

Updated Review of Summary Process Actions in Housing Courts Statewide in 2011 and 2014

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Produced by the Massachusetts Law Reform Institute



Over the past 25 years, the Massachusetts Law Reform Institute has compiled four surveys of residential summary process (eviction) cases in Housing and District courts throughout Massachusetts.

Consistent with previous surveys, the last survey in 2005 found that:

- A majority of eviction cases moved very quickly, with little delay;
- Landlords benefited from legal representation far more often than tenants; and
- In most cases, landlords won.

As policy makers consider legislation to expand the Housing Court Department statewide and other legislation that impacts the eviction process, we updated this survey by reviewing publicly accessible data.¹

Because 83% of landlords filing eviction cases opt for Housing Court where they have a choice between Housing and District Court,² we focused this review on the Housing Court Department. This is not a comparison of District and Housing Courts.

The analysis surveyed a total of 54,528 cases, all eviction cases filed in the Housing Court Department in:³

- 2011 (26,648 eviction cases) and
- 2014 (27,880 eviction cases)

The results of this updated survey are consistent with previous surveys: evictions move quickly, landlords are represented far more often than tenants, and landlords generally win their cases.

Imbalance of Legal Representation

Housing laws and court procedures can be complicated. Those who have the benefit of legal representation have the advantage of a skilled advocate working on their behalf.

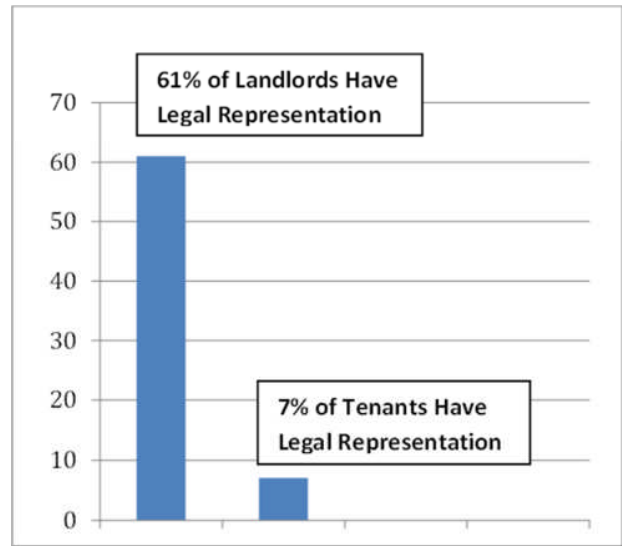
Updated case data continues to show that the number of landlords benefitting from legal representation far outweigh the number of tenants who have that benefit.

In 2011 and 2014, respectively landlords were represented in 61% and 62% of the cases. In both of those years, tenants had representation in only 7% of the cases.

Effective efforts are being made in Housing Courts to provide unrepresented tenants and landlords with legal help through Lawyer for the Day programs, run by local bar associations with legal services, and through the Limited Assistance Representation court rules, which allow parties to obtain some limited legal help.⁴

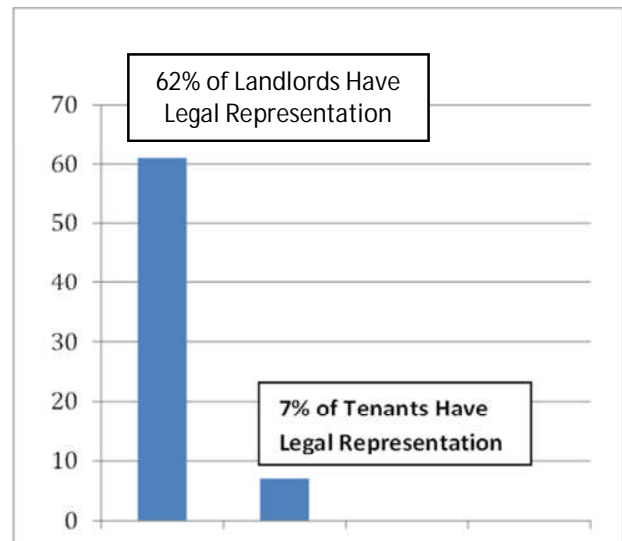
Nevertheless, the imbalance of legal representation in favor of landlords continues to indicate a serious need to increase legal assistance resources. This is especially true for vulnerable families facing homelessness, owners facing foreclosure eviction, and people with disabilities.⁵

2011



	2011	
	Represented	Unrepresented
Landlords	61% 16,178 cases	39% 10,460 cases
Tenants	7% 1,871 cases	92% 24,533 cases

2014



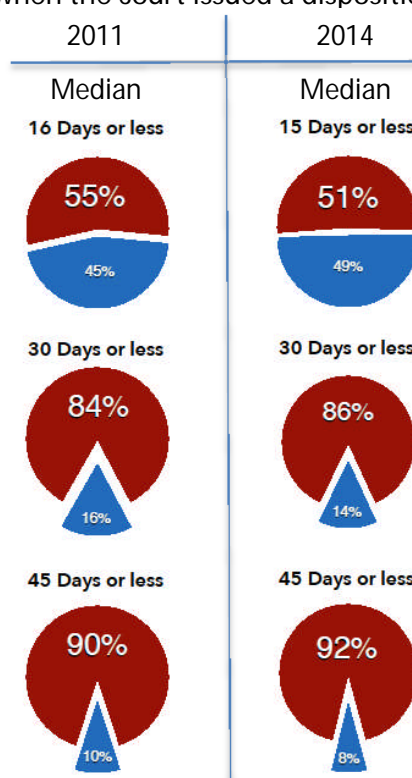
	2014	
	Represented	Unrepresented
Landlords	62% 17,300 cases	38% 10,580 cases
Tenants	7% 1,855 cases	93% 26,025 cases

Cases Move Quickly

Updated case data shows that cases continue to move very quickly from the time a landlord files an eviction case (“enters” the case) to the point when the court issued a disposition.⁶

Time from Filing an Eviction Case to Disposition

	2011	2014
Total Evictions	26,648	27,880
Median ⁷	16 Days 55% 14,871 cases	15 Days 51% 14,462 cases
30 Days or less	84% 22,470 cases	86% 23,887 cases
45 Days or less	90% 24,009 cases	92% 25,534 cases



Why Do 10% of Cases Take Longer Than 45 Days

In 2011, 10% (2,549 cases) of cases extended beyond 45 days. In 2014, only 8% (2,346 cases) extended beyond 45 days. While landlord organizations, without quantifiable data, speculate and use anecdotes to blame tenants solely for any delay, it is important to understand the real and varied reasons why some cases take longer.

Landlords and tenants often work to arrive at an agreement which may ultimately result in a dismissal. **In 2011, 80% of the cases that extended beyond 45 days (2,036 cases) were either dismissed and/or there was an agreement.**⁸

Both landlords and tenants are responsible for the additional time that cases take. **In 49% of the cases that extended beyond 45 days (1,256 cases), both parties agreed to at least one continuance.**

Case involving banks and foreclosure evictions are more complex and take more time. **In 2011, in 12% of the cases that went beyond 45 days (207 cases), the plaintiff was a lender.**⁹

Cases also may take more time based on the availability of a judge or the scheduling of a jury.¹⁰ We were unable to determine from the data publicly available how many jury trials were requested and conducted. To our knowledge there are very few jury trials.

Finally, whether or not cases are delayed, judges have the legal authority to order tenants to escrow rent with the court during the case to protect landlords against economic loss. The law gives landlords the right to request these “escrow orders.”¹¹

Case Outcomes for All Cases

For all 54,528 eviction cases for 2011 and 2014 surveyed, we also looked at outcome data and the following is what we learned.

- In half the cases, in the disposition was an agreement or an agreement for judgment.
 - 2011: 50% (13,248 cases) there was an agreement
 - 2014: 53% (14,772 cases) there was an agreement
- In about one-quarter of the cases, the disposition was a default against the tenant.¹²
 - 2011: 26% (7,003 cases) there was default
 - 2014: 24% (6,746 cases) there was default
- In about one-sixth of the cases, the case was dismissed.¹³
 - 2011: 16% (4,361 cases) there was a dismissal
 - 2014: 17% (4,640 cases) there was a dismissal
- In the remaining cases, there are other dispositions such as an order from a judge, a “pending” disposition, or no dispositions recorded.
 - 2011: 8% (2,036 cases) had other dispositions.
 - 2014: 6% (1,722 cases) had other dispositions.

The data also shows that the court issued judgments in 15,564 cases during 2011 and 16,117 cases during 2014. In both years, 93% of the judgments favored the landlord.

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- ¹ The survey was conducted with assistance of Aaron Dulles, Esq., who gathered and compiled the housing court data from the MassCourts.org database and, with MLRI, analyzed it. *Because the information in that database includes errors, as well as inconsistencies in terms of how Housing Court staff enter data, this analysis focuses on broad trends.* The review focused on all 26,648 eviction cases filed statewide in the Housing Court Department from Jan. 1, 2011-Dec. 31, 2011 and all 27,880 eviction cases filed from Jan. 1, 2014-Dec. 31, 2014.
- ² Trial Court Department, 2014.
- ³ The Housing Court Department, which is not statewide, is currently divided into five divisions: Boston, Northeast, Southeast, Worcester, and Western. Legislation is currently pending to expand the Housing Court statewide.
- ⁴ This survey did not track Limited Assistance Representation cases because the manner of recording data into the MassCourts.org system presented very significant logistical challenges.
- ⁵ In addition, the number of cases in which tenants were unrepresented increased from 2011 to 2014 by 1,492 cases.
- ⁶ Dispositions include dismissals, defaults, agreements, and judgments. The dispositions recorded in MassCourts are the dates of the first disposition, but they may not be the last disposition and for this reason we were unable to determine the percentage of cases that may have not been resolved on the disposition date listed. For example, a disposition entered may be a default judgment against the tenant which is later removed and replaced with an agreement. There are also cases in MassCourts which have no recorded disposition. Further research needs to be conducted including how many default judgments are removed and turned into agreements or other dispositions.
- ⁷ For 2011, at 15 days, 49% of cases reached initial disposition, and by day 16, 55% reached initial disposition. For 2014, at 14 days, 45% of cases reached initial disposition, and by day 15, 51% reached initial disposition.
- ⁸ 1,144 cases of these cases were dismissed. Voluntary Dismissals under Rule 41 constituted the largest percentage of dismissals of cases taking longer than 45 days. Rule 41 allows a landlord to get a case dismissed without coming to court if a tenant has not filed an Answer. 892 cases of these cases there was an agreement. This included agreements and agreements for Judgment. Note: In 149 cases (6%) there was both an agreement and the case was dismissed.
- ⁹ Lenders included banks, credit unions, Freddie Mac, and Fannie Mae.
- ¹⁰ Due to how data is recorded in MassCourts.org, it was not practically feasible during this review to discern how many jury trials were requested and conducted.
- ¹¹ G.L. c. 239 § 8A. The following are a sample of the many cases from 2014-16 in which escrow was ordered: *Aeneas REO LLC v. Eleazer*, 14-SP-1927 (6/18/14); *Farhadi et al v. Belt*, 13-SP-3021 (2/24/14); *Acosta v. Langille*, 14-SP-0057 (2/24/14); *Cruz v. McCann*, 13-SP-1616 (1/17/14); *Wiener v. Buzeta*, 14-SP-0917 (4/7/14); *Salokin LLC v Johnson*, 14-SP-0460 (3/10/14), *Gonfa v. Graham*, 14-SP-4241 (11/14/14), *Quintanilla v. Estrada*, 14-SP-4827 (1/15/15), *Harris v. Sandofsky*, 15-SP-1377 (5/26/15), *Franco v. Diaz*, 15-SP-1783 (6/4/15), *Kifle v. Huges* (decision misspells Plaintiff's name as , 15-SP-3197 (8/31/15), *Machuca v. Jackson*, 15-SP-2871 (8/21/15), *Oak Hill Park v. Brown*, 15-SP-2215 (9/1/15).
- ¹² We were not able to determine from the data available the percentage of defaults removed or the circumstances of the default.
- ¹³ Dismissal includes a Dismissal, Stipulation of Dismissal, Dismissal after a hearing per Landlord's request and tenants assent, and Voluntary Dismissal under Rule 41(a)(1), which allows a landlord to get a case dismissed without coming to court if a tenant has not filed an Answer. A case can result in a dismissal in a variety of ways: the landlord fails to appear; both parties fail to appear, or one party asks that the case be dismissed based on certain procedural grounds.