

What happens after I fill out all the papers, file my appeal and get the Supersedeas?

After filing your Appeal papers with the Office of the Prothonotary at the Courthouse, you should get back copies of the papers, including several copies of the Notice of Appeal form with the supersedeas block signed by the Prothonotary. You will need to give one copy of the Notice of Appeal to your LL and one copy to the MDJ. You can either hand a copy to them or send it to them by certified mail. If you send it by certified mail, keep the sender's receipt.

Once you have served both the LL and the MDJ, you need to fill out the Proof of Service form, which you can get from the Prothonotary. You need to complete the Proof of Service form, sign it in the presence of a notary public, attach the sender's receipt if you served the LL or MDJ by certified mail, and file it with the Prothonotary at the Courthouse. It is important to remember that you need to serve the LL and MDJ and file the proof of service form with the Court within ten (10) days from the date you filed the appeal or your LL can have your appeal dismissed.

What Happens Next?

Your LL has 20 days from being served with your Notice of Appeal to file a Complaint with the Court of Common Pleas. After doing so and serving you with the Complaint you will have 20 days to file your Answer to the allegations made by your LL in the Complaint. It would be wise to consult with an attorney at this stage of the appeal if you have not done so already.

TO APPLY FOR LEGAL HELP:

1-800-326-9177
or
apply.midpenn.org

For more information about MidPenn Legal Services go to:

www.midpenn.org



This pamphlet contains general legal information and not specific legal advice. Although the information is believed to accurate at the time of preparation, individual situations may require individual analysis, such that it may be advisable to consult with a lawyer. June 2011

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LEGAL SERVICES

Appealing A Landlord/Tenant Judgement for Possession Pro Se



ABOUT US

MidPenn Legal Services is a non-profit, public interest law firm that provides high quality free civil legal services to low-income residents and survivors of domestic violence and sexual assault in 18 counties in Central Pennsylvania: Adams, Bedford, Berks, Blair, Centre, Clearfield, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Perry, Mifflin, Schuylkill & York counties.

If after the hearing, the Magisterial District Judge (MDJ) decides for your Landlord (LL) and against you, the tenant, you have the right to file an Appeal to the Court of Common Pleas. The time limit for filing your Notice of Appeal depends on what you want to appeal.

- If you only disagree with and want to appeal the amount of money the MDJ decided that you owe, then you have 30 days from the date of the MDJ's Notice of Judgment.
- If you disagree with the MDJ's decision that your LL is entitled to evict you and get possession of your home, then you have only 10 days from the date of the MDJ's Notice of Judgment.

If you don't appeal an MDJ Judgment for possession within 10 days and follow the procedures described here, then on the eleventh (11th) day, your LL can get an Order For Possession which will be delivered to you by a constable, and will give you only 10 more days before the LL can have you forcibly removed by a constable.

Can I stay if I come up with the rent money the MDJ decided I owe?

That depends on whether the Notice of Judgment says that you have this option. You need to look carefully at what the Judgment you receive after the MDJ hearing says.

If the only reason your LL filed the eviction was for non-payment of rent (not for a breach of the lease or end of the lease term) then the Notice of Judgment should indicate that a judgment for possession is granted if the unpaid rent and all court costs are not paid by the time of eviction. If your Notice of Judgment is not a "pay and stay" judgment, then payment of the rent and court costs will not prevent you from being evicted. You should be careful in entering into payment agreements with your LL, unless they are in writing and signed by your LL and you have made the MDJ and constable aware of your payment and the LL's written agreement. If you are not sure if you need to file an appeal within 10 days you should seek legal advice quickly.

Can I stop my eviction by filing my Notice of Appeal within 10 days of the MDJ Judgment?

That depends upon whether you are able to pay the amount of money required when you file your appeal to get a "supersedeas" bond and continue to make future payments on time. The supersedeas bond allows you to remain in the home while the appeal is pending. Unless your income is at or below 100% of federal poverty guidelines, you will need to pay the lesser of 3 times the monthly rent or the amount of unpaid rent as determined by the MDJ.

If your income is at or below 100% of federal poverty guidelines, you would only need to pay the current month's rent, if you have not already paid it to your LL.

If you can't pay the full amount of the current month's rent, you have the option to pay 1/3 of your monthly rent when you file and then pay the remaining 2/3's twenty (20) days later. The money for a supersedeas bond is paid to the Court, as are future rent payments, which must be made every thirty (30) days from the date you file the appeal. If future rent payments are not made to the Court every 30 days, the LL can have the supersedeas terminated and evict you with an Order for Possession.

What papers do I need to file my Notice of Appeal?

- Notice of Appeal Form
- Civil Cover Sheet
- Tenant's Supersedeas Affidavit Form (if your monthly income is at or below 100% of federal poverty guidelines)
- Petition to Proceed In Forma Pauperis (IFP) and Affidavit if you are asking to be excused from paying the filing fee
- Copy of the MDJ Judgment
- Money order or cash for the supersedeas bond

The first three forms should be available at the Prothonotary's office or online at: www.pacourts.us/forms.

Your MidPenn Office may be able to provide the IFP forms if they are not available at the office of the Prothonotary.