

# **2005 Summary Process Survey**

**Number 4**

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Prepared by the Massachusetts Law Reform Institute

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Over the past 15 years, the Massachusetts Law Reform Institute has conducted four surveys of residential summary process cases in courts throughout Massachusetts—in 1990, 1995, 1999, and now in 2005. The purpose of these surveys has been to gather quantifiable case data and to give policy makers a better understanding of major trends in the outcomes of eviction cases.

## **Scope of Survey**

This 2005 survey analyzed 559 summary process eviction cases entered in January 2005 in the following seven courts:

Boston Housing Court  
Cambridge District Court  
Chelsea District Court  
Lynn District Court  
Northeast Housing Court, Lawrence  
Quincy District Court  
Worcester Housing Court

This survey analyzed:

- ◆ How fast courts are processing eviction cases;
- ◆ To what extent parties are represented by lawyers; and
- ◆ What the outcomes are.

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## **Summary of Findings**

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**The trends on every issue remain virtually the same as documented in previous studies.**

- **The majority of eviction cases move quickly with little, if any, delay.**
  - 77% of the cases reached a disposition in less than 16 days.
  - 92% reached a disposition in 30 days or less.
- ◆ **Landlords have the benefit of legal representation far more often than tenants.**
  - Landlords were represented by lawyers in 66% of the cases; tenants had legal representation in 6% of the cases.
- ◆ **In most cases, landlords are awarded possession.**
  - Landlords were awarded possession in 76% of the cases.

## **Summary Process Is Very Summary**

The myth put forth by organizations representing landlords is that eviction cases drag on for months and months. They blame lawyers (primarily, legal services lawyers); they blame the court system; and they blame the laws.

**The fact is—there continues to be little delay in most eviction cases.** In the 559 cases reviewed, from the point in time when the landlord *entered* a summary process case (filed a complaint) to the point when a court issued a *disposition*\*:

- ◆ 77% reached a disposition in less than **16 days**;
- ◆ 92% reached a disposition in **30 days or less**.

In fact, for the **majority of these cases there was no delay.**

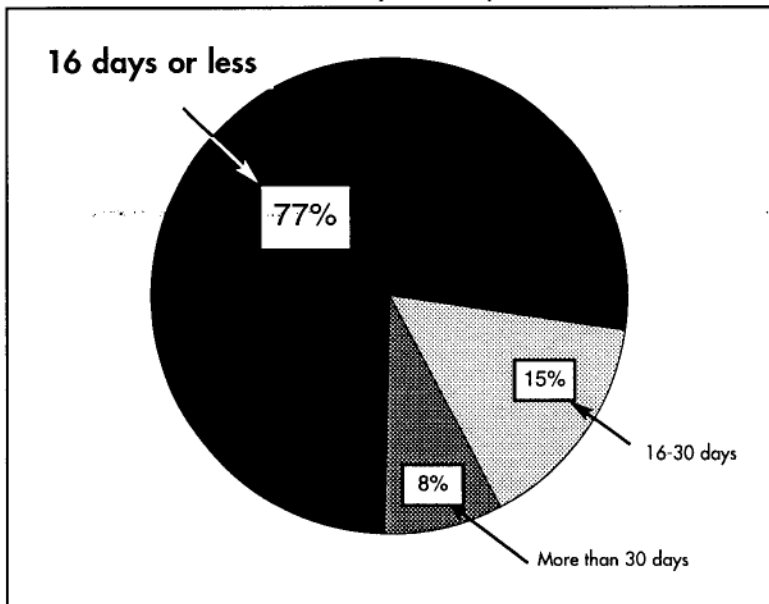
The day the case was first scheduled to be heard was the day that a disposition was entered. Within 13 days of a favorable disposition, a landlord can obtain the legal document (an *execution*) to move a tenant out, unless a tenant appeals or receives a stay of execution. Few cases, however, are appealed.

In the small percentage of cases that extended beyond 30 days, reasons for the delay included: mutual agreements to continue a case while working on a settlement, parties requesting continuances because of scheduling conflicts, preparation for trial, and availability of a judge.

**For cases that may proceed for a more extended period of time in court, a judge has the discretion under the law to order a tenant to escrow the rent, or a portion of it, depending upon housing conditions.**

\* The *disposition* may be a default, dismissal, agreement, or judgment.

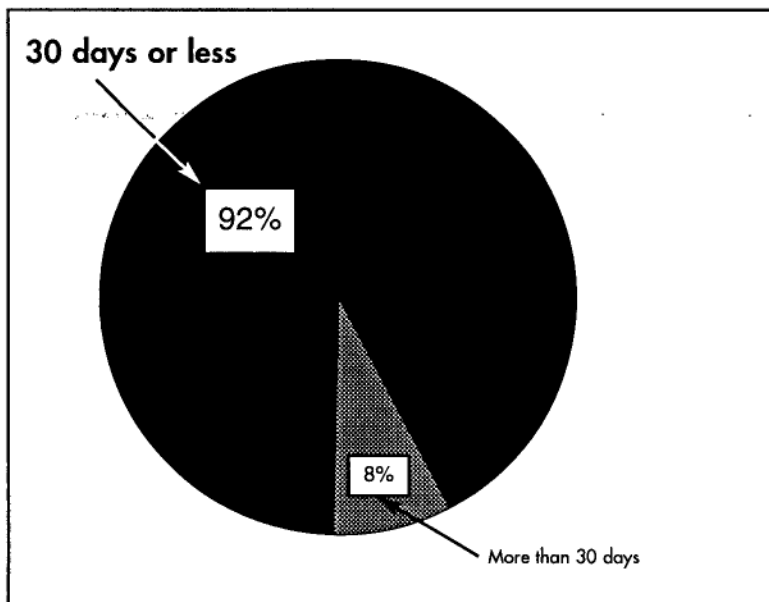
2005 Summary Process Survey:  
Case Duration from Entry to Disposition



**Statewide**

1-16 days	428	77%
17-30 days	86	15%
30+ days	45	8%

Total cases reviewed 559



**Statewide**

1-30 days	514	92%
30+ days	45	8%

Total cases reviewed 559

## **Few Tenants Have the Benefit of Representation**

Case data show that landlords have the benefit of legal representation in numbers that far outweigh tenants' representation. In the 559 cases reviewed:

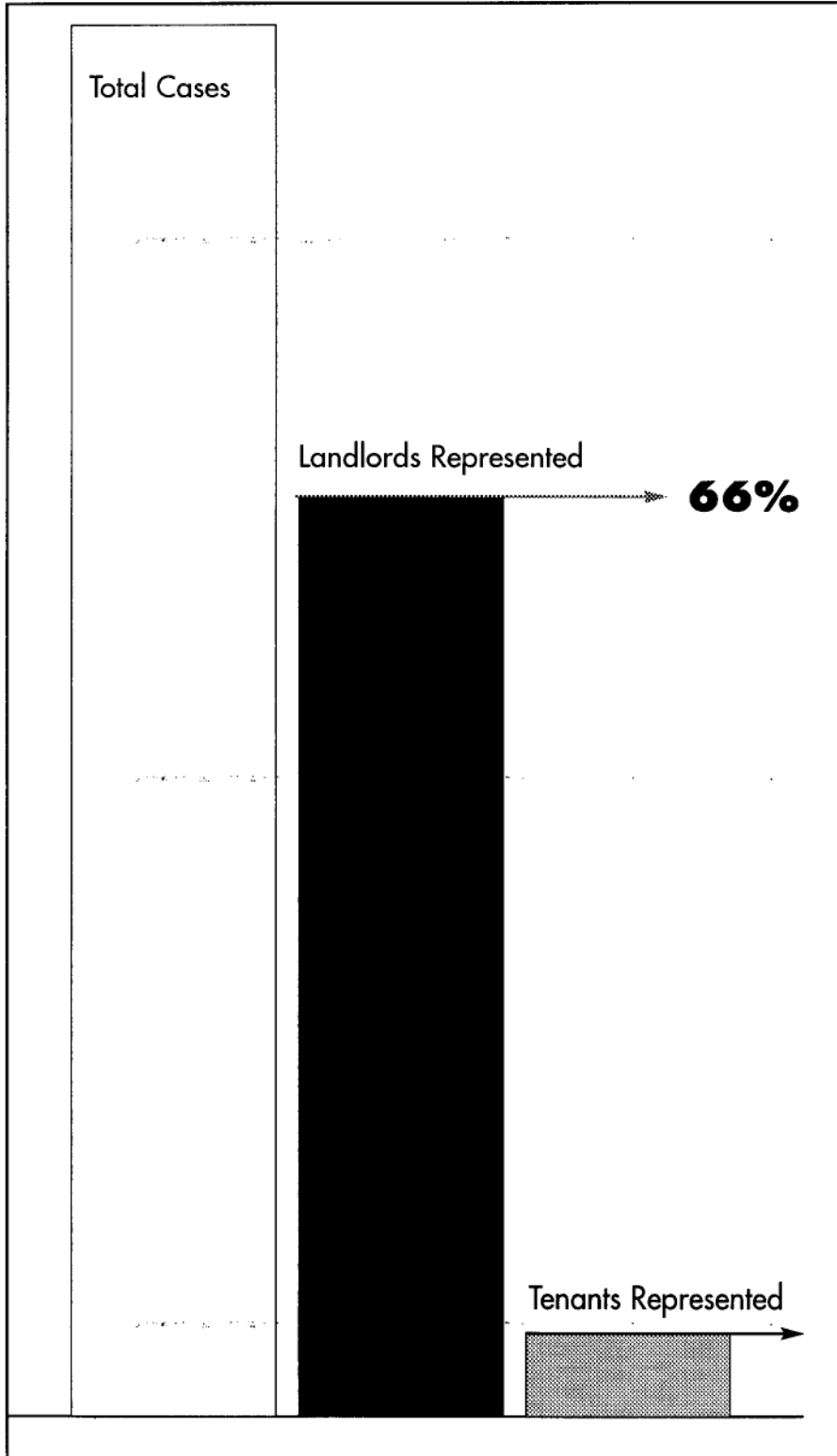
- ◆ **Landlords** were represented in **66%** of the cases;
- ◆ **Tenants** were represented in only **6%** of the cases.

In some courts, landlords actually had a much higher degree of representation and the imbalance was even greater. For example, in Quincy landlords were represented in 83% of the cases, while tenants were represented in only 3% of the cases.

While there are efforts being made to make housing courts in particular more friendly to unrepresented or "*pro se*" parties, the fact is that housing laws and court procedures can be complicated. **Those who have the benefit of legal representation have the advantage of an advocate working on their behalf.** They are in a better position to file court papers, organize evidence, make legal arguments, and negotiate agreements.



2005 Summary Process Survey:  
Percentage of Cases in Which Landlords  
and Tenants Had Legal Representation



**Statewide**

Landlords represented	370	66%
Tenants represented	31	6%
Total cases reviewed	559	

## **Landlords Are Getting Possession**

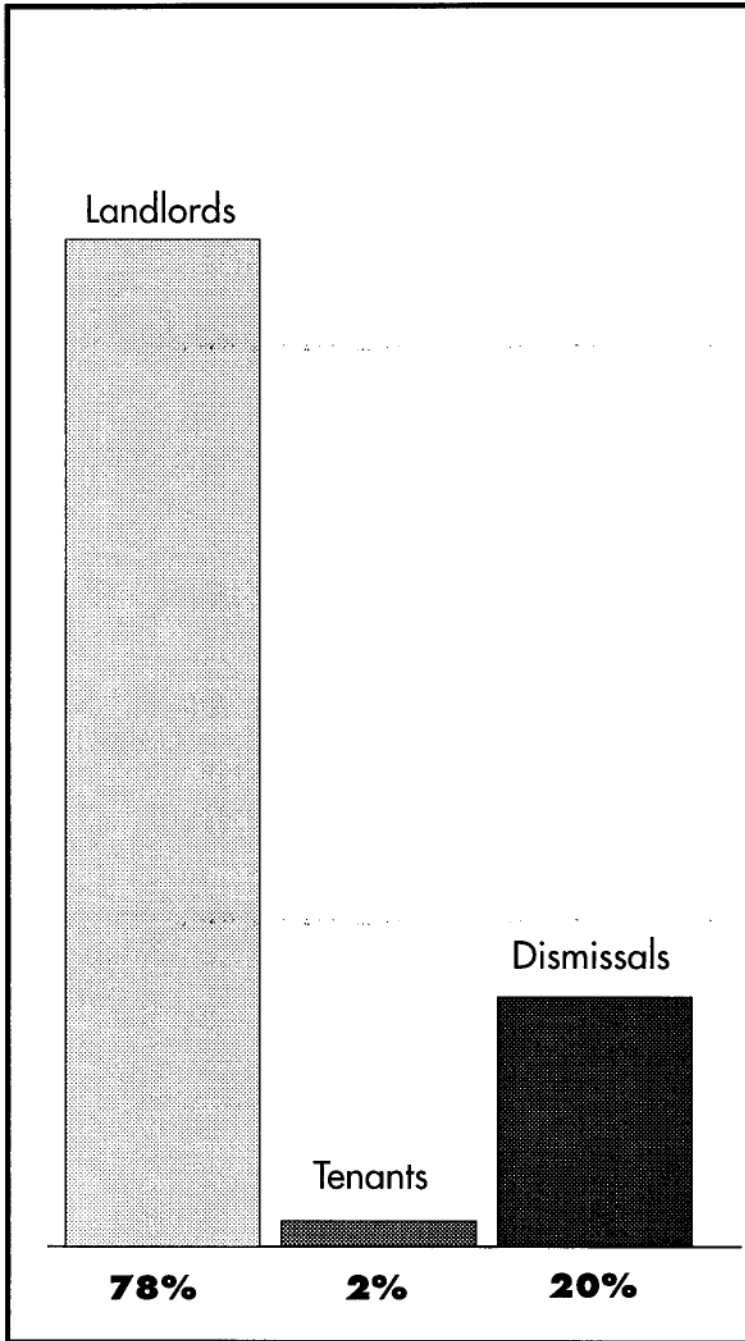
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Case data show that most landlords are winning their cases and are being awarded possession quickly. In the cases for which possession data were collected:

- **Landlords were awarded possession in 78%** of the cases;
- ◆ **Tenants were awarded possession in 2%** of the cases; and
- ◆ **Tenants retained possession in 20%** of the cases that were dismissed.

In the 20% of the cases which were dismissed, while a tenant may have retained possession, the data did not show one way or another whether a tenant actually retained possession or moved out.

2005 Summary Process Survey:  
Possession Awarded



**Statewide**

In 532<sup>o</sup> cases reviewed for possession data:

Landlords awarded possession through defaults, judgments, and agreements for judgment	415	78%
Tenants awarded possession through judgments and agreements for judgment	9	2%
Cases dismissed where tenants may retain possession	108	20%

<sup>o</sup> 14 of the 559 cases reviewed which resulted in an agreement for judgment were not reviewed on the issue of possession and in 11 cases there was no data on possession for various reasons, including case pending and stipulations.

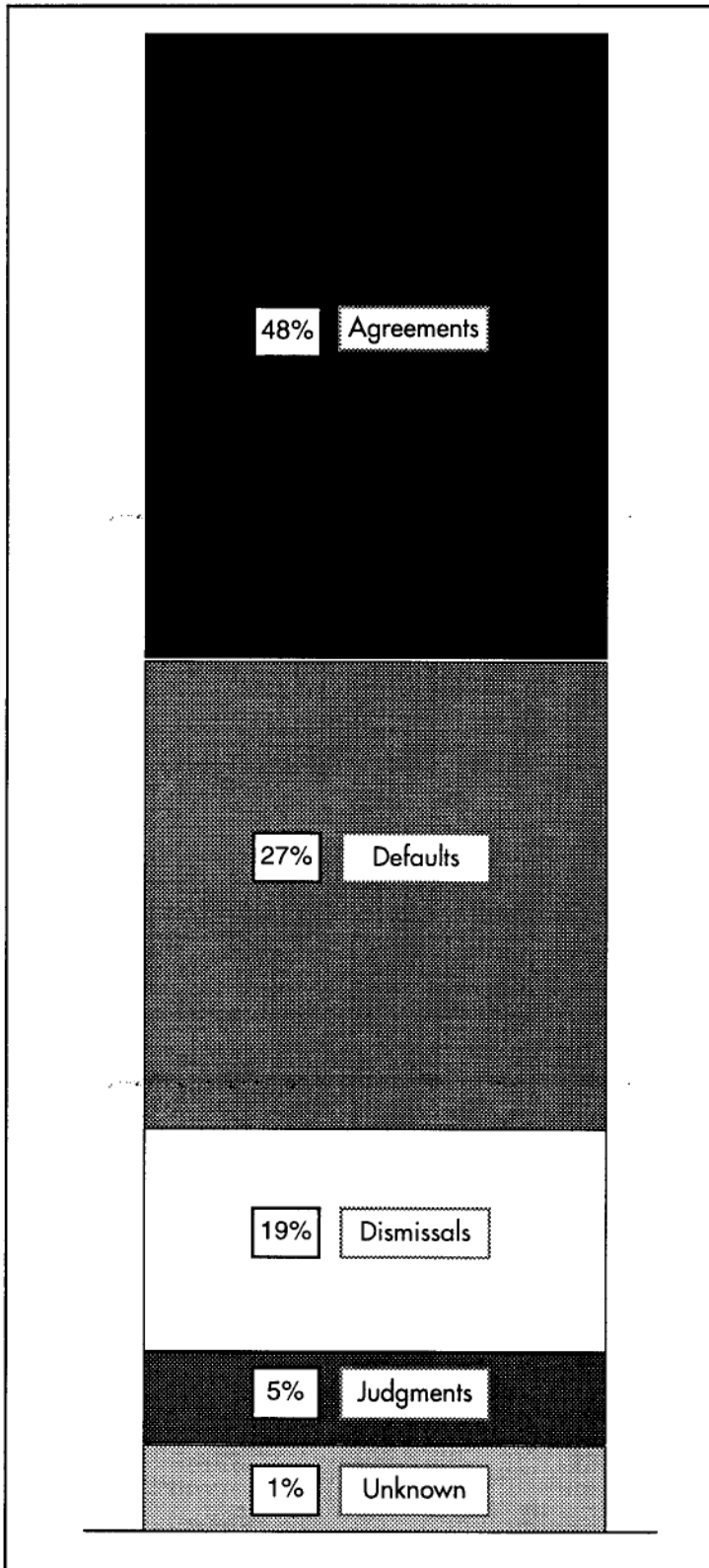
## **Most Cases Are Disposed of by Agreement**

The survey reviewed how cases were disposed of in terms of category of outcome. The data showed that of the 559 cases reviewed from January 2005:

- ◆ **Almost half of the cases resulted in agreements;**
- ◆ **Almost one-third of the cases resulted in default by tenants;**
- ◆ **19% of the cases were dismissed;\* and;**
- ◆ **5% of the cases resulted in judge-issued judgments.**

\* 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.

2005 Summary Process Survey:  
Case Outcomes



**Statewide**

Agreements	266	48%
Defaults	149	27%
Dismissals	108	19%
Judgments	27	5%
Unknown	7	1% <sup>a</sup>

Total cases reviewed 559

<sup>a</sup> At the time case data were reviewed, the outcomes of 7 cases pending were unknown.

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# Tables

## **Boston Housing Court**

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Reviewed every 10<sup>th</sup> residential summary process eviction case filed in January 2005. A total of 468 cases were filed in January 2005.

**Number of Cases Reviewed**.....46

### **Duration**

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1-16 days .....	41	89%
17-30 days .....	3	7%
30+ .....	2	4%

### **Outcome**

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Agreement for Judgment .....	21	46%
Default .....	11	24%
Dismissed .....	11	24%
Trial/Hearing .....	2	4%
Pending .....	1	2%

### **Cases Continued**

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Yes .....	3 <sup>1</sup>	7%
No .....	35	76%

### **Represented by an Attorney**

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Landlord Had Attorney .....	39	85%
Tenant Had Attorney .....	3	7%

### **Tenant Filed**

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Answer .....	5	11%
Discovery .....	3	7%
Request for Jury .....	2	4%

### **Awarded Possession**

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Landlord .....	34 <sup>2</sup>	74%
Tenant .....	0	0%
Dismissal .....	11 <sup>3</sup>	24%

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<sup>1</sup> One continuance was filed by a landlord, one by a tenant (where a judge ordered that rent be escrowed in court), and one jointly by both the landlord and the tenant.

<sup>2</sup> These cases were either defaults, judgments, or agreements for judgments where landlord was awarded possession.

<sup>3</sup> These cases were dismissed and tenant may retain possession.



## Cambridge District Court

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Reviewed all residential summary process eviction cases filed in January 2005 in Cambridge District Court.

**Number of Cases Reviewed**..... 68

### Duration

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1-16 days .....	47	69%
17-30 days .....	10	15%
30+ .....	11	16%

### Outcome

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Agreement for Judgment .....	22	32%
Default .....	19 <sup>1</sup>	28%
Dismissed .....	24	34%
Trial/Hearing .....	2	2%
Neither Party Appeared .....	1	1%
Pending .....	1 <sup>2</sup>	1%

### Cases Continued

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Yes .....	16 <sup>3</sup>	24%
No .....	54	80%

### Represented by an Attorney

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Landlords Had Attorney .....	65	96%
Tenants Had Attorney .....	3	4%

### Tenant Filed

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Answer .....	3	4%
Discovery .....	3	4%
Request for Jury Trial .....	1	1%

### Awarded Possession<sup>4</sup>

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Landlord .....	38 <sup>5</sup>	56%
Tenant .....	3	4%
Dismissal .....	24 <sup>6</sup>	34%

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<sup>1</sup> Defaults were removed in 2 cases and later dismissed and in 2 cases the default was removed by agreement of parties.

<sup>2</sup> This case is scheduled for a jury trial.

<sup>3</sup> All continuances were either by agreement of the parties (3 cases) or by request of the plaintiff (13 cases).

<sup>4</sup> Not all cases resulted in possession: 1 case is pending and 1 case neither party appeared.

<sup>5</sup> In 20 of the 38 cases, judgment for possession was entered for the landlord pursuant to an agreement for judgment with the tenant having the right to reinstate their tenancy based on certain conditions in the agreement. The remaining cases were either defaults, judgments, or agreements for judgments where landlord was awarded possession.

<sup>6</sup> These cases were dismissed and tenant may retain possession.

## Chelsea District Court

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Reviewed all residential summary process eviction cases filed in January 2005 in Quincy District Court.

**Number of Cases Reviewed** .....28

### Duration

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1-16 days .....	20	71%
17-30 days .....	4	14%
30+ .....	4	14%

### Outcome

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Agreement for Judgment .....	8	29%
Default .....	5	21%
Dismissed .....	6	21%
Trial/Hearing .....	8	29%
Pending .....	0	0%

### Cases Continued

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Yes .....	0	0%
No .....	28	100%

### Represented by an Attorney

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Landlord Had Attorney .....	18	64%
Tenant Had Attorney .....	5	18%

### Tenant Filed

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Answer .....	2	7%
Discovery .....	1	4%
Request for Jury Trial .....	0	0%

### Awarded Possession

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Landlord .....	21 <sup>1</sup>	75%
Tenant .....	2 <sup>2</sup>	7%
Dismissal .....	5 <sup>3</sup>	18%

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<sup>1</sup> These cases were either defaults, judgments, or agreements for judgments where landlord was awarded possession.

<sup>2</sup> These 2 cases were agreements for judgment.

<sup>3</sup> These cases were dismissed and tenant may retain possession.

## Lynn District Court

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Reviewed all residential summary process eviction cases filed in January 2005 in Lynn District Court.

**Number of Cases Reviewed**..... 33

### Duration

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1-16 days .....	25	76%
17-30 days .....	5	15%
30+ .....	3	9%

### Outcome

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Agreement for Judgment .....	17	51%
Default .....	12	36%
Dismissed.....	2	6%
Trial/Hearing .....	1	3%
Stipulation.....	1 <sup>1</sup>	3%
Pending .....	0	0%

### Cases Continued

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Yes.....	5 <sup>2</sup>	15%
No .....	28	85%

### Represented by an Attorney

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Landlord Had Attorney.....	15	45%
Tenant Had Attorney.....	2	6%

### Tenant Filed

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Answer.....	4	12%
Discovery .....	0	0%
Request for a Jury Trial.....	0	0%

### Awarded Possession

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Landlord .....	29 <sup>3</sup>	88%
Tenant .....	0	0%
Dismissal.....	2 <sup>4</sup>	6%

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<sup>1</sup> Case settled, hearing was cancelled.

<sup>2</sup> One continuance was at the request of both parties, in two cases it was not possible to tell who requested continuance, and one was continued based on a motion to remove a default.

<sup>3</sup> These cases were either defaults, judgments, or agreements for judgments where landlord was awarded possession.

<sup>4</sup> These cases were dismissed and tenant may retain possession.

## **Northeast Housing Court/Lawrence**

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Reviewed all residential summary process eviction cases filed in January 2005 in the Lawrence Northeast Housing Court.

**Number of Cases Reviewed**..... 198

### **Duration**

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1-16 days .....	135	68%
17-30 days .....	45	23%
30+ .....	18	9%

### **Outcome**

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Agreement for Judgment .....	101	51%
Default .....	52 <sup>1</sup>	26%
Dismissed .....	35	18%
Trial/Hearing .....	6	3%
Stipulation .....	2	1%
Pending .....	2	1%

### **Cases Continued**

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Yes .....	47	24%
No .....	151	76%

### **Represented by an Attorney**

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Landlord Had Attorney .....	111	56%
Tenant Had Attorney .....	13	7%

### **Tenant Filed**

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Answer .....	20	10%
Discovery .....	17	8%
Request for Jury Trial .....	1	.5%

### **Awarded Possession<sup>2</sup>**

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Landlord .....	159 <sup>3</sup>	80%
Tenant .....	0	0%
Dismissal .....	35 <sup>4</sup>	18%

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<sup>1</sup> One default was removed.

<sup>2</sup> Two cases were pending at the time of this study and in 2 cases there was a stipulation and possession was not indicated.

<sup>3</sup> In 35 of these 105 cases, judgment entered for landlord pursuant to agreement for judgment, but tenant had the right to reinstate their tenancy based on certain conditions. The remaining cases were either defaults, judgments, or agreements for judgments where landlord was awarded possession.

<sup>4</sup> These cases were dismissed and tenant may retain possession.

## Quincy District Court

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Reviewed residential summary process eviction cases filed in January 2005 in Quincy District Court.

**Number of Cases Reviewed**..... 102

### Duration

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1-16 days .....	91	89%
17-30 days .....	8	8%
30+ .....	3	3%

### Outcome

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Agreement for Judgment .....	56	55%
Default .....	16	16%
Dismissed .....	24	24%
Trial/Hearing .....	4	4%
Neither Party Appeared .....	2	2%

### Cases Continued

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Yes .....	2 <sup>1</sup>	2%
No .....	100	98%

### Represented by an Attorney

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Landlord Had Attorney .....	83	81%
Tenant Had Attorney .....	3	3%

### Tenant Filed

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Answer .....	2	2%
Discovery .....	1	1%
Request for Jury Trial .....	1 <sup>2</sup>	1%

### Awarded Possession<sup>3</sup>

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Landlord .....	72 <sup>4</sup>	71%
Tenant .....	3	3%
Dismissal .....	24 <sup>5</sup>	24%

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<sup>1</sup> One case was continued by request of the landlord. The other case, a continuance was allowed conditional on rent being escrowed into court. Several cases appear to have been continued orally by agreement.

<sup>2</sup> This case did not go to trial, but was settled through a mediated agreement.

<sup>3</sup> In 2 cases neither party appeared. In one case the trial data did not indicate who received possession.

<sup>4</sup> Of the 72 case, 36 were agreements for judgment where judgment for possession was entered for the landlord with the tenant having the right to reinstate their tenancy based on certain conditions in the agreement. The remaining cases were either defaults, judgments, or agreements for judgments where landlord was awarded possession.

<sup>5</sup> These cases were dismissed and tenant may retain possession.

## **Worcester Housing Court**

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Reviewed all residential summary process eviction cases filed in one month from the December 20, 2004 thur January 17, 2005 in Worcester Housing Court.

**Number of Cases Reviewed**..... 84

### **Duration**

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1-16 days .....	69	82%
17-30 days .....	11	13%
30+ .....	4	5%

### **Outcome**

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Agreement for Judgment .....	41	49%
Default .....	33 <sup>1</sup>	39%
Dismissed .....	7	8%
Trial/Hearing .....	4	5%
Pending .....	1	1%

### **Cases Continued**

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Yes .....	4 <sup>2</sup>	5%
No .....	80	95%

### **Represented by an Attorney**

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Landlord Had Attorney .....	39	46%
Tenant Had Attorney .....	2	2%

### **Tenant Filed**

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Answer .....	9	11%
Discovery .....	6	7%
Request for Jury Trial .....	0	0%

### **Possession**

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Landlord .....	76 <sup>3</sup>	90%
Tenant .....	1 <sup>4</sup>	1%
Dismissal .....	7 <sup>5</sup>	8%

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<sup>1</sup> Two defaults were removed.

<sup>2</sup> Landlord requested continuance in 2 cases, tenant requested for a continuance in 2 cases.

<sup>3</sup> In 24 of these 76 cases, judgment entered for landlord pursuant to agreement for judgment, but tenant had the right to reinstate their tenancy based on certain conditions. The remaining cases were either defaults, judgments, or agreements for judgments where landlord was awarded possession.

<sup>4</sup> Judgment for possession for tenant at trial.

<sup>5</sup> These cases were dismissed and tenant may retain possession.