

NEW JERSEY JUDICIARY

INFORMATION

FOR

LANDLORDS



Superior Court of New Jersey

Law Division

Special Civil Part

Landlord/Tenant Section

Most disputes between landlords and tenants are resolved by the landlord/tenant section of the New Jersey Superior Court, Special Civil Part.

This brochure gives you 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 might have about this court.

For legal advice about your rights, you should contact a lawyer. If you do not have a lawyer, you can contact the lawyer's referral service of your county bar association.

A landlord or tenant that is a corporation or limited liability partnership must be represented by a New Jersey attorney in all matters filed in the Landlord/Tenant Section.

Typical Landlord and Tenant Complaints

The following is a general list of some of the reasons a landlord might file a complaint in the landlord/tenant section:

- Failure to pay rent.
- Continued disorderly conduct.
- Destruction or damage to property caused willfully or by gross negligence.
- 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 complaints, a landlord must give a tenant a written notice to stop, or cease, a particular conduct. Only when a tenant continues that conduct, after the notice to stop, can a landlord try to have the tenant evicted. Also, complaints other than non-payment of rent generally require notice ending the tenancy. These notices must be attached to the complaint at the time of filing.

A landlord cannot file a complaint in the landlord/tenant section to collect the unpaid rent after receiving a judgment for possession. Claims to collect back rent must be filed in the regular Special Civil Part or small claims section, depending upon the amount of rent owed.

Filing a Complaint

A complaint must be filed with the Special Civil Part Clerk's Office in the county where the rental premises are located. The facts contained in the complaint supporting the action must be verified by the person who has personal knowledge of those facts.

When filing a complaint, you must complete the landlord/tenant summons and complaint, both of which are available at the Special Civil Part Clerk's Office. You must submit an original summons and complaint, plus two additional copies of both, for each tenant named in the complaint. You must specify the type of complaint you are filing, as indicated on the complaint form. All completed forms must be signed. You will be notified by postcard when to appear in court.

Fees

The costs for filing a complaint, a warrant of removal and service in the Landlord/Tenant Section is available at njcourts.com or by calling the Special Civil Part's Clerk's Office in the county where the rental premises are located. Make a check or money order payable to the *Treasurer, State of New Jersey*.

Settlements

If the case is settled *before the trial date*, the landlord should contact the court regarding any agreement. Settlements on the day of trial are described under the section titled “Day of Trial.”

Preparation for Trial

As the landlord, you must come to court and prove that 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 in advance your questions for the witnesses that will help prove your case.

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

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

Day of Trial

Both the landlord and the tenant must appear in 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.

On the trial date, the court will announce all of the cases listed for trial that day so the court knows who is present. One of the following could occur:

1. TRIAL - If the parties cannot settle their case, there will be a trial. The judge will either grant or deny judgment for possession to the landlord.
2. SETTLEMENT - The court will encourage the landlord and tenant to settle their case voluntarily. In order for settlements to be enforceable, certain certifications by the landlord and the landlord’s attorney, if there is an attorney, must be filed with the court. It is important the parties understand what they have agreed to in their settlement. Settlement forms are available in any Special Civil Part Court and require the judge’s review and approval for residential tenants appearing *pro se*, or without an attorney.
3. DISMISSAL - If the landlord does not appear, the case will be dismissed.
4. DEFAULT - If the landlord appears but the tenant does not, the case will be defaulted in favor of the landlord. The landlord should submit the following forms within 30 days of the date of default:
 - Certification by Landlord.
 - Certification by Landlord’s Attorney. This document is required only if the landlord is represented by an attorney.

These forms are available in any New Jersey Special Civil Part Clerk’s Office and at njcourts.com. It is strongly suggested that these certification forms be completed and submitted to the court on the trial date. The judgment for possession will not be entered until these forms are filed which must be within 30 days of the day of trial.

Judgment for Possession / Warrant of Removal

If judgment for possession is entered, the landlord will be able to have the tenant evicted by a special civil part officer. A landlord cannot personally evict a tenant. Only a special civil part officer can evict a tenant in New Jersey.

A warrant of removal can be issued after the expiration of *three business days*, not including the court day, from the date the judgment for possession is entered. In the case of a seasonal rental, however, the warrant must be issued within two days from the day the judgment for possession is entered. Once the warrant of removal is served on a residential tenant, the landlord must wait *three business days*, which are Mondays through Fridays, excluding legal holidays, before an eviction can be scheduled. A commercial tenant, however, can be evicted when the warrant is served.

A tenant can promptly apply to the court to vacate the judgment, obtain an order for orderly removal, which grants more time to move out, or for a hardship stay, which could stop the eviction. A tenant can apply for a hardship stay up to 10 days after the tenant has been evicted. The tenant is required to notify the landlord of the application to have the eviction stopped or delayed. When applying for a hardship stay, the tenant could be required to pay all rents owed into court, plus costs. The tenant also might be required to pay all future rents into court when due or as otherwise ordered by the judge for the duration of the stay.

Enforcement of Settlements and Consent Judgments

To enforce a settlement agreement or consent judgment that allowed a tenant to either stay or vacate at a time certain while also paying an agreed upon amount, the landlord or tenant must file a certification, which is a formal statement of the facts of the alleged breach, or violation, and the desired relief. A copy of this certification must be sent to the other party by regular and certified mail or the other party's attorney, if there is one, by regular mail or, if directed to a tenant, it can be posted on the door of the rental premises.

Residential Security Deposit

New Jersey law prohibits a landlord from requiring more than 1½ times the monthly rent as security. Security deposits are generally required to pay for the repair of damage to the leased premises that is more than the cost of normal maintenance and repair and could be applied to unpaid rent.

Security deposits must be deposited by the landlord into an interest bearing account within 30 days of receipt. The landlord must notify the tenant in writing of the name and address of the depository bank, the amount deposited, the type of account and the current rate of interest for that account, and *annually thereafter*. If the landlord fails to provide this information to the tenant in writing within 30 days of the receipt of the security deposit, moving the deposit to another account or bank, the merger of the bank with another bank, the sale of the property or at the time of each annual interest payment, the tenant can apply the security deposit and any accrued interest toward rent. Tenants must notify the landlord in writing by certified mail if they are doing so. If the tenant is going to apply the security deposit to rent because the landlord failed to pay the annual interest in cash to the tenant or failed to provide the tenant with the annual update of the account information, the landlord has 30 days to rectify these failures.

If the property is sold prior to the termination of the tenancy, the landlord is required to transfer the security deposit to the new owner(s) and notify the tenant in writing. The new owner has a duty to obtain the security deposit from the selling landlord.

If the landlord wants to use the security deposit to pay for damage or rent owed, the landlord must notify the tenant in writing within 30 days after the tenant has vacated the rental premises. It is the responsibility of tenants to provide the landlord with their new address.

Illegal Eviction

In New Jersey, the only way tenants can be evicted from their rental premises is if a judge permits the eviction after a lawsuit has been decided. A landlord cannot evict a tenant or remove a tenant's belongings from the premises without first obtaining a judgment for possession and warrant of removal.

Arrangements must be made with the special civil part officer who is assigned to the case to evict the tenant. It is illegal for a landlord to force a tenant out by refusing access, shutting off utilities, changing the locks or padlocking the rental premises. A landlord cannot take possession of personal belongings or furniture in an attempt to force the tenant to pay rent.

If a landlord illegally evicts a tenant from the tenant's rental premises, the tenant could file a complaint and order to show cause in the Special Civil Part and be put back into the rental premises by the judge. The tenant could be awarded money damages.

Tenant's Legal Fees (if any) and/or Rent Credits

In New Jersey, the landlord could be required to pay the tenant's reasonable legal fees or expenses, or both, if certain conditions are met. This applies to any new residential lease agreement entered into *on or after Feb. 1, 2014*. If the lease provides that a landlord is or could be entitled to recover either attorney's fees or expenses, or both, incurred as a result of the failure of the tenant to perform any agreement in the lease, or if the lease provides that such costs could be recovered as additional rent, the court must also then recognize and apply this same provision, as an implied covenant, for residential tenants that have an attorney who successfully defends against any action by the landlord or if a tenant successfully pursues an action against the landlord arising out of the failure of the landlord to perform any agreement or covenant in the lease. If a tenant pays all the rent alleged due and owing by the landlord before the entry of final judgment and had no meritorious defense other than said payment, the tenant is not deemed "successful" for purposes of this new law. The court has the discretion to either award the tenant money damages or a credit against future rent.

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