



UTILITY SHUTOFF TOOLKIT
HOW TO GET UTILITIES BACK ON WHEN
A LANDLORD INTERRUPTS UTILITY SERVICE
Including Form to Request Court to Restore Utility Service

These instructions do not give legal advice and are not a substitute for the advice of a lawyer.

Use This Form If:

- Your landlord has wrongfully shut off your utility service, such as gas, electricity, water, or wastewater. Read the FAQs below to determine if your landlord has wrongfully shut them off.

Do Not Use This Form If:

- Your landlord has shut off your water, wastewater or gas due to construction, emergency, or to make necessary repairs, unless you believe those were not the reasons that the landlord shut them off.

General Instructions: Read these Frequently Asked Questions and the instructions for completing the *Plaintiff/Tenant’s Request to Restore Utility Service* carefully. References to Rules are to the Texas Rules of Civil Procedure, available at <http://www.txcourts.gov/rules-forms/rules-standards/>.

I. Frequently Asked Questions (FAQs) about Utility Interruptions:

1. Can my landlord shut off my water, wastewater, or gas? (See *Texas Property Code 92.008(a)*)

No, unless it needed to make necessary repairs or due to construction or an emergency.

Your landlord cannot shut off your water, wastewater or gas for owing the landlord money or otherwise violating your lease.

2. What can I do if my landlord has wrongfully shut off my water, wastewater or gas?

You can file a *Plaintiff/Tenant’s Request to Restore Utility Service* with the Justice Court to ask for a court order that your landlord reinstate that service. See **FAQs 13 and 14** for more information.

3. Can my landlord shut off my electricity if I pay the bill directly to the utility company? (See *Texas Property Code 92.008(a)*)

No, unless it needed to make necessary repairs or due to construction or an emergency.

If you pay your electric bill directly to the utility company, your landlord cannot shut off your electricity for owing the landlord money or otherwise violating your lease.

4. What can I do if my landlord has wrongfully shut off my electricity that I pay directly to the

utility company?

You can file a *Plaintiff/Tenant's Request to Restore Utility Service* with the Justice Court to ask for a court order that your landlord reinstate that service. See **FAQs 13 and 14** for more information.

5. When my landlord or a billing company (not the utility company itself) charges me for electricity provided through my landlord, can my landlord shut my electricity off? (See *Texas Property Code 92.008(b), (h)*)

Maybe, but only after following strict procedures, and only in certain circumstances.

When your landlord or a billing company (not the utility company itself) charges you for electricity provided through your landlord, it can only be interrupted by your landlord for necessary repairs, construction, or an emergency or in the following situation:

- You are past due on an electric bill to a landlord who submeters electricity, or who allocates or prorates nonsubmetered or master metered electricity (*see next FAQ for an explanation*), and
- Your landlord's right to interrupt your electricity is in your lease, and
- Your landlord has followed many strict procedures. (See **FAQs 6-9**)

Your landlord may never interrupt your electricity for your failure to pay rent, or any other fee or charge, including a bill that isn't an electric bill.

6. What does it mean that my landlord submeters electricity, or allocates or prorates nonsubmetered or master metered electricity?

Submetered electricity means that each apartment has an individual meter and the landlord bills the tenant based on their actual use of electricity.

Allocated or prorated billing with nonsubmetered or master metered electricity means that each apartment does not have an individual meter and the landlord uses a formula to figure out how much to charge each tenant for electricity.

7. My landlord submeters or allocates master metered electricity, and I am late in paying an electricity bill. Can my landlord immediately shut off my electricity?

No. Your landlord can only shut off your electricity for nonpayment of the electric bill if:

- You haven't paid your electricity bill by the due date, which must be at least 12 days after the date it was issued. The date that the bill issues is different from when the date the bill is due. Look on your bill for the issue date and the due date;
- Your lease states that the landlord has a right to shut off your electricity for

- nonpayment of the electric bill; and
- Your landlord gives you proper notice of the shut off – one before the electricity is shut off and another one at the time it is shut off. (See **FAQs 8 & 9**).

8. What do I need to know about the notice the landlord must give me before shutting off my submetered or allocated master metered electricity?

a. How much notice does the landlord need to give me?

Your landlord cannot deliver the electricity termination notice until a day after your bill is due, and the notice must give you at least five days before the date your landlord intends to shut off your electricity.

b. How must the advanced notice be delivered to me and what does it need to contain?

The notice must be hand delivered or mailed to you. It must have “Electricity Termination Notice” noticeably displayed in bold or underlined. It must include:

- the date the electricity will be shut off;
- where you can go pay your bill during normal business hours to prevent your electricity from being shut off;
- the amount that must be paid;
- a statement that your landlord cannot apply this payment to rent or other amounts you may owe; and
- a statement that your landlord may not evict you when the landlord has shut off the electricity unless you fail to pay for the electric service after the service has been shut off for two days, not including weekends, or state or federal holidays. In other words, your landlord can’t evict you if you pay your electric bill within two days (not including weekends or state/federal holidays) after it’s been shut off; and
- a description of your rights to avoid electricity shutoff, if the shutoff will cause a resident to become seriously ill or more seriously ill. (See **FAQ 10**)

9. What do I need to know about the notice my landlord must give me at the time my submetered or allocated master metered electricity is shut off?

The landlord must notify you at the same time that the electricity is shut off. The notice must be hand delivered to you or put on your front door. It must have “Electricity Termination Notice” noticeably displayed in bold or underlined. It must include:

- the date the electricity is shut off;
- where you can go pay your bill during normal business hours to prevent your electricity from being shut off;
- the amount that must be paid;
- a statement that your landlord cannot apply this payment to rent or other amounts you may owe; and

- a statement that your landlord may not evict you when the landlord has shut off the electricity unless you fail to pay for the electric service after the service has been shut off for two days, not including weekends, or state or federal holidays. In other words, your landlord can't evict you if you pay your electric bill within two days (not including weekends or state/federal holidays) after it's been shut off; and
- a description of your rights to avoid electricity shutoff, if the shutoff will cause a resident to become seriously ill or more seriously ill. (See **FAQ 10** below)

10. When is a landlord prohibited from shutting off my submetered or allocated master metered electricity for not paying your electric bill?

A landlord cannot shut off your electricity if:

- Before the shut off day, you provide a written statement from your doctor, nurse, or healthcare professional that the shut off will cause you, or someone living with you, to become seriously ill, and you enter into a written deferred payment plan for the amount owed for electricity (see **FAQ 11**);
- You receive energy assistance and your landlord receives a pledge, letter of intent, purchase order, or other notification that the energy assistance provider is forwarding payment to continue the electric service;
- The previous day was 32 degrees or below and the temperature is predicted to stay that low for the next 24 hours;
- There is a heat advisory on the day the electricity is being shut off or one of the two previous days;
- You've paid your electric bill but haven't paid rent, other fees or non-electric bills;
- The landlord or landlord's representative is not available to collect the electricity payment the day it's being shut off and the day before it's shut off;
- The amount owed is for electric service provided to a previous tenant;
- The amount owed on your electric bill is six or more months past due; or
- You and your landlord disagree on the amount owed on your electric bill and you haven't received the results in writing of the landlord's investigation of the dispute. When there is a dispute over the electric bill, your landlord cannot shut off your electricity unless your landlord has conducted an investigation of the bill and given you the results of that investigation in writing.

11. What if I, or someone in my residence, will become seriously ill or more seriously ill if my landlord shuts off my submetered or allocated master metered electricity service?

If you give your landlord, or your landlord's representative, a written statement from your physician, nurse, nurse practitioner, or similar licensed healthcare practitioner that you or someone else living with you will become seriously ill or more seriously ill if the electricity is shutoff and you enter into a deferred payment plan in writing, your landlord may not shut off your electricity. The deferred payment plan must allow you to pay the electricity bill in equal amounts over at least three billing cycles.

12. When does my landlord have to reconnect my submetered or allocated master metered

electricity service?

Your landlord must reconnect your electricity service within two (2) hours if, during normal business hours:

- You pay your bill; or
- You gave your landlord, or your landlord's representative, a written statement from your physician, nurse, nurse practitioner, or similar licensed healthcare practitioner that you or someone else living with you will become seriously ill or more seriously ill if the electricity is shutoff and you enter into a written deferred payment plan. (See **FAQ 11**).

A reconnection fee can only be charged if your lease states the exact dollar amount of the reconnection fee. It cannot be more than \$10 and cannot be applied to a deferred payment plan.

13. What can I do if my landlord has interrupted my utility services in violation of law, including without giving me proper notice? (See *Texas Property Code 92.0091*)

If a landlord interrupts your utility services in violation of the law, ask the Justice Court in the precinct where the property is located for an order to have the utilities turned back on, also called a writ of restoration. Do this by filling out the *Plaintiff/Tenant's Request to Restore Utility Service* form in this packet and filing it with the Justice Court.

When you file the Request to Restore Utility Service, you will meet with the judge right then, or shortly after you file it, to discuss the situation under oath. If the Justice Court judge approves your request to restore utility service, the judge will issue a "writ of restoration," which orders the landlord to immediately turn your utilities back on.

If you cannot afford to pay the filing fee for this request, you may file a Statement of Inability to Afford Payment of Court Costs, sometimes called a Pauper's Affidavit, which has information about your income, property, monthly expenses, dependents, and debts, to explain why you cannot afford the filing fee.

14. If the judge orders the landlord to turn the utilities back on, can the Landlord ask for a hearing to contest my Request to Restore Utility Service?

Yes. The landlord is entitled to a hearing, however, the landlord must still turn the utilities back on until the court says otherwise.

The landlord will be notified that they have a right to a hearing in the order telling them to turn the utilities back on. The hearing must be held within 7 days from the date the landlord asks for it. If the landlord does not ask for a hearing within 7 days after being served with the order to turn the utilities back on, the landlord may have to pay court costs. If a hearing is held, either party can appeal the judge's decision within 5 days.

If the judge issues a writ of possession, it overrides any order requiring that the utilities be

turned back on. A writ of possession is an order to the constable or sheriff to have you removed from the property after an eviction has been ordered.

15. What happens if my landlord ignores the order from the Justice Court? (See *Texas Property Code 92.0091(i)*)

If the landlord is served with the order to turn the utilities back on and does not immediately do so, or later disobeys it, the landlord can be held in contempt of court. You can file a sworn statement with the Justice Court stating the name of the landlord and how the landlord disobeyed the order.

The court will then set a hearing to determine whether the landlord violated the court's order. It is important for you to go to that hearing.

If the judge finds, after considering the evidence at a hearing, that the landlord has directly or indirectly disobeyed the order, the court may fine the landlord and/or put the landlord in jail without bail until they comply with the court order.

16. What happens if I file a request to have the utilities turned back on in bad faith? (*Texas Property Code, Section 92.0091(j)*)

If a tenant in bad faith files a *Request to Restore Utility Service* and an order is served on the landlord or landlord's agent, the landlord may sue the tenant in a separate lawsuit for:

- actual damages,
- one month's rent or \$500, whichever is greater,
- reasonable attorney's fees, and
- court costs,
- less any sums the landlord owes you.

17. What are my rights if my landlord turns off the utilities without following the law? (See *Texas Property Code, Section 92.008(f)(1), (2)*)

If your landlord turns off utilities without following the law, you can terminate your lease and can also sue your landlord in a separate lawsuit for:

- one month's rent plus \$1,000,
- your actual damages,
- reasonable attorney's fees, and
- your court costs,
- less any rent or other sums you owe the landlord.

II. How to Fill Out the *Plaintiff/Tenant's Request to Restore Utility Service Form*:

1. Heading: The Clerk's office will fill in several of these.
 - *Case Number* – Leave this blank. The Clerk's office will fill in the Case Number when you file this form.
 - *Applicant Name* – Write your name. *Name of Plaintiff/Tenant(s)* – Write the name of the tenant(s) listed in the lease or the name of a person who is authorized to live in the property.
 - *Name of Defendant(s)/Landlord(s)* – Write the names of the landlord(s) or the landlord's authorized agent.
 - *Precinct/Place Number* – Write in the precinct number of the justice precinct in which the Property is located. If you do not know, ask the court clerk or check the court's website.
 - *County, Texas* – Write in the name of the county in which the property is located.
2. Request to Restore Utility Service: This sentence tells the court that you are filing the lawsuit because the landlord has interrupted your utility service. You do not need to add anything to this section.
3. Information about the Property: Under Property Address, write in the address of the rental property where the utilities were shut off. Under the Defendant/Landlord's Contact information, write in the address, phone number, email address, and fax number for the landlord or property manager.
4. Facts: Write in the approximate date that the landlord shut off your utility service. Write in any additional facts you think the court should know, such as whether it was water, gas, or electricity that was shut off, how it was shut off, who shut it off, or if there was an emergency. Attach an additional sheet of paper, if needed, but it's best to keep it short if you can, while making sure to state all the facts you think the judge needs to know.
5. Request for Relief: This section tells the judge what you are asking the court to do. You do not need to add anything to this section.
6. Declaration or Notary: In this section, you may check and complete only one section – either the declaration section or the notary section. Either way, you are declaring under penalty of perjury that everything in the Request to Restore Utility Service is true and correct.
 - Declaration* – Check this box if there is not a notary available, you choose not to use a notary, or you do not want the required information in the public court record. If you choose this option, you must write your name, birthdate, and address. Sign, and write the date and the county in which you signed.
 - Notary* – Check this box if you want to sign the Request to Restore Utility Service in front of a notary. **DO NOT SIGN UNTIL YOU ARE WITH A NOTARY.** Write your name and sign in front of a notary or the clerk of the court.

REMEMBER, CHECK AND COMPLETE ONLY ONE BOX.

Cause Number:

Name of Plaintiff/Tenant

In the
Justice Court

(Precinct Number)

v.

Name of Defendant/Landlord

(County)

County

**Plaintiff/Tenant's Request to
Restore Utility Service**

1. Request to Restore Utility Service:

I am filing this complaint against the Defendant/Landlord because the Defendant/Landlord has interrupted my utility service in violation of law, and I am requesting this Court to order the Defendant/Landlord to restore my utility service. (Texas Property Code Section 92.0091)

2. Information about the Property:

Property Address:

Street Address & Unit No. (if any) City County State ZIP

Defendant/Landlord's Contact Information (if known):

Business Address City County State ZIP

Phone Number Email Address

Fax Number

3. Facts: *This section of the law can be complicated in a few situations. Please read the instructions and FAQs to make sure you can use this form.*

On or about _____ (date of utility interruption), Defendant/Landlord or Landlord's agent interrupted my utility service in violation of Texas Property Code Section 92.008 and that interruption was not due to necessary repairs, construction, or an emergency.

I would like the Court to know these additional facts, if any:

_____.

4. **Request for Relief:**

I request that the Court find that Defendant/Landlord unlawfully interrupted my utility service and grant the following:

- a. A Writ of Restoration of Utility Services under Texas Property Code Section 92.0091 that entitles me to immediate and temporary restoration of the disconnected service, pending a final hearing if Defendant/Landlord requests one;
- b. That the Writ of Restoration of Utility Services be immediately served on Defendant/Landlord or the Defendant/Landlord's management company, on-premises manager, or rent collector;
- c. If Defendant/Landlord does not timely request a hearing on this request, I ask that the Court render full and final judgment against the Defendant/Landlord for court costs;
- d. That all court costs be assessed against Defendant/Landlord; and
- e. For such other relief as I, Plaintiff/Tenant, may be lawfully entitled until such time proper notice and hearing is held before this Court.

5. **Declaration or Notary:** Complete only one of the two following sections.

Declaration:

I declare under penalty of perjury that everything in this petition is true and correct.

My name is _____.
First Middle Last

My birthdate is: ____/____/____.
Month Day Year

My address is: _____.
Street City State ZIP Country

_____ signed on ____/____/____ in _____ County, Texas.
Your Signature Month/Day/Year County Name

OR

Notary:

Your Printed Name

Your Signature (*Sign only when a notary can see you doing so*)

Sworn to and subscribed before me this _____ day of _____, 20____.

CLERK OF THE JUSTICE COURT OR NOTARY