Free Fax: (800) 257-8893 <u>Spokane branch:</u> Direct Line: (509) 624-2229 Toll Free: (800) 548-8847</p>
<p><u>On-Site</u> 307 Orchard City Dr, Suite 110 Campbell, CA 95008 (866) 266-7483</p>	<p><u>Orca Information, Inc.</u> P.O. Box 277 Anacortes, WA 98221 Phone: (800) 341-0022 Fax: (800) 522-6722 Email: orca@orcainfo-com.com</p>
<p><u>Realpage</u> consumer.dispute@realpage.com Fax: 1-800-866-8736 Mail: RealPage, Inc., attn: LeasingDesk Consumer Relations 4000 International Parkway Carrollton, TX 75007</p>	

I lost the hearing! Now what?

If a commissioner decided your case, you can ask a judge to revise the commissioner. This must be done within ten days of the commissioner entering the order. If a judge decided your case, you have 30 days to appeal the order. You should talk to a lawyer before taking the next step.

What if I need legal help?

- Apply online with [CLEAR*Online](http://nwjustice.org/get-legal-help) - <http://nwjustice.org/get-legal-help>
or
- Call CLEAR at 1-888-201-1014

CLEAR is Washington's toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems.

- **Outside King County:** Call 1-888-201-1014 weekdays from 9:15 a.m. until 12:15 p.m.

- **King County:** Call 211 for information and referral to an appropriate legal services provider Monday through Friday from 8:00 am – 6:00 pm. You may also call (206) 461-3200, or the toll-free number, 1-877-211-WASH (9274). You can also get information on legal service providers in King County through 211's website at www.resourcehouse.com/win211/.
- **Persons 60 and Over:** Persons 60 or over may call CLEAR*Sr at 1-888-387-7111, regardless of income.

Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 using the relay service of their choice.

211 and CLEAR will conference in interpreters when needed at no cost to callers.

Free legal education publications, videos and self-help packets covering many legal issues are available at www.washingtonlawhelp.org.

If you think you need a lawyer and your local legal services office cannot help, look for a lawyer who will charge a reduced fee for your first meeting.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.
This information is current as of July 2016.

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Superior Court of Washington, County of _____

In re:

Petitioner/s (*person/s who started this case*):

And Respondent/s (*other party/parties*):

No. _____

Motion for Order of Limited Dissemination
(MT)

Motion for Order of Limited Dissemination

To both parties:

Deadline! Your papers must be filed and served by the deadline in your county's Local Court Rules, or by the State Court Rules if there is no local rule. Court Rules and forms are online at www.courts.wa.gov.

If you want the court to consider your side, you **must**:

- File your original documents with the Superior Court Clerk; AND
- Give the Judge/Commissioner a copy of your papers (if required by your county's Local Court Rules); AND
- Have a copy of your papers served on all other parties or their lawyers; AND
- Go to the hearing.

The court may not allow you to testify at the motion hearing. Read your county's Local Court Rules, if any.

Bring proposed orders to the hearing.

To the person filing this motion:

You must schedule a hearing on this motion. You may use the *Notice of Hearing* (form FL All Family 185) unless your county's Local Court Rules require a different form. Contact the court for scheduling information.

To the person receiving this motion:

If you do not agree with the requests in this motion, file a statement (using form FL All Family 135, *Declaration*) explaining why the court should not approve those requests. You may file other written proof supporting your side.

I. Relief Requested

_____ *[Your name]* respectfully moves the court to order the unlawful detainer action filed in this court, cause number _____, to be of limited dissemination.

II. Statement of Facts/Statement of Grounds

[Clearly and briefly state the facts you base your case on. Print or type.]

I ask the Court to make order this Court's case number _____ an action of limited dissemination because [state facts relevant to your motion]:

III. Statement of Issues

[Clearly and briefly state the legal issues you want the court to decide. Print or type.]

Should the Court issue an Order Limiting Dissemination under Washington Laws of 2016, Ch. 66, Sec. 3?

IV. Evidence Relied Upon

[Clearly identify the evidence you want the judge to consider with your motion. Print or type.]

- 1. Records and Pleadings in the Court file
- 2. Declaration by: _____ [writer's name]
- 3. Declaration by: _____ [writer's name]
- 4. Other:

V. Legal Authority/Argument

[Cite the legal authority you rely upon. Print or type.]

I am making this Motion for Order of Limited Dissemination pursuant to one or more of the following:

- The plaintiff's case was sufficiently without basis in fact or law.
- my tenancy was reinstated under RCW 59.18.410 or other law.
- Other good cause exists for limiting dissemination of the unlawful detainer action.
- [Any other relevant legal authority: specify]

A Proposed Order (check one): is is **not** attached to this Motion.

Person making this motion fills out below

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form are true. I have attached (number of): _____ pages.

Signed at (city and state): _____ Date: _____

▶ _____
Person making this motion signs here Print name here

I agree to accept legal papers for this case at (check one):

- my lawyer's address, listed below.

Superior Court of Washington, County of _____

In re:

Plaintiff/s (Landlord(s)):

v.

Defendant/s (Tenant(s)):

No. _____

Notice of Hearing
(NTHG)

Clerk's action required:

Notice of Hearing

To the Court Clerk and all parties:

1. A court hearing has been scheduled:



for: _____ at: _____ a.m. p.m.
date *time*

at: _____ in _____
court's address *room or department*

docket / calendar or judge / commissioner's name

2. The purpose of this hearing is (specify): _____

Warning! If you do not go to the hearing, the court may sign orders without hearing your side.

This hearing was requested by: Plaintiff or his/her lawyer Defendant or his/her lawyer

Person asking for this hearing signs here Print name (if lawyer, also list WSBA #) Date

I agree to accept legal papers for this case at:

address

city *state* *zip*

(Optional) email: _____

Superior Court of Washington, County of _____

Plaintiff/s (Landlord(s)):

v.

Defendant/s (Tenant(s)):

No. _____

Order on Motion for Order of Limited
Dissemination

Order on Motion for Order of Limited Dissemination

This Court, having heard on _____ *[hearing date]* a Motion for
Order of Limited Dissemination:

THE COURT HEREBY GRANTS THE ORDER as follows:

A tenant screening service provider must not:

- a) disclose the existence of this unlawful detainer action in a tenant screening report
pertaining to the Defendant _____ *[your name]*.
- b) use the unlawful detainer action as a factor in determining any score or recommendation
to be included in a tenant screening report pertaining to the Defendant _____
_____ *[your name]*.

[date]

[name of Tenant Screening Service Provider]

[street address or P.O. box of tenant screening service provider]

[town or city, state zip code]

And by fax to: (area code & phone # of tenant screening service provider)

Dear Tenant Screening Service Provider:

The enclosed order for limited dissemination of an unlawful detainer case record has been entered on my behalf in the King County Superior Court Case No. [put your case# here]

I plan to apply for rental housing in Washington in the near future. If you are contacted for a tenant-screening report regarding me, please be sure not to disclose the existence of this unlawful detainer action in any report regarding me, or use the action as a factor in determining any score or recommendation pertaining to my application. See Washington Laws of 2016, Ch. 66, Sec. 3 (“When an order for limited dissemination of an unlawful detainer action has been entered with respect to a person, a tenant screening service provider must not: (a) Disclose the existence of that unlawful detainer action in a tenant screening report pertaining to the person for whom dissemination has been limited, or (b) use the unlawful detainer action as a factor in determining any score or recommendation to be included in a tenant screening report pertaining to the person for whom dissemination has been limited.”).

Thank you.

Sincerely,

[sign your name]

[print your name]