

THE COURTS

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 500]

Order Amending Rules 515 and 516 of the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges; No. 449 Magisterial Rules Doc.

Order

Per Curiam

And Now, this 4th day of December, 2020, upon the recommendation of the Minor Court Rules Committee, the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 515 and 516 of the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on January 1, 2021.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY

Rule 515. Request for Order for Possession.

A. If the magisterial district judge has rendered a judgment arising out of a non-residential lease that the real property be delivered up to the landlord, the landlord may, after the 15th day following the date of the entry of the judgment, file with the magisterial district judge a request for an order for possession. The request shall include a statement of the judgment amount, return, and all other matters required by these rules.

B.(1) Except as otherwise provided in subdivision B(2), if the magisterial district judge has rendered a judgment arising out of a residential lease that the real property be delivered up to the landlord, the landlord may after the 10th day but within [120] 180 days following the date of the entry of the judgment, file with the magisterial district judge a request for an order for possession. The request shall include a statement of the judgment amount, return, and all other matters required by these rules.

(2) In a case arising out of a residential lease, if before the landlord requests an order for possession,

(a) an appeal or writ of *certiorari* operates as a *supersedeas*; or

(b) proceedings in the matter are stayed pursuant to a bankruptcy proceeding or other federal or state law; and

(c) the *supersedeas* or the bankruptcy or other stay is subsequently stricken, dismissed, lifted, or otherwise terminated so as to allow the landlord to proceed to request an order for possession,

the landlord may request an order for possession only within [120] 180 days of the date the *supersedeas* or the bankruptcy or other stay is stricken, dismissed, lifted, or otherwise terminated.

Official Note: The 15 days in subdivision A of this rule, when added to the 16-day period provided for in Rule 519A, will give the tenant time to obtain a *supersedeas* within the appeal period. See Rules 1002, 1008, 1009, and 1013.

The 1995 amendment to section 513 of The Landlord and Tenant Act of 1951, 68 P.S. § 250.513, established a 10-day appeal period from a judgment for possession of real estate arising out of a residential lease. See also Rule 1002B(1). Rule 1002B(2)(a) provides for a 30-day appeal period for tenants who are victims of domestic violence. In most cases, the filing of the request for an order for possession in subdivision B(1) is not permitted until after the appeal period has expired. In cases arising out of a residential lease, the request for an order for possession generally must be filed within [120] 180 days of the date of the entry of the judgment.

If the tenant is a victim of domestic violence, he or she may file a domestic violence affidavit to stay the execution of the order for possession until the tenant files an appeal with the prothonotary pursuant to Rule 1002, 30 days after the date of entry of the judgment, or by order of the court of common pleas, whichever is earlier. See Rule 514.1C. No posting of money or bond is required to obtain a stay with the filing of a domestic violence affidavit; however, upon the filing of an appeal pursuant to Rule 1002, the stay is lifted, and the *supersedeas* requirements of Rule 1008 shall apply.

The magisterial district court shall enter stays in compliance with federal or state law, such as the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.*

Subdivision B(2) provides that in a case arising out of a residential lease, if a *supersedeas* (resulting from an appeal or writ of *certiorari*) or bankruptcy or other stay is stricken, dismissed, lifted, or otherwise terminated, thus allowing the landlord to proceed with requesting an order for possession, the request may be filed only within [120] 180 days of the date the *supersedeas* or the bankruptcy or other stay is stricken, dismissed, lifted, or otherwise terminated.

In many judicial districts, appeals of magisterial district court judgments are submitted to compulsory arbitration pursuant to Pa.R.C.P. Nos. 1301—1314. If, after the arbitration, the prothonotary enters an award for possession on the docket in favor of the landlord and the tenant fails to maintain the *supersedeas* required by Rule 1008 prior to the prothonotary entering judgment on the award, then the landlord may terminate the *supersedeas* pursuant to Rule 1008B and request an order of possession from the magisterial district judge pursuant to Rule

515. If the prothonotary enters an award on the docket in favor of the tenant and the tenant fails to maintain the *supersedeas* prior to the prothonotary entering judgment on the award, the landlord may not obtain an order of possession between the time that the prothonotary enters the arbitration award on the docket and the time that the landlord files a notice of appeal.

The time limits in which the landlord must request an order for possession imposed in subdivision B apply only in cases arising out of residential leases and in no way affect the landlord's ability to execute on the money judgment. See Rule 516, Note, and Rule 521A.

At the time the landlord files the request for an order for possession, the magisterial district court should collect server fees for all actions through delivery of possession. Thereafter, if the order for possession is satisfied 48 hours or more prior to a scheduled delivery of possession, a portion of the server costs may be refundable. See Rules 516 through 520 and 44 Pa.C.S. § 7161(d).

Rule 516. Issuance and Reissuance of Order for Possession.

A. Upon the timely filing of the request form, the magisterial district judge shall issue the order for possession and shall deliver it for service and execution to the sheriff of, or any certified constable in, the county in which the office of the magisterial district judge is situated. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth. The order shall direct the officer executing it to deliver actual possession of the real property to the landlord. The magisterial district judge shall attach a copy of the request form to the order for possession.

B.(1) Except as otherwise provided in subdivision C, upon written request of the landlord the magisterial district judge shall reissue an order for possession for one additional 60-day period.

(2) If an order for possession is issued and subsequently superseded by an appeal, writ of *certiorari*, *supersedeas*, or a stay pursuant to a bankruptcy proceeding or other federal or state law or Rule 514.1C, and

(a) the appeal, writ of *certiorari*, or *supersedeas* is stricken, dismissed, or otherwise terminated; or

(b) the bankruptcy or other stay is lifted; and

(c) the landlord wishes to proceed with the order for possession,

the landlord must file with the magisterial district judge a written request for reissuance of the order for possession in accordance with subdivision B(1).

C. In a case arising out of a residential lease [, a] **and upon written request of the landlord, the magisterial district judge shall reissue an order for possession for no more than two additional 60-day periods.** A request for reissuance of an order for possession may be filed only within [120] 180 days of the date of the entry of the judgment or, in a case in which the order for possession is issued and subsequently superseded by an appeal, writ of *certiorari*, *supersedeas*, or a stay pursuant to a bankruptcy proceeding or other federal or state law or Rule 514.1C, only within [120] 180 days of the date the appeal, writ of *certiorari*, or *supersedeas* is stricken, dismissed, or otherwise terminated or the bankruptcy or other stay is lifted.

D. A written request for reissuance of the order for possession, filed after an appeal, writ of *certiorari*, or *supersedeas* is stricken, dismissed, or otherwise terminated, or a bankruptcy or other stay is lifted, must be accompanied by a copy of the court order or other documentation striking, dismissing, or terminating the appeal, writ of *certiorari*, or *supersedeas*, or lifting the bankruptcy or other stay.

Official Note: The order for possession deals only with delivery of possession of real property and not with a levy for money damages. A landlord who seeks execution of the money judgment part of the judgment must proceed under Rule 521A, using the forms and procedure there prescribed. The reason for making this distinction is that the printed notice requirements on the two forms, and the procedures involved in the two matters, differ widely.

Subdivision B provides for reissuance of the order for possession for one additional 60-day period. However, pursuant to subdivision C, in cases arising out of a residential lease, the request for reissuance of the order for possession must be filed within [120] 180 days of the date of the entry of the judgment or, in a case in which the order for possession is issued and subsequently superseded by an appeal, writ of *certiorari*, *supersedeas* or a stay pursuant to a bankruptcy proceeding or other federal or state law or Rule 514.1C, only within [120] 180 days of the date the appeal, writ of *certiorari*, or *supersedeas* is stricken, dismissed, or otherwise terminated, or the bankruptcy or other stay is lifted. **In a case arising out of a residential lease, the magisterial district judge may reissue the order for possession for no more than two additional 60-day periods.** The additional 60-day period need not necessarily immediately follow the original 60-day period of issuance. The written request for reissuance may be in any form and may consist of a notation on the permanent copy of the request for order for possession form, "Reissuance of order for possession requested," subscribed by the landlord. The magisterial district judge shall mark all copies of the reissued order for possession, "Reissued. Request for reissuance filed _____ (time and date)." A new form may be used upon reissuance, those portions retained from the original being exact copies although signatures may be typed or printed with the mark "/s/." There are no filing costs for reissuing an order for possession, for the reissuance is merely a continuation of the original proceeding. However, there may be additional server costs for service of the reissued order for possession.

The magisterial district court shall enter stays in compliance with federal or state law, such as the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.*

In many judicial districts, appeals of magisterial district court judgments are submitted to compulsory arbitration pursuant to Pa.R.C.P. Nos. 1301—1314. If, after the arbitration, the prothonotary enters an award for possession on the docket in favor of the landlord and the tenant fails to maintain the *supersedeas* required by Rule 1008 prior to the prothonotary entering judgment on the award, then the landlord may terminate the *supersedeas* pursuant to Rule 1008B and request an order of possession from the magisterial district judge pursuant to Rule 515. If the prothonotary enters an award on the docket in favor of the tenant and the tenant fails to maintain the *supersedeas* prior to the prothonotary entering judgment on the award, the landlord may not obtain an order of possession between the time that the prothonotary enters

the arbitration award on the docket and the time that the landlord files a notice of appeal.

The time limits in which the landlord must request reissuance of an order for possession imposed in subdivision C apply only in cases arising out of residential leases and in no way affect the landlord's ability to execute on the money judgment. *See* Rule 521A.

FINAL REPORT¹

Recommendation 4-2020, Minor Court Rules Committee

Amendment of Pa.R.C.P.M.D.J. Nos. 515 and 516

EXTENSION OF TIME FOR A LANDLORD TO REQUEST AN ORDER FOR POSSESSION IN A RESIDENTIAL LEASE CASE

I. Introduction

The Minor Court Rules Committee ("Committee") recommended amendments to Rules 515 and 516 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges ("Rules"). The amendments will permit a landlord in a case involving a residential lease to request an order for possession within 180 days from the date of entry of judgment rather than the current 120 days. The recommendation is necessitated by exigent circumstances requiring the immediate adoption of the proposal and is adopted in accordance with Pa.R.J.A. No. 103(a)(3), without prior publication for public comment.

II. Background and Discussion

Following the issuance of a judgment in a landlord-tenant case and the requisite waiting period, a landlord seeking to regain property must file a request for an order for possession with the magisterial district court. *See* Rule 515. In residential landlord-tenant cases, the landlord must file the request for an order for possession no later than 120 days from the date of entry of the judgment. *See* Rule 515B(1). Certain actions will stay the period within which a request for order for possession must be filed, such as an appeal or writ of *certiorari* operating as a *supersedeas*, or a bankruptcy or other stay required by state or federal law. *See* Rule 515B(2).

Since the onset of the COVID-19 pandemic, the Court, the federal government, the Governor, and the Centers for Disease Control and Prevention ("CDC"), *inter alia*, have promulgated laws and orders suspending certain residential evictions.² One of the most recent orders staying some residential evictions, issued by the CDC, will expire on December 31, 2020.

The Committee received correspondence recommending an extension of the 120-day period within which a landlord must file a request for an order for possession in a residential landlord-tenant case. An extension would provide the parties with greater flexibility to negotiate and enter into private forbearance agreements. Such private agreements could allow the tenants additional time in which to satisfy back rent obligations while

maintaining current rental payments and housing status. Therefore, the Committee recommended increasing the time period within which a landlord must file a request for an order for possession in a residential lease case from 120 days to 180 days.

III. Rule Changes

Rules 515 and 516 are amended to provide for 180 days within which a landlord in a residential lease case must request an order for possession. Rule 516C is further amended to provide that upon written request of the landlord in a case arising out of a residential lease, the magisterial district judge shall reissue an order for possession for no more than two additional 60-day periods.

[Pa.B. Doc. No. 20-1768. Filed for public inspection December 18, 2020, 9:00 a.m.]

Title 25—LOCAL COURT RULES

LEBANON COUNTY

Rules of Civil Procedure; Administrative Order No. 9 of 2020; Doc. No. 2020-00021

Order of Court

And Now, this 7th day of December, 2020, in compliance with Rule 1018.1 of the Pennsylvania Rules of Civil Procedure, it is *Hereby Ordered* that the Court adopts the following Rule of Civil Procedure Rule 1018.1 regarding Address in Notice to Defend.

The District Court Administrator is *Hereby Ordered* to:

1. File one certified copy of this Order with the Administrative Office of Pennsylvania Courts to adminrules@pacourts.us;
2. Submit two paper copies of this Order to the Legislative Reference Bureau and one electronic copy in Microsoft Word format only to bulletin@palrb.us for publication in the *Pennsylvania Bulletin*;
3. Provide one copy of this Order to the members of the Lebanon County Bar Association;
4. Incorporate the Rule into the set of Local Rules within thirty (30) days of publication of the Local Rule in the *Pennsylvania Bulletin* and publish the rules on the Court's website at www.lebcounty.org.
5. File this Order in the Prothonotary's Office of Lebanon County.

Rule 52-1018.1. Address in Notice to Defend.

The address to be included in the Notice to Defend required by Pa.R.C.P. 1018.1 shall be as follows:

Mid-Penn Legal Services
1150 Chestnut Street, Suite 1
Lebanon, PA 17042
(717) 274-2834

By the Court

JOHN C. TYLWALK,
President Judge

[Pa.B. Doc. No. 20-1769. Filed for public inspection December 18, 2020, 9:00 a.m.]

¹ The Committee's Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Official Notes or the contents of the explanatory Final Reports.

² *See* Order of March 18, 2020, Nos. 531 and 532 Judicial Administration Docket, *In re: General Statewide Judicial Emergency*, pp. 8-9 (suspending eviction, ejection, or other displacement from a residence based upon the failure to make a rent, loan, or other similar payment). *See also* Order of April 1, 2020, Nos. 531 and 532 Judicial Administration Docket, *In re: General Statewide Judicial Emergency*, p. 6, Second Supplemental Order; Order of April 28, 2020, Nos. 531 and 532 Judicial Administration Docket, *In re: General Statewide Judicial Emergency*, p. 12. *See also* Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 ("CARES Act"); Commonwealth of Pennsylvania, Executive Order May 7, 2020, § 2, *as amended*, May 21, 2020; Commonwealth of Pennsylvania, Executive Order July 9, 2020, § 2; *Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19*, 85 Fed. Reg. 55292 (Sept. 4, 2020) ("CDC Order").

**DISCIPLINARY BOARD OF
THE SUPREME COURT**

Notice of Disbarment

Notice is hereby given that Jason Edward Rheinstein (# 205996), having been disbarred in Maryland, the Supreme Court of Pennsylvania issued an Order on December 9, 2020, disbaring Jason Edward Rheinstein from the Bar of this Commonwealth, effective January 8, 2021. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 20-1770. Filed for public inspection December 18, 2020, 9:00 a.m.]

**DISCIPLINARY BOARD OF
THE SUPREME COURT**

Notice of Hearing

A Petition for Reinstatement to the active practice of law has been filed by Jon Ari Lefkowitz and will be the subject of a hearing on February 16, 2021 before a hearing committee designated by the Board. Anyone wishing to be heard in reference to this matter should contact the District I Office of the Disciplinary Board of the Supreme Court of Pennsylvania, 1601 Market St., Suite 3320, Philadelphia, PA, 19103, phone number (215) 560-6296, on or before February 2, 2021.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 20-1771. Filed for public inspection December 18, 2020, 9:00 a.m.]