



# How an Eviction Case Proceeds Through Allegheny County Courts

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## ABOUT THIS DOCUMENT

This document describes the sequence of events in a residential eviction case (“landlord–tenant case”) in Allegheny County. For the sake of clarity, as well as in order to demystify the process, links are provided to the text of the law and the court rules that govern each step in the process.

The document describes the process for claims of \$12,000 or less filed in the magisterial district courts. Appeals and cases involving claims of more than \$12,000 are filed in the Court of Common Pleas and are not covered in this document.

## SOURCES AND WHERE TO FIND THEM

Landlord–tenant cases in Pennsylvania are governed by statewide law. With the exception of Philadelphia, which has its own municipal court system, the rules are the same no matter what county the case is heard in. Court rules and statutes are available online.

The main sources for this document are:

- **The Landlord and Tenant Act of 1951** and its amendments, available [here](#). (If the link is broken, do an internet search for “the landlord and tenant act of 1951.”) The law is implemented by means of rules approved by the Pennsylvania Supreme Court. After rules are approved, they acquire the force of law and are included in the Pennsylvania Code, Title 246, Minor Court Civil Rules.
- **Pennsylvania Code, Title 246, *Minor Court Civil Rules***. These rules can be found on the Pennsylvania Code & Bulletin website. The links in the body of this document bring up the text of individual court rules. The website changes from time to time and the links may break. If that happens, the best way to find the text of the rules cited is to go to the homepage of the Pennsylvania Code & Bulletin, and look for “246 Minor Court Civil Rules” in the box for browsing the Code. This should bring up a table of contents with links to individual sections of Title 246.
  - Rules in Chapter 500 deal with evictions, or “Actions for the Recovery of Possession of Real Property,” and can be found in their entirety [here](#) or downloaded as a .pdf file from the Title 246 table of contents [here](#). Links below go to the text of individual rules.
  - Rules in Chapter 300 deal with Civil Action generally and include rules on “Satisfaction of Money Judgments” that apply to landlord–tenant cases. They can be found [here](#).

**NOTE:** A note in brackets indicating that a piece of information is not contained in electronic records means that the information is not collected and stored in a form that makes it accessible via public access requests for electronic records in bulk.

## HOW A RESIDENTIAL EVICTION CASE PROCEEDS

- 0. Eviction Notice (Notice to Quit).** Landlord gives notice to tenant “in accordance with the law,” unless no notice is required under the terms of the lease. The notice gives a date by which the tenant must move out. (246 Pa. Code Rule [503 C \(5\)](#))

### TIMELINE:

- If the reason for the notice is unpaid overdue rent, the tenant has 10 days to pay or move out before the landlord can file for eviction (“recovery of possession”).
- If the reason for eviction is the expiration of the term of the lease or breach of its conditions, the amount of time allowed is 15 days for leases of a year or less and 30 days for leases of over a year. (Landlord Tenant Act of 1951, [Section 501 \(b\)](#))

- 1. Complaint.** Landlord files a complaint for “recovery of possession of real property” at the Magisterial District Court in the district where the property is located. ([Rule 502](#))

Reasons allowed for a landlord–tenant complaint:

- Term of lease ended
- Breach of conditions of the lease
- Rent due has upon demand remained unpaid

(Landlord Tenant Act of 1951, [Section 501 \(a\)](#))

In addition, the complaint must say that the tenant (defendant) retains the property and refuses to give up possession. ([Rule 503 C \(6\),\(7\)](#))

[Reasons for complaint not in electronic records]

### TIMELINE:

- The hearing date must be set for a day between 7 and 15 days from the date the complaint is filed. ([Rule 504 \(1\)](#))
- The complaint must be served to the defendant at least 5 days before the hearing. ([Rule 506 B](#))

FEES: As of 2020, filing fees and costs for an action of:

- \$2,000 or less: \$82.00
- \$2,000.01–\$4,000: \$100.50
- \$4,000.01–\$12,000: \$137.00

Constable fees for service of complaints and other documents are \$13 each, plus \$2.50 for return of service (the “return of service” is the report made by the constable describing the date and manner of the service and any other required information) plus mileage.

The landlord initially pays all filing and constable fees, but if the landlord wins the case the tenant usually becomes responsible for all court costs and fees, in addition to whatever other amount is owed to the landlord.

2. **Service.** The complaint must be served to the tenant by mail and either in person or by posting conspicuously on the premises. The constable or sheriff who serves the complaint must make “proof of service” on the form provided, showing the manner of service and the day, time and place. ([Rule 506 A](#))
3. **Cross-Complaint by Defendant.** At any time before the hearing, the tenant may file a cross-complaint. Tenants may file this type of complaint if they believe that the landlord owes them money, e.g., if the tenant paid for essential repairs to the property. The complaint is categorized as a civil complaint, not a landlord–tenant complaint. It must arise “out of the occupancy of the premises.” There is no filing fee, since it “is in the nature of a responsive pleading.” ([Rule 508 A. and Official Note](#))

[Reasons for cross-complaint not in electronic records]

TIMELINE:

- A new date will be set for hearing both complaints together, on a day between 7 and 15 days from the filing of the defendant’s complaint.
- The cross-complaint must be served on the plaintiff (landlord) at least 5 days before the hearing. ([Rule 508](#))

4. **Withdrawing or Settling the Case.**

- a. A landlord may withdraw the complaint at any time prior to the hearing by filing written notice with the court. The hearing will be canceled and the parties notified in writing that the case has been withdrawn. The case is marked as withdrawn on the docket. The complaint may be refiled at a later date. If the tenant has filed a cross-complaint, it will still be heard.
- b. The parties may file written notice of settlement of the complaint with the court any time prior to the entry of judgment. When the court receives notice of settlement, it cancels any scheduled hearing (unless there is a cross-complaint not resolved in the settlement), marks the case as settled on the docket, and notifies the parties in writing that the case has been settled. If the settlement is later breached, a new complaint may be filed citing breach of settlement as the cause.

([Rule 320](#))

5. **Hearing.** The landlord must appear and give testimony to prove the complaint even when the tenant fails to appear for the hearing. Unlike other civil cases, default judgments for the plaintiff are not allowed. When the landlord fails to appear at the hearing, the magisterial district judge may continue the hearing for cause or dismiss the complaint without prejudice (dismissing a case “without prejudice” means the landlord is free to file it again in the future).

([Rule 512](#))

## 6. Judgment.

- a. If it appears at the hearing that the complaint has been proven (i.e., that the tenant owes rent or has breached the terms of the lease, or that the term of the lease has expired), the magisterial district judge enters judgment against the tenant that the property be delivered up to the landlord and enters the following judgments:
  - (1) for the amount of rent, if any, which remains due,
  - (2) for the amount of damages, if any, for unjust detention (cost to the landlord from the tenant staying when not entitled to),
  - (3) for the physical damages, if any, to the leasehold premises, and
  - (4) for the costs of the proceeding; less any amount found due the tenant on any cross-complaint.

In addition, the magisterial district judge makes an entry identifying the amount of monthly rent.

- b. A money judgment may be rendered for the tenant on a cross-complaint if the amount found due to the tenant exceeds any amount found due to the landlord.

[\(Rule 514\)](#)

TIMELINE:

- Judgment must be given at the hearing or within 3 days thereafter. [\(Rule 514 C\(1\)\)](#)

## 7. Notice of judgment, right to appeal and right to entry of satisfaction. The written notice of judgment or dismissal must contain:

- a. notice of the right to appeal to the Court of Common Pleas and the time allowed for appeal [\(Rule 514 D1\)](#)
- b. notice that if there is an appeal to the Court of Common Pleas, everything further must happen at that level, including an initial request for entry of satisfaction [\(Rule 514 D2\)](#)
- c. notice that “**anyone interested in the judgment may file a request for entry of satisfaction with the magisterial district judge if the debtor pays in full, settles, or otherwise complies with the judgment**” [\(Rule 514 D3\)](#). An entry of satisfaction is an official court record that the amount owed has been paid, or that the landlord and tenant have worked out an agreement to the satisfaction of both parties, so that there is no unpaid debt remaining on the tenant’s record.

[\(Rule 514 D\)](#)

(By [Rule 341, Official Note](#), once a judgment of satisfaction has been entered at the Court of Common Pleas, the defendant can also request that it be entered in the magisterial district court where the case was originally heard.)

## TIMELINE

- The court must “promptly” give or mail written notice of judgment or dismissal to the parties. ([Rule 514 C\(2\)](#))
- Appeals may be made within 10 days. (1995 amendment to the Landlord and Tenant Act of 1951, 68 P. S. § 250.513 (b))

- 8. Request for Order of Possession.** Unless there is an appeal or stay due to a bankruptcy proceeding [or the judgment has been satisfied], the landlord may file a request for an order of possession after 10 days.

TIMELINE: After 10 days (the time period allowed for an appeal) and within 120 days, the landlord may request an order of possession. ([Rule 515 B \(1\)](#))

FEES: At the time the landlord files the request for an order of possession, the Magisterial District Court should collect server fees for all actions through delivery of possession (\$108+). Thereafter, if the order of possession is satisfied 48 hours or more prior to a scheduled delivery of possession, a portion of the server costs may be refundable. (See Rules 516 through 520 and Section 2950(d) of the Judicial Code, 42 Pa.C.S. § 2950(d).)

CONSTABLE FEES: \$13 to execute an order of possession; \$90 for ejectment (physical eviction); \$2.50 for each return of service; plus mileage.

- 9. Issuance and Reissuance of Order of Possession.** Upon receiving a timely request for order of possession, the magisterial district judge must issue the order of possession and deliver it for service and execution to a sheriff or constable. The order directs the officer executing it to deliver possession of the physical property to the landlord. ([Rule 516 A](#))

## TIMELINE:

- The order of possession must be issued as soon as the request is received. ([Rule 516 A](#))
- No order of possession may be executed after 60 days following its issuance or reissuance. ([Rule 519 C](#))
- On written request of the landlord within 120 days of the date of entry of the judgment, the judge must reissue an order of possession for one additional 60-day period. The additional 60-day period need not necessarily immediately follow the original 60-day period of issuance. ([Rule 516 B \(1\)](#))
- The judge must mail a copy of the order of possession to the tenant and deliver it for service to a sheriff or constable.

**10. Service of the Order of Possession.** The service copy of the order must contain the notice:

“If you, and all occupants of this property not authorized by the owner to be present thereon, do not vacate this property within ten (10) days after the date of this notice, the law authorizes me to use such force as may be necessary to enter upon the property by the breaking in of any door or otherwise, and to eject you and all unauthorized occupants.” ([Rule 517 \(2\)](#))

TIMELINE

- The officer receiving the order of possession must serve the order within 48 hours by personally handing it to the tenant or posting it conspicuously on the premises.

([Rule 518](#))

**11. Satisfaction of Order by Payment of Rent and Costs.** Up to the moment of actual physical eviction, in cases due only to unpaid rent, the tenant may pay the amount owed according to the order of possession and stay in the property. This is informally called the “Pay and Stay” option. The executing officer (usually a constable) is required to accept payment and give the tenant a signed receipt.

(Landlord and Tenant Act, [Section 503 \(c\)](#))

([Rule 518](#))

**12. Forcible Entry and Delivery of Possession.** If, on or after the eleventh day following the service of the order of possession, the tenant or any other unauthorized occupant remains on the property, the officer executing the order of possession may use force as necessary to enter the property, by the breaking in of any door or otherwise, and to eject the tenant and other unauthorized occupants and deliver possession of the property to the landlord.

([Rule 519 B, C](#))

TIMELINE: The serving officer must execute the order of possession between 11 and 60 days following its service. The constable will not go out to execute the order of possession until the landlord calls to request that it be executed. If the landlord does not call within 60 days to request execution of the order, it expires.

([Rule 519 B, C](#))

**13. Officer’s Return.** The officer executing the order of possession must make a return on the order of possession form to the court, showing:

- a. The date, time, place and manner of service of the order
- b. If the order was satisfied by the payment of rent in arrears and costs by or on behalf of the defendant, the amount of that payment and its distribution
- c. The time and date of any forcible entry and ejectment, or that no entry for the purpose of ejectment had to be made
- d. The officer’s expenses and fees

([Rule 520](#))

[Information on the return on order of possession not in electronic records]

**TIMELINE:** Within 5 days following delivery of possession to the landlord OR satisfaction by payment of rent in arrears and costs, the office executing the order of possession must make a return on the order of possession form.

([Rule 520](#))

#### **14. Request for Entry of Satisfaction; Service; Entry of Satisfaction**

“Entry of Satisfaction” is an official court record that a money judgment has been paid in full or otherwise satisfied (for example, by settlement between the landlord and tenant). It is optional for the landlord to file it unless the tenant or another interested party requests that it be filed.

- a. If a judgment debtor (usually the tenant in a landlord–tenant case) has paid in full, settled, or otherwise complied with a judgment rendered in a district justice court, anyone interested in the judgment may request the entry of satisfaction of the judgment by filing a written request in the office of the district justice who rendered the judgment.
- b. A request for entry of satisfaction by anyone other than the judgment creditor must be served upon the judgment creditor.
- c. Within 90 days from the date of service of the request for entry of satisfaction, the judgment creditor shall enter satisfaction in the office of the district justice in which the request for entry of satisfaction was filed.

The party requesting the entry of satisfaction must pay any costs for the entry of satisfaction.

These procedures apply to satisfaction of money judgments rendered in all types of civil cases, including actions for the recovery of possession of real property (landlord/tenant actions). See Rules 514 and 518.

If a judgment creditor does not comply with the provisions of this rule, the judgment debtor may proceed under [Rule 342](#) (by filing a supplementary action for damages).

A party may contest the entry of satisfaction by filing a petition to strike the entry of satisfaction with the Court of Common Pleas.

([Rule 341](#))

**TIMELINE:** The landlord must file an entry of satisfaction within 90 days of the tenant’s request. If the tenant does not make a request, the landlord may file an entry of satisfaction at any time but is not obligated to do so.

#### **15. Failure of Judgment Creditor to Enter Satisfaction; Supplementary Action**

If the judgment creditor does not enter satisfaction within the 90-day period after service of the request as specified in Rule 341 (C), the judgment debtor may commence a supplementary action for damages by filing a civil complaint in the office of the district justice in which the request for entry of satisfaction was filed.

Because the supplementary action is merely a continuation of the underlying action, there are no filing costs for it; however, there may be costs for service of the action.

([Rule 342](#))

## SOURCES

### Law and Court Rules

Pennsylvania Code and Bulletin:

<http://www.pacodeandbulletin.gov/>

Pennsylvania Consolidated Statutes:

[https://www.legis.state.pa.us/cfdocs/legis/LI/Public/cons\\_index.cfm](https://www.legis.state.pa.us/cfdocs/legis/LI/Public/cons_index.cfm)

PA Consolidated Statutes, Title 42, “Judiciary and Judicial Procedure” has a chapter governing money judgments and how they’re collected: [Chapter 81. Judgments and Other Liens](#)

Pennsylvania Unconsolidated Statutes:

[https://www.legis.state.pa.us/cfdocs/legis/li/Public/ucons\\_index.cfm](https://www.legis.state.pa.us/cfdocs/legis/li/Public/ucons_index.cfm)

*Magisterial District Judge Cost Table. Effective January 1, 2020.*

Link to .pdf at <http://www.pacourts.us/courts/minor-courts/>

Accessed 6/3/2020

### Constable Handbooks

*Fifth Judicial District of Pennsylvania, County of Allegheny, Pittsburgh, Pennsylvania Constable Handbook*,  
Version February 29, 2016

<https://www.alleghenycountycourts.us/downloads/administration/ConstableHandbook.pdf>

Accessed 9/5/2019

*Constable Field Reference Guide Civil Law*, Pennsylvania Commission on Crime and Delinquency

Accessed 2/12/2020 through “Civil Law Guide (PDF)” link at

<https://www.pccd.pa.gov/training/Pages/Constables%27-Education-and-Training-Board.aspx>

### Court Forms

The Unified Judicial System of Pennsylvania website has links to forms to be filed with the courts, for example Landlord-tenant Complaint, Request for Order of Possession, and Entry of Satisfaction forms.

<http://www.pacourts.us/forms/for-the-public>

Accessed 2/12/2020