

LANDLORD/TENANT PACKET FOR SELF-REPRESENTED LITIGANTS

Please read all of the information contained in this packet before you start filling out the form. When filling out these forms please write as CLEARLY and NEATLY as possible, preferably using blue ink.

This packet does not constitute legal advice. If you have questions about this process, you should seek the advice of an attorney. The court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents.

Steps to appeal an Eviction Judgment

1. You must fill out the APPEAL FORMS and deliver them to the Prothonotary's Office within 10 days of the date of judgment signed by the Magisterial District Judge, along with the Notice of Judgment from the District Magistrate's Office.
2. You may file a Petition to Proceed In Forma Pauperis (form attached) if you feel you meet the income requirements to proceed in forma pauperis (IFP) and should be excused from paying the filing fees associated with your case. If the Judge agrees you cannot afford the fees based on your answers provided on the IFP, then the County will pay the fees for you. If the Judge feels you can pay the fees, you will then need to pay the fees in the Prothonotary's Office (located on the 1st floor of the Government Center)
3. If you want to stay in your home during the appeal process, you must pay rent to the Court. **YOU MUST PAY TO STAY.** This cannot be waived (details on Page 2).
4. You must SERVE THE APPEAL by hand-delivering it or sending it by certified mail to the landlord and the Magisterial District Judge, who entered the judgment.
5. You must, then, file the original PROOF OF SERVICE in the Prothonotary's Office within 10 days of filing the appeal.



YOU MUST PAY TO STAY

STAY OF EVICTION (SUPERSEDEAS)

A Supersedeas, also called a stay of eviction, is the Court's way of saying that the landlord cannot go forward with the eviction until the appeal is over.

In order to obtain a stay of eviction when you owe rent, you have two options:

1. If you can afford it, you must pay either the entire judgment or three months of rent, whichever is less, to the Court when you file the appeal.

- OR -
2. If you cannot afford to pay the whole judgment or three months of rent to the Court with the appeal, then:
 - (a) Complete a **TENANT'S AFFIDAVIT** saying you cannot pay the whole judgment or three months of rent to the Court.
 - (b) Pay **ONE-THIRD** of your monthly rent to the Court at the time you file the appeal.
 - (c) Pay the remaining **TWO-THIRDS** of your monthly rent to the Court within 20 days of the date the appeal was filed.
 - (d) Continue to pay your **FULL MONTHLY RENT** to the Court every 30 days from the date the appeal was filed until the conclusion of your case. This 30-day deadline is only 10 days after the 20-day deadline above. In other words, you **MUST** pay two full months of rent within the first 30 days.

VERY IMPORTANT: If you miss a payment or pay late (even by one day), the Court may lift the stay of eviction/supersedeas, and the landlord may file for possession/eviction while the appeal is pending.



DOCUMENTS NEEDED TO FILE THE APPEAL

1. Notice of Appeal (attached)
 - (a) Since you are filing the appeal, you are the appellant, and the other party is the appellee.
 - (b) The original caption (top heading with both names) filed at the Magistrate's Office stays the same as far as Plaintiff and Defendant.
 - (c) The parties' addresses are located on the Notice of Judgment page called Participant List.
2. Notice of Judgment/Transcript (documents you receive from the Magisterial District Judge) You must bring all pages with you to file the appeal.
3. Tenant's Affidavit (if you can only afford 1/3 of the rent). There are two different affidavits attached, one for people who receive Section 8 assistance and the other for those who do not.
4. Fee waiver petition (IFP attached)
5. Certificate of Compliance (attached)

The Prothonotary will stamp your documents and return them to you.

**DO NOT LEAVE without the Prothonotary's signature in the SUPERSEDEAS box.
This signature allows you to remain in your home.**

AFTER YOU FILE

SERVICE:

You must give the Notice of Appeal to the Magisterial District Judge (who entered the judgment) AND your landlord, so they know that the eviction has been appealed and is on hold. If you file the appeal on the last day, it is very important that the Magisterial District Judge receive it the same day.

There are only two ways to legally serve the Notice of Appeal:

1. You may **HAND DELIVER** the Notice of Appeal to the Magisterial District Judge's office and the landlord, who is evicting you (Plaintiff).
2. You can mail the Notice of Appeal by **CERTIFIED MAIL (see below)** to the Magisterial District Judge's office and the landlord.

FILING PROOF OF SERVICE:

Within 10 days of filing the appeal, you must complete the Proof of Service form (attached) and either mail or bring in the original the white receipt (s) attached you received at the post office, to the Prothonotary's Office to be time-stamped and put in the case file.

CERTIFIED MAIL - If you served the appeal by certified mail, attach the white receipt (s) you received at the post office to the Proof of Service form. The receipt should be completed with the address, where the appeal was mailed. You SHOULD NOT wait for the return receipt (green card) to come back. As stated above, the proof of service form must be filed at the Prothonotary's Office within 10 days of the appeal.

VERY IMPORTANT

You must continue to pay your **FULL MONTHLY RENT** to the Court every 30 days from the date the appeal was filed until the conclusion of your case.

SUPPLEMENTAL INSTRUCTIONS FOR OBTAINING A STAY OF EVICTION

******IMPORTANT****PLEASE READ THESE INSTRUCTIONS CAREFULLY!**

This document contains important information about your case. Failure to comply with any instructions provided in these materials may cause you to be evicted before your appeal or writ is heard.

1. FOR TENANTS — SUPERSEDEAS: If you are a tenant and you filed the notice of appeal or *praecipe* for writ of *certiorari*, you must pay money into an escrow account to remain in the property until your appeal or writ is decided. This is called a “*supersedeas*.” The *supersedeas* will suspend the magisterial district court judgment and will prevent your eviction until your case is heard by a judge and a final decision is made on the appeal or writ. **IF YOU FAIL TO PAY YOUR MONTHLY RENT INTO ESCROW IN FULL AND ON TIME, YOU COULD BE EVICTED BEFORE YOUR APPEAL OR WRIT IS HEARD.**

Begin by looking at the income limits attached to these instructions.

If your income is below the income limits, complete a Tenant's Affidavit, pursuant to Pa.R.C.P.M.D.J. No. 1008(C)(2) or 1013(C)(2). These affidavits are available on the website of the Unified Judicial System of Pennsylvania at <http://www.pacourts.us/forms/for-the-public>. Then follow the instructions for low-income tenants below. There are several different options available; pick the option (A, B, or C) that best describes your situation.

If your income is higher than the income limits attached to these instructions, follow the instructions for D.

A. If you are a low-income tenant and there was a money judgment entered against you for non-payment of rent, and you HAVE NOT paid rent for the

month in which the notice of appeal or *praecipe* for writ of *certiorari* is filed, you must:

1. File an *in forma pauperis* petition (a petition for low-income parties) pursuant to Pa.R.C.P. No. 240;
2. Pay one-third of your monthly rent into an escrow account with the prothonotary's office at the time the notice of appeal or *praecipe* for writ of *certiorari* ("*praecipe*") is filed;
3. Pay the remaining two-thirds (2/3) of your monthly rent into the escrow account within twenty (20) days of the date the notice of appeal or *praecipe* was filed; and
4. Pay your monthly rent on an ongoing basis into the escrow account in thirty (30) day intervals from the date the notice of appeal or *praecipe* was filed until the time of your trial.

B. If you are a low-income tenant, and there was a money judgment against you for non-payment of rent, and you HAVE paid rent for the month in which the notice of appeal or *praecipe* for writ of *certiorari* ("*praecipe*") is filed, you do not have to pay rent at the time you file your notice of appeal or *praecipe*. You must:

1. File an *in forma pauperis* petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or *praecipe* was filed until the time of trial. It is

important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

C. If you are a low-income tenant, and no money judgment was entered against you for non-payment of rent, you do not have to pay rent at the time you file your notice of appeal or *praecipe* for writ of *certiorari* ("*praecipe*"). *This option is to be used if at the magisterial district court hearing, the judge determined that you owed "zero" or "nothing" in rent.* You must:

1. File an *in forma pauperis* petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or *praecipe* was filed until the time of your trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

D. If your income is higher than the income limits on the attached chart, you must:

1. Pay the fee to file a notice of appeal or *praecipe* for writ of *certiorari* ("*praecipe*");
2. Pay the lesser of three (3) months' rent or the amount of rent awarded to the landlord in magisterial district court into an escrow

account with the prothonotary's office at the time the notice of appeal or *praecipe* is filed; and

3. Pay your monthly rent into the escrow account in thirty (30) day intervals from the date the notice of appeal or *praecipe* was filed until the time of trial. It is important to count the thirty (30) days exactly because the date on your payment will change depending on the number of days in a given month.

**NOTICE
OF
APPEAL**

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of

NOTICE OF APPEAL
FROM
MAGISTERIAL DISTRICT JUDGE JUDGMENT
COMMON PLEAS No.

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the Judgment rendered by the Magisterial District Judge on the date and in the case referenced below.

NAME OF APPELLANT	MAG. DIST. NO.	NAME OF MDJ	
ADDRESS OF APPELLANT	CITY	STATE	ZIP CODE
DATE OF JUDGMENT	IN THE CASE OF (Plaintiff) (Defendant)		
DOCKET NO.	vs SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT		
<p>This block will be signed ONLY when this notation is required under Pa. R.C.P.M.D.J. No. 1008. This Notice of Appeal, when received by the Magisterial District Judge, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>_____ Signature of Prothonotary or Deputy</p>		<p>If appellant was Claimant (see Pa. R.C.P.M.D.J. No. 1001(6) in action before a Magisterial District Judge, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.</p>	

PRAECLPTE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa.R.C.P.M.D.J. No. 1001(7) in action before Magisterial District Judge. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECLPTE: To Prothonotary

Enter rule upon _____ appellee(s), to file a complaint in this appeal
 Name of appellee(s)

(Common Pleas No. _____) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Signature of appellant or attorney or agent

RULE: To _____, appellee(s)
 Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of the mailing.

Date: _____, 20 _____

Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.
 The appellee and the magisterial district judge in whose office the judgment was rendered must be served with a copy of this Notice pursuant to Pa.R.C.P.M.D.J. 1005(A).

**PROOF
OF
SERVICE**

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service must be filed within 10 days after
filing of the notice of appeal)

I hereby certify that I served the Notice of Appeal, Common Pleas No. _____, upon the Magisterial District Judge designated therein on _____, _____ by

- personal service, or
- certified or registered mail, sender's receipt attached hereto,

and upon the appellee, _____, on _____, _____ by

- personal service, or
- certified or registered mail, sender's receipt attached hereto,

I verify that the statements herein are true and correct. I understand that false statements herein are made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities..

By: _____
Name

Signature

Date: _____

**POVERTY
GUIDELINES
AND
PETITION TO
PROCEED IN
FORMA
PAUPERIS**

Form 2 - Petition to Proceed In Forma Pauperis

Complete the form by providing the information requested on pages 2 through 5. Remember to answer each question.

5. On page 2, by arrowbox 5 write in the county in which you are filing your divorce. Arrowbox 1 (page 1) and Arrowbox 5 should be the same.
6. On page 2, by arrowbox 6 write your name. Write your name exactly as you wrote it on page 1 of this form.
7. On page 2, by arrowbox 7 write your spouse's name. Write your spouse's name exactly as you wrote it on page 1 of this form.
8. On page 2, by arrowbox 8 do not write anything.

FILL IN ALL PERTINENT INFORMATION ON PAGES 2 THROUGH 5.

9. On page 6, by arrowbox 9 write the date on which you are completing this form.
10. On page 6, by arrowbox 10, after carefully reading the statements, sign your name on the form.

IN THE COURT OF COMMON PLEAS OF
_____ COUNTY, PENNSYLVANIA

PLAINTIFF	:	CIVIL ACTION-LAW
vs.	:	Case No. _____
DEFENDANT	:	

PETITION TO PROCEED IN FORMA PAUPERIS & AFFIDAVIT

1. I am the petitioner in the above matter and because of my financial condition am unable to pay the fees and costs of prosecuting or defending this action or proceeding.
2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.
3. I represent that the information below relating to my ability to pay the fees and costs is true and correct:

a.) My Name is: _____

My Address is: _____

b.) Employment:

If you are presently employed, state your:

Employer: _____

Employer's Address: _____

Salary or wages per month: _____

Type of work: _____

If you are presently unemployed, state:

Date of last employment: _____

Salary or wages per month: _____

Type of work: _____

c.) Please list any other income received within the past twelve months:
(Write the gross amount (before taxes) per month that you received and the months you received this income.)

Business or profession: _____

Other self-employment: _____

Interest: _____

Dividends: _____

Pension and annuities: _____

Social security benefits: _____

Support payments: _____

Disability payments: _____

Unemployment compensation and/or supplemental benefits:

Workers' Compensation: _____

Public assistance: _____

Other: _____

d.) Other contributions to household support:

(Write the gross amount (before taxes) per month that you received and the months you received this income.)

(Wife) (Husband) Name: _____

If your (wife) (husband) is employed, please state

Employer: _____

Salary or wages per month: _____

Type of work: _____

Contributions from children: _____

Contributions from parents: _____

Other contributions: _____

e.) Property owned:

Cash: _____

Checking Account: _____

Savings Account: _____

Certificates of deposit: _____

Real estate (including home): _____

Motor Vehicle: Make _____, Year _____,

Cost: _____ Amount Owed: _____

Stocks and bonds: _____

Other: _____

f.) Debts and obligations:

Mortgage: _____

Rent: _____

Loans: _____

Other: _____

(Write all of your regular monthly bills, phone, utilities, cable, insurance, etc.)

g.) Persons dependent upon you for support:

(Wife/Husband) Name: _____

Children, if any:

CHILDREN(S) INITIALS ONLY Name: _____ Age: _____
_____ _____
_____ _____

Other persons:

Name: _____

Relationship: _____

4. I understand that I have a continuing obligation to inform the court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: _____

PETITIONER

**TENANT'S
SUPERSEDEAS
AFFIDAVIT
(NON SECTION 8)**

COMMONWEALTH OF PENNSYLVANIA**COURT OF COMMON PLEAS****County Of****LANDLORD:****NAME and ADDRESS****TENANT:****NAME and ADDRESS****VS.****Common Pleas Docket No.****TENANT'S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1013C(2)**

I, _____ (print name and address here), have filed a *praecipe* for a writ of *certiorari* to review a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of a writ of *certiorari* and I have completed an *in forma pauperis* (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

**TENANT'S
SUPERSEDEAS
AFFIDAVIT
(SECTION 8)**

COMMONWEALTH OF PENNSYLVANIA**COURT OF COMMON PLEAS**

County Of

LANDLORD:

NAME and ADDRESS

TENANT:

NAME and ADDRESS

VS.

Common Pleas Docket No.

**SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1008C(2)**

I, _____ (print name and address here),

have filed a notice of appeal from a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an *in forma pauperis* (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$_____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency that terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT