**ANSWER FORM**

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Suffolk County, ss Eastern Housing Court

DOCKET NO:

,

**Plaintiff – Landlord(s)**

vs. **SUMMARY PROCESS ANSWER WITH JURY TRIAL REQUEST**

,

**Defendant- Tenant**

**TRIAL DATE:** Rescheduled Trial Date: (Discovery requested)

Facts

1. My name is .
2. I live at .
3. My tenancy is subsidized through the Section 8 program administered by the United States Department of Housing and Urban Development.
4. I pay $ in rent per month.
5. I have/do not have a written lease.
6. I deny that I live in my home unlawfully and against the right of the landlord.

Defense

Tenancy Not Properly Terminated and/or Case Not Properly Brought

Mass. Gen. Laws, c. 186, §§11-13, 17

1. The landlord did not terminate my tenancy properly.
2. I never received a Notice to Quit.
3. The landlord started this case before the Notice to Quit expired.
4. The Summons and Complaint is defective and/or was not properly filed or served.
5. The Complaint and the Notice to Quit state inconsistent reasons for eviction.
6. The Notice to Quit is invalid because its issuance is in violation of the CARES Act. Because the landlord has not properly terminated my tenancy, this case must be dismissed.
7. The facts alleged in the Notice to Quit do not qualify this case as an “essential” eviction pursuant to Chapter 65 of the Acts of 2020 and Housing Court Standing Order 5-20. Therefore, the case should be dismissed.

Defense

Failure to Comply with Rules for Public and Subsidized Housing

1. I am a tenant in public or subsidized housing and:
	1. The landlord did not terminate my tenancy as required by the lease or program rules or use restrictions that apply to the property.
	2. The landlord did not timely notify my Section 8 administrator of the termination of my tenancy.
	3. I am a tenant in public or subsidized housing and the landlord does not have good cause to evict me as required by the lease and/or program rules.
	4. I reside in federal public housing or subsidized Section 8 or other covered federal housing and have a defense under the Violence Against Women Act (VAWA).

Defense

Retaliation

Mass. Gen. Laws, c. 239, s. 2A; 186, s. 18

1. The landlord is trying to evict me and/or retaliate against me because:
	1. I withheld rent for bad conditions and/or told the landlord about bad conditions.
	2. I reported bad conditions in writing to the landlord.
	3. I reported bad conditions orally and/or in writing to a public agency.
	4. I took part in a tenants’ meeting or organization.
	5. I brought a case/claim against the landlord.
	6. I or a member of my household took action to obtain a protection order under G.L. c. 209A or a harassment prevention order under G.L. c. 258E.
	7. I or a member of my household reported an incident of domestic violence, rape, sexual assault or stalking to law enforcement or reported a violation of a protection or harassment prevention order.

I am entitled to a presumption of retaliation because the landlord took action against me within 6 months of any of the above.

Defense

Tenant Not Responsible for Alleged Behavior

1. I did not do what my landlord alleges is the reason for eviction.
2. What my landlord is claiming is not a violation of the rental agreement.

*Defense*

**“Reasonable Accommodation” Based on Disability (Physical and/or Mental)**

*See BHA vs. Bridgewaters*, 452 Mass, 833 (2009)

1. I (and/or a member of my household) have a disability and I request/have requested that the landlord make changes in its rules or do what is necessary for me to have a fair housing opportunity. Failing to provide a reasonable accommodation to a qualified person with a disability is disability-based discrimination. Note: This may include allowing the tenant to get help or do something necessary to address a lease violation.

*Defense*

**Discrimination**

Mass. Gen. Laws c. 239; c. 151B;
Federal Fair Housing Act; Americans With Disabilities Act;
and/or Section 504 of the Rehabilitation Act

1. My landlord has discriminated against me and/or a member of my household based on my:
	1. Disability
	2. Source of income
	3. Age
	4. Gender identity
	5. Marital status
	6. National origin
	7. Race
	8. Religion
	9. Sex
	10. Sexual orientation
	11. Veteran’s status
	12. Color

*Defense*

**This Eviction is Non-Essential and Must Be Dismissed Pursuant to the Eviction Moratorium**

*Ch. 65 of the Acts of 2020*

1. The allegations in this case do not involve or include “(a) criminal activity that may impact the health or safety of other residents, health care workers, emergency personnel, persons lawfully on the subject property or the general public; or (b) lease violations that may impact the health or safety of other residents, health care workers, emergency personnel, persons lawfully on the subject property or the general public.” As such, this eviction is non-essential and must be dismissed.

*Defense*

**Tenant Should Not Lose Her Apartment (Avoidance of Forfeiture)**

1. Based on principles of equity and fairness, it is unfair to evict me.

WHAT I WANT THE COURT TO DO

1. On all claims and defenses, award me possession of my home.
2. On all claims and defenses, award me money damages, costs, attorney’s fees (where applicable), and such other relief as is fair.

**The Court Should Order the Landlord to Make Reasonable Accommodations**

Federal Fair Housing Act; Americans With Disabilities Act; Section 504
and/or Mass. Gen. Laws c. 151B

1. I and/or a member of my household have a disability and I request the court to order the landlord to accommodate the disability by stopping the eviction and/or taking steps to provide an accommodation to allow me to remain in my home.

The Court Should Find That I Was Not At Fault

1. The court should find that the landlord has not proven that I was at fault. This is a fault eviction case in which the landlord claimed I did something wrong (other than nonpayment of rent). The landlord did not prove that I did anything serious enough to justify eviction; therefore, the court should allow me to stay in my home.

The Court Should Allow Me More Time to Move

Mass. Gen. Laws c. 239, §9 or Court’s Equitable Authority

1. If the court awards possession to the landlord, I need time to move. (The court may award up to one year for a household with an elderly or disabled person, or up to six months for any other tenant.)

Request for a Jury Trial

Part I, Article XV of the Mass. Constitution; USPR 8; Mass. Gen. Laws c. 185C, § 21 and c. 218, §19B

1. I claim my right to a trial by jury.

[Name], DEFENDANT

\_\_\_/s/ Kristine Flaherty

[Tenant Name

Address

Phone number

Email]

I hereby certify that I emailed a copy of this document to the landlord’s lawyer, on.

/s/ [Student attorney]