

# PREPARING MY CASE

Court : \_\_\_\_\_

Opposing party : \_\_\_\_\_

What I am asking for :

- ...

THE FACTS	THE EVIDENCE
<p>What are the relevant facts in chronological order? (Answer the following: Where? When? What? How? Who?)</p>	<p>That is, what I can bring to convince the court of the facts.</p>
1-	
2-	
3-	

THE FACTS	THE EVIDENCE
4-	
5-	
6-	
7-	
8-	
9-	
10-	
...	

# PREPARING MY CASE - *EXAMPLE*

## SITUATION

*Jeanne is a tenant and her landlord refuses to repair the doorbell in her apartment, which no longer works, despite the formal notice she sent him. She wants to make a judicial application on this subject.*

**Court :** Tribunal administratif du Québec

**Opposing party:** Landlord

**What I am asking for:**

- That the necessary repairs be made ("Specific Performance")
- Reduction of rent for the period during which the doorbell did not work
- Damages (\$) for troubles and inconveniences sustained

THE FACTS	THE EVIDENCE
<p style="text-align: center;"><b>What are the relevant facts in chronological order?</b> <b>(Answer the following: Where? When? What? How? Who?)</b></p>	<p style="text-align: center;"><b>That is, what I can bring to convince the court of the facts.</b></p>
<p>1- I am the tenant of the apartment in question.</p>	<p style="text-align: center;">Subsequent lease and notice</p>
THE FACTS	THE EVIDENCE

<p><b>2-</b> On March 19, 2020, the doorbell in my home stopped working.</p>	<p>My own testimony Video recording of the absence of sound when the doorbell is rung</p>
<p><b>3-</b> On March 20, 2020, I texted my landlord to inform him and he said he would send someone to fix it within the week.</p>	<p>Exchange of text messages with the landlord</p>
<p><b>4-</b> On March 30, 2020, having heard nothing, I sent him an email reiterating my request. He told me that someone would come and take care of it, but he didn't know when.</p>	<p>Exchange of emails with the landlord</p>
<p><b>5-</b> On April 2, 2020, I ran into my landlord and his wife in front of my house while I was with my spouse. I asked him about the doorbell and he told me that it was up to me to manage the situation and that he did not intend to pay for the repairs.</p>	<p>My own testimony My spouse's testimony</p>
<p><b>6-</b> On April 3, 2020, I sent a formal notice to my landlord giving him ten days to fix the situation. He did not respond.</p>	<p>Copy of the formal notice and acknowledgement of receipt with the landlord's signature</p>
<p><b>7-</b> I have suffered some inconvenience because of this situation.</p>	<p>My own testimony</p>

# THINGS TO KEEP IN MIND WHEN PREPARING YOUR CASE

## BURDEN OF PROOF

### Who has the obligation to convince the court?

In theory, the obligation to convince the court belongs to the person who makes the judicial application. Generally speaking, a fact must be proven with a 50% + 1 probability. This is called "by a preponderance of evidence", meaning that the existence of the fact is more probable than its non-existence.

## RELEVANCE RULE

### How to determine what facts are relevant to bring to the court's attention?

The facts must be relevant, meaning that they are legally necessary to get what you are asking for. It is important to select the facts carefully, as quality is more important than quantity.

## MEANS OF PROOF

### How to prove a fact?

The law stipulates five ways of proving a fact: in writing, testimony, admission, material evidence and presumption.

- **In writing**

*As examples: notarized act, contract, invoice, acknowledgement of receipt, email, text message, letter, lease, formal notice.*

- **The testimony**

It is a statement in which a person describes the facts of which he or she has personal knowledge or in which an expert gives his or her opinion. The credibility of the witness is decisive in proving or not proving a fact.

*As examples: my own testimony, the testimony of another person, the testimony of an expert.*

- **The admission**

It is the recognition of a fact with legal consequences against the person who does it.

*As an example: an email in which the landlord recognizes that there is a mold related issue in the apartment.*

- **Material evidence**

It is an object or the sensory representation of an object, fact or place.

*As examples: photograph, video, sound recording.*

- **Presumption**

It is an indirect means of proof that allows a conclusion to be inferred from facts or from the law. Certain facts are put in evidence that together allow the judge to conclude that the fact to be proven probably exists, but for which there is no direct evidence.

## IDENTIFICATION OF EXHIBITS

### How to identify the exhibits?

In order to be able to easily refer to a piece of evidence at trial, it is given a number, which is a letter followed by a number. The number will be written in black marker at the bottom right of the piece of evidence by the person who wants to use it. Usually, the plaintiff is identified by the letter "P" and the defendant by the letter "D". The number next to the letter will be determined by the order of mention in the proceeding.

*As examples: I am the plaintiff. The first piece of evidence I refer to in my judicial application is a contract. This contract will therefore be listed under P-1.*

*I am the defendant. The second piece of evidence to which I refer to in my defense is an invoice. This invoice will therefore be listed under D-2.*

## PRESENTATION OF YOUR EVIDENCE

### How to present my evidence?

It is important to have two copies of the evidence at the hearing: one for yourself and one for the other party. The original will be given to the judge. In addition, in order to draw attention to certain elements, it may be appropriate to highlight certain passages with a highlighter and to use "post-its".