

APPEALING EVICTION SELF-HELP KIT

REMEMBER

The Law often changes. Each case is different. This self-help kit is meant to give you general information, not specific legal advice.

You Can Appeal an Eviction Judgment

While getting an eviction judgment is scary, there are actions you can take to help you stay in your home. One way is to appeal. There are five steps you have to take when appealing an eviction.

FIVE STEPS!

- 1) You must fill out the **APPEAL FORMS** and deliver them to the Prothonotary's office, within **10** days of the date of the judgment, along with the Notice of Judgment.
- 2) You may be able to avoid paying a filing fee by filing a **REQUEST TO WAIVE THE FILING FEE**, which is called an "*in forma pauperis*" petition.
- 3) If you want to stay in your home during the appeal process, you have to pay rent to the Court. **YOU MUST PAY TO STAY!** This can not be waived. (See the details on page 3)
- 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 **PROOF OF SERVICE** 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 **TENANTS 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 your trial. (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.)

If you miss a payment or pay late (even by one day) the Court might lift the stay of eviction/supersedeas, and you will be forced to move out while the appeal is pending!

Documents Needed to File the Appeal

1. **Notice of Appeal** (attached)
2. **Judgment**
3. **Tenant's Affidavit** (if you can only afford 1/3 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 is on hold. If you file the appeal on the last day, it is very important that the Magisterial District Judge receive it that same day.

There are ONLY TWO ways to legally serve the Notice of Appeal:

1. You may **HAND DELIVER** the Notice of Appeal to an adult at the person's home or business.
2. You can mail the Notice of Appeal by **CERTIFIED MAIL***.

FILING PROOF OF SERVICE:

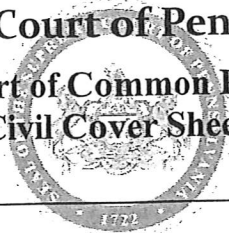
Within 10 days of filing the appeal, you must complete and file the Proof of Service form with the Court.

* If you served the appeal by certified mail, attach the white receipt to the proof of service form. You should not wait for the return receipt (green card) to come back.



Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet



_____ County

For Prothonotary Use Only:

Docket No: _____

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- Complaint Writ of Summons Petition
 Transfer from Another Jurisdiction Declaration of Taking

Lead Plaintiff's Name: _____

Lead Defendant's Name: _____

Are money damages requested? Yes No

Dollar Amount Requested: within arbitration limits
(check one) outside arbitration limits

Is this a *Class Action Suit*? Yes No

Is this an *MDJ Appeal*? Yes No

Name of Plaintiff/Appellant's Attorney: _____

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

SECTION B

TORT (do not include Mass Tort)

- Intentional
 Malicious Prosecution
 Motor Vehicle
 Nuisance
 Premises Liability
 Product Liability (does not include mass tort)
 Slander/Libel/ Defamation
 Other: _____

CONTRACT (do not include Judgments)

- Buyer Plaintiff
 Debt Collection: Credit Card
 Debt Collection: Other

 Employment Dispute:
 Discrimination
 Employment Dispute: Other

 Other: _____

CIVIL APPEALS

- Administrative Agencies
 Board of Assessment
 Board of Elections
 Dept. of Transportation
 Statutory Appeal: Other

 Zoning Board
 Other: _____

MASS TORT

- Asbestos
 Tobacco
 Toxic Tort - DES
 Toxic Tort - Implant
 Toxic Waste
 Other: _____

REAL PROPERTY

- Ejectment
 Eminent Domain/Condemnation
 Ground Rent
 Landlord/Tenant Dispute
 Mortgage Foreclosure: Residential
 Mortgage Foreclosure: Commercial
 Partition
 Quiet Title
 Other: _____

MISCELLANEOUS

- Common Law/Statutory Arbitration
 Declaratory Judgment
 Mandamus
 Non-Domestic Relations
 Restraining Order
 Quo Warranto
 Replevin
 Other: _____

PROFESSIONAL LIABILITY

- Dental
 Legal
 Medical
 Other Professional: _____

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.

Form with fields: 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., SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT

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.

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.

Signature of Prothonotary or Deputy

PRAECIPE 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.

PRAECIPE: 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).

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS
County Of

PLAINTIFF: NAME and ADDRESS

VS.
DEFENDANT: NAME and ADDRESS

Common Pleas Docket No.

TENANT'S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)
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 to my landlord possession
of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) 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 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.

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

COMMONWEALTH OF PENNSYLVANIA

<p>COURT OF COMMON PLEAS</p> <p>County Of</p>
--

<p>PLAINTIFF:</p>	<p>NAME and ADDRESS</p>
<p> </p>	<p> </p>

<p>DEFENDANT:</p>	<p>VS.</p> <p>NAME and ADDRESS</p>
<p> </p>	<p> </p>

<p>Common Pleas Docket No.</p>

**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 (3) 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 which 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



LAUREL LEGAL SERVICES, INC.

225-227 FRANKLIN STREET
400 FRANKLIN CENTER
JOHNSTOWN, PA 15901
PHONE: (814) 536-8917
WEBSITE: laurellegalservices.org

If your landlord is giving you trouble, or you have questions about this packet in general, please reach out to us at Laurel Legal Services, Inc. We are happy to help!

_____ ,	: IN THE COURT OF COMMON PLEAS OF
Plaintiff	: _____ COUNTY, PENNSYLVANIA
	:
vs.	: NO.
	:
_____ ,	: CIVIL ACTION - LAW
Defendant	:

PETITION TO PROCEED WITHOUT
PAYMENT OF FEES AND COSTS

1. I am the Plaintiff/Defendant (circle one) in the above matter and because of my financial condition, am unable to pay the fees and costs of prosecuting or defending the 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) Name: _____

Address: _____

(b) Employment

If you are presently employed, state:

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) Other income within the past twelve months

Business or profession: _____

Other self-employment: _____

Interest: _____

Dividends: _____

Pension and Annuities: _____

Social Security benefits: _____

Support Payments: _____

Disability Payments: _____

Unemployment Compensation: _____

Supplemental Benefits: _____

Workman's Compensation: _____

Public Assistance: _____

Other: _____

(d) Other contributions to household support

Spouse's Name: _____

Spouse's Employer: _____

Spouse's Salary or wages per month: _____

Spouse's Type of work: _____

Contributions from children: _____

Contributions from your 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; Bonds: _____

Other: _____

(f) Debts and Obligations

Mortgage: _____

Rent: _____

Loans: _____

Other: _____

(g) Persons dependent upon you for support

Spouse's Name: _____

Children (initials only): _____ Age: _____

_____ Age: _____

_____ Age: _____

_____ Age: _____

Other Persons (if children, initials only):

_____ Relationship: _____

_____ 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

Signature

**IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA
CIVIL DIVISION**

_____	*	NO: _____
_____	*	
PLAINTIFF(S):	*	Divorce _____
	*	Divorce/Custody _____
vs.	*	Custody _____
	*	Civil Action _____
_____	*	Notice of Appeal _____
_____	*	Modification _____
	*	
DEFENDANT(S):	*	
	*	

ORDER

AND NOW, THIS _____ DAY OF _____, 20 _____, IT IS HEREBY

ORDERED, DIRECTED AND DECREED, the In Forma Pauperis status is GRANTED/DENIED as follows:

- | | | |
|--|---------|--------|
| 1. Prothonotary's Filing Fee for a Custody Complaint. | _____ | _____ |
| | GRANTED | DENIED |
| 2. Master's Fee of \$100 in Custody Actions. | _____ | _____ |
| | GRANTED | DENIED |
| 3. Education Fee (Hugs Program) in Custody Actions.
@ \$60 per litigant | _____ | _____ |
| | GRANTED | DENIED |
| 4. Prothonotary's Filing Fee for Complaint in Divorce. | _____ | _____ |
| | GRANTED | DENIED |
| 5. Master's Fee of \$500 in Divorce Actions. | _____ | _____ |
| | GRANTED | DENIED |
| 6. Prothonotary's Filing Fee for Civil Actions. | _____ | _____ |
| | GRANTED | DENIED |

As per Rule 240 of the PA Rules of Civil Procedure, if the court denies your IFP Petition, petitioner shall pay the filing fee for commencing the action or proceeding or taking of appeal. Not sooner than ten days after notice of the denial, the Prothonotary shall enter a judgment of non pros in the action or proceeding or strike the action if the fee remains unpaid. Petitioner can request a hearing if IFP is denied.

BY THE COURT:

_____, JUDGE

_____, : IN THE COURT OF COMMON PLEAS OF
Plaintiff : _____ COUNTY, PENNSYLVANIA
: :
vs. : NO.
: :
_____, : CIVIL ACTION - LAW
Defendant :

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Name: _____

Signature: _____

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: _____