Compelling Discovery

What can you do if your landlord does not answer your Request for Discovery?

Your landlord must give you his/her responses to your Discovery within **10 days after receiving it**.

If your landlord does not answer your Request for Discovery, or gives you incomplete answers or objects to your request, you may file a Motion to Compel Discovery.

In a Motion to Compel, you can ask the court to do a number of things, including dismiss the case, prohibit the landlord from opposing your claims, order the landlord to provide complete answers, and *continue* (or postpone) the trial until the landlord does so. You must file this Motion in court **within 5 business days** after the date Discovery responses were due.

If your case is in Housing Court and you do not think that the landlord’s responses to Discovery were complete or responsive, you may have to provide the Court with more detailed information. Ask the Court Clerk if there are any special requirements.

This motion, which you must file in court **within 5 business days** after the date Discovery responses were due, asks the judge to order the landlord to completely answer Discovery and to continue (or postpone) the trial until the landlord does so.

**To figure out when to file and serve this document if your landlord fails to give you discovery responses, fill in the following dates:**

* + 1. Date your landlord got your discovery requests: {{ date\_discovery\_received }}
    2. Date that is **10 calendar** days after your landlord got your discovery requests which is your landlord’s deadline to respond: {{ date\_discovery\_due }}
    3. Date that is **5** **business** days after your landlord’s deadline to response. This is the date that is your deadline to file the Motion to Compel Discovery: {{ date\_motion\_to\_compel\_due }}

How to Make the Motion to Compel Discovery

* + - * Fill in the spaces at the top of the motion the same as you did in the Answer and Request for Discovery forms.
      * Write in the date you mailed or delivered your Discovery to the landlord or the landlord’s lawyer.
      * Check the box(es) that describe what your landlord failed to do.
      * On the bottom of the form, circle whether you delivered or mailed a copy of this motion to your landlord (or the landlord’s lawyer). Fill in the date, your name, address, and telephone number. Sign the motion.
      * Make 2 copies. Deliver the original to court, and 1 copy to your landlord (or his/her lawyer).   
        Keep 1 copy for yourself.

**IMPORTANT:** You **must** get the form to the court and your landlord (or the landlord’s lawyer) within 5 business days of the date the answers to your Discovery   
were due.

1. Prepare for Court

The hearing on your Motion to Compel Discovery will be held on the **Rescheduled Trial Date**. Be prepared to go ahead with your eviction trial on that date since there is always a chance that the judge will not order your landlord to answer Discovery or postpone the trial date.

When your case is called, be sure to tell the clerk that you have filed a Motion to Compel Discovery. When you go before the judge, **tell the judge that you requested Discovery**, and that your landlord **did not answer** (or did not answer fully). Tell the judge why you need the information.

You can ask the judge to do a number of things, including dismiss the case, enter judgment in your favor, prohibit the landlord from opposing your claims, or require the landlord to provide full answers and reschedule the eviction trial until after the landlord does. The judge will make the decision.

**If you win this motion**, your landlord will be ordered to answer your Discovery and the eviction trial should be postponed.

**If you lose this motion**, you will have the eviction trial that day. Do the best you can. If you lose at trial, you may have the right to appeal, and/or to ask the judge for more time to move. See **Booklet 7: Appeals** and **Booklet 8: Stay**.

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To the Clerk: Please mark this motion for the rescheduled trial date. The Tenant-Defendant seeks enforcement of Discovery under Uniform Summary Process Rule 7(d). In support, the Tenant states:

1. On **{{ service\_date }}**, the Tenant filed with the Court and {{ method\_of\_service }} to the landlord a Request for Discovery.
2. The Landlord (*check all boxes that apply*):

[ ] has failed to answer any questions. [ ] has failed to give me any documents requested.  
[ ] has failed to answer questions fully. [ ] has failed to give me all of the documents requested.  
[ ] objected to certain discovery requests and I disagree with the objection.

1. Accordingly, Tenant requests that the Court enter an order (*check boxes which apply*):

[ ] Dismissing this case and entering Judgment in Tenant’s favor.  
[ ] Prohibiting Landlord from introducing evidence opposing Tenant’s claims and defenses.

[ ] Compelling Landlord to completely answer and respond to Discovery no later than   
1week from the hearing on this motion, and continuing the trial (or pre-trial if jury trial requested) until at least 1 week after the Tenant receives responses. USPR 7(e).

[ ] Granting the Tenant any other relief that may be just and necessary.

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