

N.C.P.I.-Crim. 214.47
FELONIOUS BREAKING OR ENTERING-INTENT TO [INJURE]
[TERRORIZE] OCCUPANT. FELONY.
GENERAL CRIMINAL VOLUME
JUNE 2014
N.C. Gen. Stat. § 14-54

214.47 FELONIOUS BREAKING OR ENTERING - INTENT TO [INJURE]
[TERRORIZE] OCCUPANT. FELONY.

The defendant has been charged with felonious breaking or entering into the building of another without that person's consent and with the intent to [injure] [terrorize] an occupant of the building.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt.

First, that there was

[a breaking¹ by the defendant. (*State how breaking allegedly occurred*) would be a breaking.]

[an entry by the defendant. (*State how entry allegedly occurred*) would be an entry.]

[either a breaking¹ or an entry by the defendant. (*State how breaking allegedly occurred*) would be a breaking. (*State how entry allegedly occurred*) would be an entry.]

Second, that it was a building that was [broken into] [entered] [broken into or entered].

Third, that the [owner] [tenant], did not consent to the [breaking] [entering] [breaking or entering].

And Fourth, that at the time of the [breaking] [entering] [breaking or entering], the defendant intended to [terrorize]² [injure] an occupant of the building.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [broke into] [entered] [broke into or entered] a building without the consent of the [owner] [tenant],

intending at that time to [terrorize] [injure] an occupant of the building, it would be your duty to return a verdict of guilty of felonious breaking or entering. If you do not so find or if you have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of felonious breaking or entering³ but must determine whether the defendant is guilty of non-felonious breaking or entering.⁴ Non-felonious breaking or entering differs from felonious breaking or entering in that it need not be done with the intent to [terrorize] [injure] an occupant so long as the breaking or entering was wrongful, that is, without any claim of right.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant wrongfully [broke into] [entered] [broke into or entered] a building without the consent of the [owner] [tenant], it would be your duty to return a verdict of guilty of non-felonious breaking or entering. If you do not so find or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1 A breaking need not be actual, but may be by threat of force, by some trick, or by fraudulent representation inducing someone to open an entry to him.

2 "Terrorize" is defined as "to fill or overpower with terror; terrify." *Tyll v. Willets*, 748 S.E.2d 329 (2013) (citing *State v. Watson*, 169 N.C. App. 331, 337, 610 S.E.2d 472, 477 (2005)).

3 If there is to be no instruction on lesser included offenses, the last phrase should be: ". . . it would be your duty to return a verdict of not guilty."

4 If evidence supports a lesser included offense give the appropriate instruction.