



## **FREQUENTLY ASKED QUESTIONS ABOUT CIVIL SUITS AND LANDLORD/TENANT SUITS IN MAGISTERIAL DISTRICT COURTS**

### **WHO MAY USE A MAGISTERIAL DISTRICT COURT?**

Any person may file a complaint against a person or a company with a Magisterial District Judge to recover a loss of money but the claim cannot exceed \$12,000. If you wish to sue for more than \$12,000 you must file in the Court of Common Pleas, a court that is more formal and for which an attorney is practically mandatory.

### **SELECTING A MAGISTERIAL DISTRICT COURT**

If you decide to file a civil suit in a Magisterial District court, you must determine which Magisterial District Judge has the authority to handle the suit. There are rules which govern where a suit may be filed. Generally, the suit must be filed in the magisterial district where the cause of action arose or where a transaction or occurrence took place which gave rise to the cause of action. In addition, if the defendant is an individual, the suit may also be filed in any other magisterial district where the defendant can be served the suit papers. If the defendant is a corporation, an unincorporated association or a partnership, suit may also be filed in the magisterial district where the defendant regularly conducts business. Landlord/Tenant actions must be filed in the district where the property is located.

A list of Magisterial District Courts listed by municipality can found at <http://www.co.delaware.pa.us/>.

PLEASE NOTE: THE COURT STAFF CAN EXPLAIN BASIC PROCEDURE BUT MAY **NOT** GIVE YOU A LEGAL OPINION OR ADVICE.

### **HOW TO START THE SUIT**

Once the correct court is determined, you need to file the complaint. You can obtain a complaint at the District Court location or download a form from Administrative Office of the PA Courts website at:

#### **EVERY COMPLAINT NEEDS**

- Your Name and Address
- Business Name and Address if applicable
- Amount for which you are suing
- A short statement explaining why you believe you are entitled to the money. Be sure to provide enough information so the other party knows why the complaint is being filed.

The complaint form must be filed, with the applicable filing fees at the Magisterial District Court.

## **NOTIFYING THE OTHER PARTY**

Once you have filed the complaint you will receive a hearing date. A Civil Action hearing will be scheduled no less than 12 nor more than 60 days. A Landlord and Tenant hearing will be scheduled no less than 7 nor more than 15 days. Service must be performed upon the defendant. This can be done either by certified mail or hand delivery by a constable (Landlord & Tenant must be served by constable service).

## **THE TRIAL**

Present at the Trial will be the Magisterial District Judge, you, your witnesses, the person you are suing, their witnesses and any attorneys representing you or the defendant. The Judge will explain procedures to you. During the Trial you will be given the opportunity to explain to the court why you filed the complaint. You will need to provide the court with any papers, bills, receipts, or letters. The other party or the Judge may ask questions. Then you may call your witnesses to testify and they may also be asked questions.

Once you have completed your case the other party may present their case to the court and you and the Judge will be permitted to ask them questions. They also may call their witnesses to testify and answer questions.

After the Judge has heard all facts from both parties and asked all their questions this will conclude the hearing. They may render this decision at the conclusion of the hearing or may:

- On Civil cases send Judgment Notices within five(5) days after the hearing.
- On Landlord & Tenant cases send Judge Notices within three (3) days after the hearing.

## **APPEAL**

Both parties have a right to appeal the Judge's decision:

- Civil Judgments can be appealed to the Court of Common Pleas within thirty (30) days after the date entry of Judgment.
- On Landlord & Tenant; if the party is appealing for a money judgment only or if the claim filed was for a nonresidential lease, the can be appealed to the Court of Common Pleas within thirty (30) days after the date entry of Judgment.
- If the claim was filed for a residential lease and the party is appealing the Possession of Real Property, they can be appeal to the Court of Common Pleas within ten (10) days after the date entry of Judgment.

## **EXECUTION**

After the time for appeal has lapsed, with no appeal filed, and you have not collected the total judgment, you may ask the Judge for an "Order of Execution". If you wish to file an Execution you must fill out a form and pay the Execution costs. Once the form is completed and costs paid the Judge will issue the Execution to a Constable who will levy on property that will be set aside to be sold at a later time to settle the debt.

Any fees paid for an Order of Execution will be added on to the total amount of the claim.

## Landlord/Tenant Actions

Landlord/Tenant Actions are filed by Lessors (Landlords/Landladies) who wish to repossess real property from their tenant. They may also seek a monetary judgment for rent which is past due and/or for damage to the premises. Both issues can be processed on the same complaint.

Filing Fees: Just as in any other small claims action, the costs are scaled according to the award that is requested. Service costs are additional. Contact the Magisterial District Judge office for current cost information. All costs are paid in advance and may be added to the amount of the claim.

Service costs depend on the residence of the defendant. The constable will serve the complaint upon the defendant(s), requiring an appearance before the Magisterial District Judge no less than seven (7) or more than twenty (20) days after filing. The Magisterial District Judge can postpone the hearing for a reasonable cause.

Costs are recoverable as a part of the total judgment. Attorney's fees, however, are not recoverable, unless reasonably attorney fees are specified as part of the lease.

At the hearing the Lessor must appear to offer testimony and produce physical evidence (copy of lease, rent ledgers, receipt books, photographs, etc.) in order to support the complaint. The lessor may bring other witnesses at this time. If the defendant fails to appear for the hearing, the testimony may still be offered and a decision could be made by the Magisterial District Judge in the defendant's absence. If the defendant appears, then the defendant may offer a defense. The Magisterial District Judge in either case will make a decision within three (3) days and notify all parties.

Judgment may be for:

- Possession only in favor of the Plaintiff.
- Possession plus overdue rent and/or damages/costs in favor of plaintiff.
- For defendant, if plaintiff's case is not substantiated.
- Dismissal Without Prejudice—the district judge dismisses the case due to a technical violation of a court rule. In this instance the plaintiff may REFILE the case.

Hearings are conducted according to the Rules of Civil Procedure for magisterial District Judges and the Rules of Evidence. The plaintiff/lessor has the burden of proving by a preponderance of the evidence every element of the claim.

Although many individuals can properly present a civil suit, if you are unsure of your case or how to proceed, you may want to hire a lawyer versed in landlord-tenant law to help you navigate through the system. Whether or not you hire a lawyer is strictly your choice.

**THE COURT STAFF CAN EXPLAIN BASIC PROCEDURE BUT MAY NOT GIVE YOU A LEGAL OPINION OR ADVICE.**

The tenant must be given notice before filing. In case of eviction, the following time limitations apply when a Notice to Quit is served on a tenant:

- NON-PAYMENT OF RENT: 10 DAYS
- BREACH (VIOLATION OF THE LEASE OTHER THAN NON-PAYMENT OF RENT: 15 DAYS
- END OF LEASE (ONE YEAR OR LESS): 15 DAYS
- END OF LEASE (MORE THAN ONE YEAR): 30 DAYS

UNREASONABLE COVENANTS IN THE LEASE, SUCH AS A WAIVER OF THE REQUIRED TIME PERIODS MAY NOT BE ENFORCED BY THE COURT.

Once a Notice to Quit has been delivered to the tenant(s) the lessor must act upon that notice within a reasonable time if in fact the tenant has failed to leave the premises. Should the lessor allow the tenant to remain for an unreasonable time past the date he/she is to vacate, it can be construed that a new lease has been created or that the original lease has renewed itself under that same terms and conditions. If the lessor allows the tenant to holdover, the lessor may be placed in the situation of having to deliver a new Notice to Quit. Unless otherwise specified in the lease, Notice to Quit must be served personally upon the tenant.

If the lessor wins a judgment of Possession, the defendant will be directed by the Magisterial District Judge to quit (leave) the premises no later than TEN (10) days from the date the judgment is entered. If the defendant still has not left the premises, the lessor can appear on the 11th day after judgment to file an Order of Possession. The Sheriff will be ordered to serve this upon defendant. If the defendant still refuses to leave, the Constable may then proceed to eject (kick out) the defendant. If the procedure goes this far, the Sheriff or Constable may require the lessor to post a bond.

If the lessor also wins judgment for monetary damages, the lessor cannot execute on that part of the case until 30 days has passed. The lessor may file an Order of Execution with the Magisterial District Judge on the 31st day after judgment.

Following the Magisterial Court's decision, either party may file an appeal to the Court of Common Pleas of Delaware County by contacting the Office of Judicial Support within thirty (30) days of the date of judgment. The Office of Judicial Support is located in the Government Center, Room 126, 201 W. Front Street, Media, PA 19063. Phone: 610-891-4370

Forms for complaints, appeals and other filings can be found at:

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