

Landlord/Tenant Frequently Asked Questions

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Most disputes between landlords and tenants are resolved by the Landlord/Tenant Section of the Special Civil Part Court. The Landlord/Tenant Section is one of three sections within the Special Civil Part. The other two sections are Small Claims and regular Special Civil Part. Brochures for all three sections are available at any New Jersey Special Civil Part Clerk's Office, as well as on the Internet at njcourts.com. You can also find Frequently Asked Questions for all sections on njcourts.com.

This FAQ gives general information about the Landlord/Tenant Section. It is not intended to provide or take the place of legal advice or to answer every question you may have about this court.

For legal advice about your rights, you should contact a lawyer. If you do not have a lawyer, you may contact the Lawyers' Referral Service of the County Bar Association. If you cannot afford a lawyer, you may contact the Legal Services Program in your county to see if you are eligible to receive free legal services.

What Types of Claims Are Filed?

Following is a general list of some of the typical reasons why a landlord may file a complaint in the Landlord/Tenant Section of the Special Civil Part Court:

- Failure to pay rent.
- Continued disorderly conduct.
- Willful destruction or damage to property.
- Habitual lateness in paying rent.
- Violation of rules and regulations, after written notice to comply, as outlined in a lease or other document.
- Tenant's conviction for a drug offense.

Before filing some landlord/tenant complaints, a landlord must give a tenant written notice to stop particular conduct. Only when a tenant continues that conduct after receiving the notice to stop, can a landlord try to have the tenant evicted. Also complaints, other than non-payment of rent, generally require notice terminating the tenancy. You may wish to contact an attorney for more information.

A landlord or a tenant that is a corporation, limited liability corporation or limited partnership must be represented by a New Jersey attorney in all matters filed in the Landlord/Tenant Section. No landlord or tenant that is one of these kinds of business entities may send a representative other than a New Jersey

licensed lawyer or other court permitted lawyer to court. A partner in a general partnership can represent themselves in the Landlord/Tenant section of the Special Civil Part Court.

Where Do I File a Landlord/Tenant Complaint?

A complaint must be filed with the Office of the Special Civil Part Clerk in the county where the rental premises are located.

How Do I Go About Filing a Landlord/Tenant Complaint?

Forms required for filing a landlord/tenant action are the *Verified Complaint*, the *Summons and Return of Service*, and the *Certification*; all of which are available at the New Jersey Special Civil Part Clerk's Office where the rental premises are located, as well as on the Internet at njcourts.com. You can also find a list of the Special Civil Part Clerk offices, addresses, and phone numbers at njcourts.com.

The forms, along with the appropriate fees, can be sent to the court through the mail or delivered in person. When filing you must include the following:

- Enter your full name, address and telephone number.
- To ensure proper service of the complaint, provide the correct name(s) and address(es) of the person(s) named in the complaint as defendant(s). It is important that the defendant be properly identified as an individual, a sole proprietorship, a partnership or a corporation.
- Give all information for the type of complaint you're filing, as indicated on the forms.
- Landlord/Tenant complaints against residential tenants, on the basis of non-payment of rent, must be signed and verified only by those persons with personal knowledge of the facts supporting this complaint. There are other specific facts that must also be included and verified, and are contained in the complaint form.
- If a landlord has filed the complaint on the basis of something other than non-payment of rent, the landlord must attach to the summons and complaint all applicable notices that were previously sent to the tenant and which will be relied upon by the landlord.
- Sign and date the completed forms. Have an original and two copies of your completed forms for each defendant, or tenant, named in the summons and complaint forms.
- Pay the correct filing and service fees when filing the complaint with the Office of the Clerk of the Special Civil Part.

What Are the Filing Fees?

The cost for filing a complaint in the Landlord/Tenant Section is:

- \$50 for one defendant/tenant.
- \$5 for each additional defendant/tenant.
- In addition, you must pay a mileage fee for delivery of the summons and complaint by a Special Civil Part Officer. The staff of the Special Civil Part Clerk's Office can inform you of the mileage fee. The landlord can pay by cash or check, made payable to the *Treasurer, State of New Jersey*.

How Do I Prepare for Trial?

Landlord

If you are the landlord, you must come to court and prove the statements made in the complaint are true. Arrange to have in court any witnesses you need to prove your case. A written statement, even if made under oath, cannot be used in court. Only actual in-court testimony of the witnesses will be allowed. Prepare your questions in advance.

Bring to court records of any transactions that may help you prove your case. Such records may include:

- Leases, estimates, bills, rent receipt records.
- Dishonored checks.
- Letters, photographs.
- Other documents proving your claim.

If the landlord is withdrawing the complaint, immediately call the Special Civil Part Clerk's Office so that the Special Civil Part Clerk's Office can mark the case as withdrawn and cancel any interpreter or special accommodation, if any, that may have been arranged. If the parties settle their case prior to the scheduled trial date, and it's regarding a residential property, that settlement agreement may need to be reviewed and/or approved by a judge in the event it needs to be enforced later on by any of the parties.

Tenant

If you are the tenant, you don't have to file a written answer, but you must come to court and prove that the statements made by the landlord in the complaint are not true. Arrange to have in court any witnesses you need to prove your case. A written statement, even if made under oath, cannot be used in court. Only actual testimony of the witnesses will be allowed.

Bring to court all applicable records. Such records may include:

- Rent receipts, canceled checks.
- Leases.
- Letters and notices to or from the landlord.
- Photographs.
- Other documents proving your case.

If you have not paid rent because the landlord did not make necessary repairs, you have to prove to the court how serious the problems are and how they are affecting your use of the rented premises. If you have not paid your rent, you should bring the amount the landlord claims you owe to court. Only cash, certified check, or money order made payable to the ***Treasurer, State of New Jersey***, is acceptable.

What Happens on the Day of Trial?

Both the tenant and landlord must come to court at the time and date stated on the summons unless otherwise notified by the court. Bring all evidence and witnesses needed to present your case. If both the landlord and tenant appear, they may first be required to meet with a court approved mediator or settlor in an attempt to settle the case. This person is not a judge.

If an agreement is reached, an agreement or settlement form is available in every Special Civil Part Court to be used by the parties and it must be reviewed and/or approved by the judge when the tenant has no attorney representing them and it concerns residential property.

Both the landlord and tenant will be able to present their case to the judge if the parties are unable to settle their case. If the judge decides in favor of the tenant, the case will be dismissed. If the judge decides in favor of the landlord, a "judgment for possession" will be granted. A judgment for possession allows the landlord, within specific time limits, to have the tenant removed from the premises by a Special Civil Part Officer.

If the landlord fails to appear at the scheduled date and time, the case will be dismissed against the landlord. If the tenant fails to appear at the scheduled date and time, the landlord will obtain a default and upon the timely filing of certain mandatory certification forms, the landlord will obtain a default judgment for possession.

If the landlord's complaint is for non-payment of rent and the tenant offers to pay all the rent due, plus court costs, before or on the day of the court hearing, the landlord must accept the rent and the case will be dismissed. If the landlord doesn't accept the money, it may be deposited with the Clerk of the Special Civil Part. The judgment will then be voided and the tenant does not have to move out of the premises.

What Happens If the Landlord Obtains a Judgment for Possession?

If a landlord obtains a judgment for possession, the landlord may apply to the Clerk of the Special Civil Part for a warrant of removal, which permits the landlord to force the tenant to move out of the rental premises. The fee for a warrant of removal is \$35 plus the applicable Special Civil Part Officer's mileage fee. A second mileage fee will also be required to be paid to the Special Civil Part Officer directly, if it is necessary for the officer to revisit the residential rental property and execute the same warrant of removal that the officer previously served upon the tenant. The Special Civil Part Clerk's Office staff can inform the landlord of the applicable mileage fees. The warrant of removal may not be issued to a Special Civil Part Officer until the expiration of three (3) business days (not counting the court day) after the judgment for possession is granted.

The Special Civil Part Officer is required to provide a residential tenant at least three (3) business days to move all persons and belongings from the premises. Again, this date does not include holidays, weekends or the date that the warrant of removal was originally served by the Special Civil Part Officer upon the residential tenant. The Special Civil Part Officer is not required to provide a commercial tenant with any three business day notice, as the officer can serve the warrant for removal and evict the commercial tenant at the same time.

If the residential tenant does not move out after three (3) business days from the date that they were served with the warrant of removal, the landlord must arrange with the Special Civil Part Officer directly to have the residential tenant evicted or locked out. The Special Civil Part Officer will tell the landlord the fees charged for this eviction, which cannot be greater than \$50, and the landlord pays this fee and the second mileage fee to the Special Civil Part Officer directly.

Following the eviction, the landlord must allow the tenant remove personal belongings from the premises. If a tenant vacates the rental premises but fails to move their personal belongings, the landlord must still comply with the provisions of the New Jersey Tenant's Abandoned Property statute. The landlord should consult with an attorney for those requirements.

A landlord must apply for the warrant of removal within 30 days from the date that the judgment for possession is entered unless the judgment is stopped or stayed through a court order or other written agreement signed by the landlord and the tenant.

A tenant may also ask the court for permission to stay in the premises due to special difficulties or hardship that moving out may cause. If permission is granted, the tenant may not stay in the premises for more than six months but all rent due, and future rent due during this “hardship stay,” ordinarily must be paid for permission to be granted by the court. The tenant may also ask for a more temporary stay through a request for an Order for Orderly Removal which is typically no longer than 7 calendar days. Finally, a tenant can file a motion to vacate the underlying judgment for possession but that does not typically stop or stay the eviction process unless otherwise ordered by the court. Any of these requests for relief made by the tenant must be done on notice to the landlord.

What Happens to the Residential Security Deposit?

The security deposit generally must be deposited in an interest-bearing account in a bank or saving and loan association in New Jersey at the time the lease is signed. The tenant must be given written notice of where the money has been deposited within 30 days of receipt by the landlord.

If the landlord does not return the security deposit within 30 days from the date the tenant moves out or vacates the premises, the tenant may sue to recover double the amount due, plus court costs and reasonable attorney’s fees, if any. If the amount sought is \$5000 or less, the tenant may sue in the Small Claims Section of the Special Civil Part Court. If the amount sought exceeds \$5,000.00, the tenant may sue in the Special Civil Part. If the amount sought exceeds \$15,000, the tenant must sue in the civil part section of the Law Division.

The landlord must notify the tenant, within those 30 days from the date that the tenant vacates the rental premises, of the amount of the security deposit being retained to pay unpaid rent and/or to pay for the cost of the repairs, if any. If the amount of any damage caused by a tenant plus any unpaid rent is more than the security deposit, the landlord may sue for the additional money.

If a residential building is sold, the seller must turn over each security deposit plus any interest to the buyer and notify each tenant by registered or certified mail.

The Premises I Am Currently Renting Are Subject to a Pending Foreclosure Action, Will I Be Forced to Move Because of This Foreclosure?

A tenant will **NOT** be forced for move because of foreclosure. A residential tenancy is not generally affected by a foreclosure. The fact that the building, in which a tenant is renting goes into foreclosure, does **NOT** in most instances, affect a bona fide residential tenant in good standing. The purchaser at the sheriff’s sale will take over the building subject to the tenant’s rights.