NOTICE TO DEFENDANTS

Pursuant to Oregon Revised Statutes (ORS), ORS 105.135(6), the following notice is given as set forth in ORS 105.137:

Effect of failure of party to appear; appearance by attorney; scheduling of trial; unrepresented defendant. In the case of a dwelling unit to which ORS chapter 90 applies:

1. If the plaintiff appears and the defendant fails to appear at the first appearance, a default judgment shall be entered in favor of the plaintiff for possession of the premises and costs and disbursements

2. A default judgment shall be entered in favor of the plaintiff for possession of the premises and costs and disbursements if the court determines that the complaint complies with ORS 105.115 (Causes of unlawful holding by force) and 105.124 (Form of complaint if ORS chapter 90 applies) and is sufficient to state a cause of action for possession; **and** the plaintiff testifies under oath or submits an affidavit or declaration under penalty of perjury stating that, as of the date of the testimony:

    a. The plaintiff does not have knowledge that the defendant has delivered possession to the plaintiff as described in ORS 90.147 (Delivery of possession) (2); **and**

    b. The plaintiff reasonably believes that the defendant remains in possession of the premises.

3. If the defendant appears and the plaintiff fails to appear at the first appearance, a default judgment shall be entered in favor of the defendant dismissing the plaintiff's complaint and awarding costs and disbursements.

4. An attorney at law shall be entitled to appear on behalf of any party, but attorney fees may not be awarded to the plaintiff if the defendant does not contest the action.

5. If the plaintiff dismisses the action before the first appearance, a judgment of dismissal shall be entered in favor of the defendant dismissing the plaintiff's complaint and awarding costs and disbursements. The defendant may not recover attorney fees for prejudgment legal services provided after the delivery of written notice of the dismissal by the plaintiff to the defendant, or to an attorney for the defendant, in the manner provided under ORS 90.155 (Service or delivery of written notice).

6. The plaintiff or an agent of the plaintiff may obtain a continuance of the action for as long as the plaintiff or the agent of the plaintiff deems necessary to obtain the services of an attorney at law.

7. You may want to reach out your landlord to possibly negotiate a settlement to the case and avoid a trial. If you reach an agreement, it must be written down on the "Stipulated Agreement" court form which may be found at the following link: https://www.courts.oregon.gov/forms/Documents/Stipulated-Agreement.pdf .

    a. **Remote hearings: "**Stipulated Agreement" must be filed with the court prior to the scheduled first appearance hearing with both parties' signatures affixed to the form

    b. **In person hearings:** "Stipulated Agreement" must be signed and given to the Judge with everyone present when court begins. Blank agreement forms are available in the courtroom. You may not leave until after the Judge has called your case, even if you signed an Agreement.

If you are absent when the judge calls your name, your agreement will not be accepted by the judge.

8. If both parties appear in court on the date contained in the summons, the court shall set the matter for trial as soon as practicable, unless the court is advised by the parties that the matter has been settled. The trial shall be scheduled:

    a. For a claim based on nonpayment, as defined in ORS 90.395 (Required delivery of notice of rental assistance and support services before termination for nonpayment), no earlier than 15 days, and no later than 30 days, following the appearance; **or**

    b. For any other claim, as soon as practicable and no later than 15 days from the date of the appearance.

    If the matter is not tried within the prescribed time period, and the delay in trial is not attributable to the landlord, the court shall order the defendant to pay rent that is accruing into court, provided the court finds after hearing that entry of such an order is just and equitable.

9. The court shall permit an unrepresented defendant to proceed to trial by directing the defendant to file an answer in writing on a form which shall be available from the court clerk, and to serve a copy upon the plaintiff on the same day as first appearance.

10. The answer shall be in substantially the same format as https://www.courts.oregon.gov/forms/Documents/FED-Answer.pdf

11. If an unrepresented defendant files an answer as provided in subsection (7) of this section, the answer shall not limit the defenses available to the defendant at trial under ORS chapter 90. If such a defendant seeks to assert at trial a defense not fairly raised by the answer, the plaintiff shall be entitled to a reasonable continuance for the purposes of preparing to meet the defense.

Additional Information

Where	Answer forms are available online, or in person at the Clackamas County Circuit Court and may be filed online or in person.
Fee Waiver or Deferral	The Fee Waiver or Deferral Application and guidelines may be found on our website. Your application must be reviewed by a collection clerk at the Clackamas County Circuit Court. If you have application questions, please call 503.655.8447, option 5.
Hours	The courthouse is open from 8:00 a.m. to 5:00 p.m. Public Service windows are open 9:00 a.m. to 4:00 p.m.
Fee	Please see the State Court Filing and Other Fees web page at: https://www.courts.oregon.gov/Pages/fees.aspx

If you have any questions regarding court procedure, please call the Court at 503- 655-8447, option 5.

The clerks cannot give you legal advice. You should contact an attorney if you have a legal question.