

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. You can find brochures and frequently asked questions (FAQs) for all three sections on njcourts.gov.

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 the court.

For legal advice about your rights, you should contact a lawyer. If you do not have a lawyer, you can contact the Lawyers' Referral Service of the County Bar Association. If you cannot afford a lawyer, you can 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?

Common reasons why a landlord might file a complaint in the Landlord/Tenant Section of the Special Civil Part Court are:

- 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 a landlord/tenant complaint for a reason other than non-payment of rent, the landlord must give the 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. Federal law requires a landlord who owns public housing residences to send a copy of the complaint and any eviction notice to the Public Housing Authority ("PHA") on or before the complaint is filed with the Court.

According to the Federal Cares Act of 2020, landlords who have Section 8 tenants or who have a federally backed mortgage and are allowed to postpone mortgage payments during the Covid-19 health

crisis are not allowed to file in landlord/tenant court until July 26, 2020 and they must provide 30 days' notice to their tenants once they are allowed to file in court. Landlords should consider consulting an attorney for more information on the impact of federal and state laws passed during the Covid-19 health crisis.

Landlords or tenants that are corporations, limited liability corporations or limited partnerships 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 can send a representative other than a New Jersey licensed lawyer or other court permitted lawyer to court. Partners 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?

Landlords must file a landlord/tenant complaint with the Office of the Special Civil Part in the county where the rental property is located.

How Do I File a Landlord/Tenant Complaint?

Landlords must file a *Verified Complaint* and the *Summons and Return of Service* form with the court. They should also include any notices previously given to tenants that they intended to rely upon at trial. The required forms, as well as a list Special Civil Part offices, addresses, and phone numbers, can be found on the court's website at njcourts.gov.

If you are landlord, send the required forms and any notices to tenants that you intend to rely upon at trial, along with the appropriate fees, to the court through the mail or by using the Judiciary Electronic Document Submission (JEDS) system. For more information on JEDS, go to njcourts.gov.

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)/tenants. It is important that the defendant/tenant 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, for non-payment of rent must be signed and verified by someone with personal knowledge of the facts supporting this complaint. There are other specific facts that must also be included and verified, as stated in the complaint form.
- If you are filing the complaint for reasons other than non-payment of rent, you must attach all applicable notices that you previously sent to the tenant and which you will rely upon at trial.
- 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 Special Civil Part.
- If you file through the Judiciary Electronic Document Submission (JEDS) system, the filing fees can be paid by credit card or collateral account. There is a 3% credit card processing fee for this service.

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. Contact the staff of the Special Civil Part Office about the mileage fee.

If you file by mail, include a check for the filing fees (remember to include the mileage fee). Your check should be made payable the *Treasurer, State of New Jersey*. If you file through the Judiciary Electronic Document Submission (JEDS) system, the filing fees can be paid by credit card or collateral account. There is a 3% credit card processing fee for this service. Be sure to follow the instructions provided on the payment screen.

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 all records of any transactions that may help you prove your case. Such records can include:

- Leases, estimates, bills, rent receipts or ledgers.
- Dishonored checks.
- Letters, photographs.
- Other documents proving your claim.

If you are the landlord and want to withdraw the complaint, immediately call the Special Civil Part Office so that they can mark the case as withdrawn and cancel any interpreter or special accommodation, if any, that may have been arranged. If you and the tenant settle the case prior to the scheduled trial date, and it is regarding a residential property, the judge might need to review and approve the settlement agreement in the event it needs to be enforced later 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, including your own testimony, 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 property. 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 might 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 and will try to help the landlord and tenant settle their case.

If an agreement is reached, agreement or settlement forms are available so that the agreement can be put in writing. 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 they 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 is a court order that allows the landlord, within specific time limits, to have the tenant removed from the property (evicted) 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, which means that the court is deciding in favor of the landlord. After the default, if the landlord files the required 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 can be deposited with the Office of the Special Civil Part. The judgment will not get entered and/or it will get dismissed without prejudice and the tenant does not have to move out of the property. If the landlord's complaint is for non-payment of rent and the residential tenant pays all of the rent due and owing, plus proper costs, within three business days after they are evicted, the landlord must accept and advise the court to dismiss the case with prejudice. The landlord can be subject to a statutory penalty of \$500 if they fail to accept full payment, plus any proper court costs, fail to cooperate with a charitable organization or rental assistance program that had committed to pay the tenant's rent and/or fails to notify the court to dismiss the case with prejudice.

What Happens If the Landlord Obtains a Judgment for Possession?

If a landlord obtains a judgment for possession, the landlord can apply to the Special Civil Part Office for a warrant of removal, which permits the landlord to force the tenant to move out of the rental property (eviction). 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 by the landlord 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 (eviction) that the officer previously served upon the residential tenant. The landlord can contact the Special Civil Part Office staff about the applicable mileage fees. The warrant of removal cannot 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. Pursuant to the Governor's Executive Order 106, evictions of residential tenants are suspended till 60 days after the public health emergency is declared over.

The Special Civil Part Officer must give a residential tenant at least three (3) business days to move all persons and belongings from the property. 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 about any other possible fees charged for this eviction, which must be agreed to by the landlord and which cannot be greater than \$75; 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 to remove personal belongings from the property. If a tenant vacates the rental property but fails to remove 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. The landlord must apply for the warrant of removal (eviction) within 30 days from the date that the judgment for possession is entered unless the judgment is stopped or stayed (delayed) through a court order or other written agreement signed by the landlord and the tenant. The landlord must have the Special Civil Part Officer execute the warrant of removal (eviction) within 30 days of the warrant's issuance unless the judgment is temporarily stopped or stayed through a court order or other written agreement signed by the landlord and tenant.

What Can the Tenant do after Judgment for Possession is Entered?

If the landlord's complaint is for non-payment of rent, the residential tenant can pay all the rent due and owing, plus proper costs, up till three business days after they are evicted, and the landlord must send a letter or notice to the court dismissing the case with prejudice. The landlord cannot refuse to accept this timely payment from the tenant. The payment must be in certified funds, money order or cash. The landlord does not have to accept the tenant's payment by personal check. A tenant can make a timely motion to dismiss with prejudice if the landlord failed to provide the required letter or notice to the Court upon their timely receipt of all rent due and owing, plus proper costs, or if the landlord refused to accept this timely offer of full payment.

The landlord can be subject to a statutory penalty of \$500 if they fail to accept the full rent due and owing before three business days from the date of the eviction, plus any proper court costs, fail to cooperate with a charitable organization or rental assistance program that had committed to pay the tenant's rent and/or fails to notify the court to dismiss the case with prejudice.

A tenant can ask the court for permission to stay in the property due to special difficulties or hardship that moving out might cause. If permission is granted, the tenant cannot stay in the property for more than six months, and all rent due, and future rent due during this "hardship stay," must be paid.

The tenant can also ask for a more temporary stay by asking the court 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 with notice to the landlord and must be made within 10 days from the date of the eviction.

What Happens to the Residential Security Deposit?

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

If the landlord does not return the security deposit within 30 days from the date the tenant moves out or vacates the property, the tenant can sue to recover double the amount due, plus court costs and reasonable attorney's fees, if any. If the amount is \$5000 or less, the tenant can sue in the Small Claims Section of the Special Civil Part Court. If the amount is more than \$5,000, the tenant can sue in the Special Civil Part. If the amount is more than \$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 property, if the landlord intends to keep some or all of the security deposit 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 can 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.

Pursuant to the [Governor's Executive Order 128](#), during the Covid-19 health crisis and for up to 60 days after it is declared over, tenants can use their security deposit (including any interest earned) to pay rent currently due or as a credit toward future rent. The tenant must send a written request to the landlord (which can be by email) to do so. If the tenant renews or extends the lease after April 24, 2020, they must repay the security deposit within six months after the health crisis is declared over or on the date the lease is renewed or extended, whichever is later. If the lease is not renewed or extended, the security deposit does not need to be repaid to the landlord.

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 to 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.