

# THE COURTS

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

#### [ 246 PA. CODE CH. 500 ]

#### Proposed Amendment of Pa.R.C.P.M.D.J. No. 514

The Minor Court Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P.M.D.J. No. 514, relating to use of a security deposit as an offset against a judgment in a landlord-tenant action for the reasons set forth in the accompanying Publication Report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Pamela S. Walker, Counsel  
Minor Court Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635  
FAX: 717-231-9546  
minorrules@pacourts.us

All communications in reference to the proposal should be received by November 12, 2020. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Minor Court Rules Committee

HONORABLE MARGARET A. HUNSICKER,  
*Chair*

### Annex A

#### TITLE 246. MINOR COURT CIVIL RULES

#### PART I. GENERAL

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

#### Rule 514. Judgment; Notice of Judgment or Dismissal and the Right to Appeal.

A. If it appears at the hearing that the complaint has been proven, the magisterial district judge shall enter judgment against the tenant that the real property be delivered up to the landlord and shall enter judgment by separate entries:

(1) for [ **the** ] **any** amount of rent[ , if **any**, which ] **that** remains due[ , ];

(2) for [ **the** ] **any** amount of damages[ , if **any**, ] for unjust detention[ , ];

(3) for [ **the** ] **any** physical damages[ , if **any**, ] to the leasehold premises[ , and ];

(4) for the costs of the proceeding; **and**

**(5) for the amount of any security deposit applied as an offset to the judgment, if applicable;**

less any amount found due the tenant on any cross-complaint filed by the tenant.

[ **In addition, the** ] **B. The** magisterial district judge shall make an entry **on the judgment** identifying the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises.

[ **B.** ] **C.** A money judgment may be rendered for the tenant on a cross-complaint filed by the tenant if the amount found due thereon exceeds any amount found due the landlord on the landlord's complaint.

[ **C.(1)** ] **D.(1)** Judgment shall be given at the conclusion of the hearing or within three days thereafter.

(2) Upon the entry of the judgment, the magisterial district court shall promptly give or mail to the parties written notice of judgment or dismissal.

[ **D.** ] **E.** The written notice of judgment or dismissal shall contain:

(1) notice of the right of the parties to appeal, the time within which the appeal must be taken, and that the appeal is to the court of common pleas;

(2) notice that a tenant in a residential lease action who is a victim of domestic violence may appeal the judgment within 30 days of the date of entry of judgment, as well as filing instructions for asserting such an appeal;

(3) notice that, except as otherwise provided in the rules, if the judgment holder elects to enter the judgment in the court of common pleas, all further process must come from the court of common pleas and no further process may be issued by the magisterial district judge; and

(4) notice that unless the judgment is entered in the court of common pleas anyone interested in the judgment may file a request for entry of satisfaction with the magisterial district judge if the debtor pays in full, settles, or otherwise complies with the judgment.

**Official Note:** Subdivision A of this rule requires that the landlord appear and give testimony to prove the complaint before the magisterial district judge can enter judgment against the tenant, even when the tenant fails to appear for the hearing. The magisterial district judge shall not enter a default judgment in a possessory action, including a judgment for money only. *See* Rule 512A and Note. The various issues that the magisterial district judge must determine at the hearing include: whether notice to quit was given to the tenant in accordance with law or that no notice was required under the terms of the lease; the amount or rent due, if any; damages to the leasehold premises, if any; the amount found to constitute the monthly rental; and, the amount of the security deposit held by the landlord, if any.

As to the notice to quit requirement, *see* Section 501 of the Landlord and Tenant Act of 1951, 68 P.S. § 250.501. *See also Patricia Bros., Inc. v. McKeefrey*, 38 Pa. D. & C.2d 149 (Delaware County C.P. 1966).

The separate entries provided in subdivision A are made necessary as a result of the rental deposit provisions for appeal or *certiorari* contained in Rules 1008B

and 1013B, as well as the wage attachment provisions contained in Section 8127 of the Judicial Code, 42 Pa.C.S. § 8127.

**If the magisterial district judge permits a security deposit held by the landlord to be used as an offset against a monetary judgment, the amount of the security deposit so applied must be identified as such on the judgment form. There are limited circumstances when application of the security deposit to offset a monetary judgment is appropriate, such as when the tenant has already left the property, the landlord has had the opportunity to inspect the property, both parties have appeared before the magisterial district judge, and the parties agree that the security deposit should be used to offset the judgment.**

Subdivision [ B ] C of this rule [ makes provision ] **provides** for a money judgment for the tenant if the tenant prevails in a greater amount on the tenant's cross-complaint.

Subdivision [ D ] E of this rule provides for certain notices the magisterial district court shall include in the written notice of judgment or dismissal.

Subdivision [ D(2) ] E(2) reflects that the appeal period for a victim of domestic violence in a case arising out of a residential lease is 30 days. *See* Rule 1002B(2); *see also* 68 P.S. § 250.513. A tenant who is a victim of domestic violence may file a domestic violence affidavit with the magisterial district court to stay the execution of an order for possession until 30 days after the date of entry of the judgment, the filing of an appeal with the court of common pleas pursuant to Rule 1002, or by order of the court of common pleas, whichever is earlier. *See* Rule 514.1.

As to subdivision [ D(2) ] E(3), *see* Rule 402D and Note. As to subdivision [ D(3) ] E(4), *see* Rule 341.

#### PUBLICATION REPORT

##### *Proposed Amendment of Pa.R.C.P.M.D.J. No. 514*

The Minor Court Rules Committee ("Committee") is considering proposing to the Supreme Court of Pennsylvania the amendment of Rule 514 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges ("Rules"). This proposal relates to the use of a security deposit as an offset against a judgment in a landlord-tenant action.

The Committee was asked to consider clarifying how the application of a security deposit to a judgment in a landlord-tenant action is reported on the judgment form. Although Rule 514 does not address directly whether the security deposit or an offset is reported on the judgment form, the Note provides that "the amount of the security deposit held by the landlord, if any" is one of a number of issues that the magisterial district judge must determine at the hearing.

There are statutory requirements for return of a security deposit by the landlord at the termination of the lease. *See* 68 P.S. § 250.512. A landlord is required to provide a tenant with a list of damages to the premises within 30 days of the termination of the lease; the list of damages must be accompanied by payment of the difference between the security deposit (plus accrued interest) and the amount of damages to the premises. *Id.* § 250.512(a). If the landlord fails to provide a damages list within 30 days of the termination of the lease, the landlord waives the right to withhold any of the security deposit or interest, while failure to remit timely the security deposit to the tenant within 30 days makes the landlord liable to the tenant for double the amount of the security deposit. *Id.* § 250.512(b)-(c). The statute provides that "[a]ny attempted waiver of this section by contract or otherwise shall be void and unenforceable." *Id.* § 250.512(d).

The Committee believes that there are limited circumstances when application of the security deposit to offset a monetary judgment would be appropriate. Typically, this would occur when the tenant has already left the property, the landlord has had the opportunity to inspect the property, both parties are before the magisterial district judge, and the parties agree that the security deposit should be used to offset the judgment.

The proposed amendment to Rule 514 would require that the judgment form reflect the amount of any security deposit applied to the judgment as an offset, if applicable. Listing the security deposit offset as an entry on the judgment form will create more transparency and provide greater clarity as to the elements of the judgment.

The proposed rule text includes amendments to Rule 514 adopted by the Court on August 19, 2020 that take effect January 1, 2021. *See* Orders of August 19, 2020, Nos. 445 and 446, Magisterial Rules Docket. The August 19, 2020 amendments appear in the proposed rule text without contextual indicators.

[Pa.B. Doc. No. 20-1237. Filed for public inspection September 11, 2020, 9:00 a.m.]