

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.

NOTE – If you are a victim of domestic violence (see enclosed Supplemental Instructions for definition) the time period for filing an appeal is extended to **30** days, as long as you file a Domestic Violence Affidavit with the Magisterial District Judge who entered the judgment. To prevent the landlord from asking for an order of possession after ten days, you should file this Affidavit within ten (10) days of the date of the judgment. Then attach a copy to your Notice of Appeal.

- 2) You may be able to avoid paying a filing fee by filing a PETITION TO PROCEED WITHOUT PAYMENT OF FEES AND COSTS.
- 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:

- I. If you can afford it, you must pay either the rent in arrears 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 rent in arrears 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. Civil Cover Sheet (attached)
3. Judgment
4. 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 one for those who do not.
5. Fee Waiver Petition (optional) (attached)
6. Certificate of Compliance (attached)
7. Domestic Violence Affidavit, if applicable (attached, with Supplemental Instructions)

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.

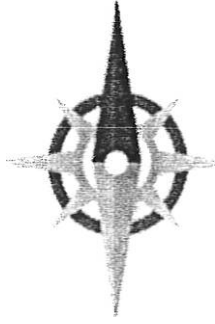
There are ONLY TWO ways to legally serve the Notice of Appeal:

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.



North Penn LEGAL SERVICES

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

ADDRESS:

Penn Tower
25 W. Third Street, Suite 400
Williamsport, PA 17701

APPLICATION HOTLINE:

1-877-953-4250

PHONE:

(570) 323-8741
(800) 326-7436 (toll free)

FAX:

(570) 323-5256

WEBSITE:

www.northpennlegal.org

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.		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.</p> <p>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>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>		
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).

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

(This Proof of Service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the Notice of Appeal. Check applicable boxes.)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____ SS

___ 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. Section 4904) relating to unsworn falsification to authorities.

By: _____
(name)

(signature)

Date: _____

How to fill out the Civil Cover Sheet

1. Write "Lycoming" before the word "County" in the top left corner.
2. Check the box for "Complaint" in the first part of Section A, under "Commencement of Action".
3. Write the name of the Plaintiff where it says "Lead Plaintiff's Name". (The Plaintiff is the person who filed the complaint in Magisterial District Court, even if you are the Defendant and are filing the appeal.)
4. Write the name of the Defendant where it says "Lead Defendant's name". (The Defendant is the person against whom the complaint was filed in Magisterial District Court.)
5. Check "YES" or "NO" after "Are money damages requested?" depending on whether or not the Plaintiff is asking for money damages. If "YES", check the box for "within arbitration limits" if the amount is under \$50,000.00; otherwise, check the box for "outside arbitration limits".
6. Check "YES" after "Is this an MDJ Appeal?".
7. Check the box where it says "Check here if you have no attorney (are a self-represented [Pro Se] Litigant)".
8. In Section B, check the box which describes the type of case which was filed in Magisterial District Court.

Note –it is NOT a "Civil Appeal", so do not check a box in that section.

If it is a landlord/tenant matter, check the box in the "Real Property" section for "Landlord/Tenant Dispute".

If the Plaintiff is seeking money he says is owed to him by the Defendant for reasons other than those arising from a residential lease, check the box in the "Contract" section for "Debt Collection: Other".

If the Plaintiff is seeking the return of an item of personal property, check the box in the "Miscellaneous" section for "Replevin".

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

County _____

For Prothonotary Use Only:

Docket No: _____

FILED STAMP

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
☐ outside arbitration limits
 (check one)

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)

SECTION B

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.

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: _____

MASS TORT

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

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional: _____

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other _____
☐ Employment Dispute: Discrimination
☐ Employment Dispute: Other _____
☐ Other: _____

REAL PROPERTY

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

CIVIL APPEALS

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

☐ Zoning Board
☐ Other: _____

MISCELLANEOUS

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

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. 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 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

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. 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 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 instructions for obtaining a stay pending issuance of 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.

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

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

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.

Signature of Petitioner: _____

Print Name Here: _____

**DOMESTIC VIOLENCE
AFFIDAVIT**



(Party name as displayed in case caption)

Docket/Case No.

Vs.

(Party name as displayed in case caption)

Court

Pursuant to Pa.R.C.P.M.D.J. No. 514.1:

I, _____, the undersigned, certify and declare as follows:

- 1) I am a victim of domestic violence.
- 2) The name of the perpetrator of domestic violence: _____
- 3) The perpetrator's relationship to me is: _____
- 4) Docket number(s) (if applicable) of any protection from abuse case involving me and the perpetrator:

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.

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

Signature

Date

Supplemental Instructions

A victim of domestic violence is "a person who has obtained a protection from abuse order against another individual or can provide other evidence of abuse." See Pa.R.C.P.M.D.J. No. 1001(10); 68 P.S. 250.513. A tenant who is aggrieved by a judgment for the delivery of real property arising out of a residential lease and who is a victim of domestic violence may appeal the judgment within 30 days after the date of the entry of judgment by filing a notice of appeal with the prothonotary/clerk of court of the court of common pleas, civil division, along with a copy of the Domestic Violence Affidavit. A tenant who is a victim of domestic violence may file the Affidavit with the magisterial district court to stay the execution of an order for possession pursuant to Rule 514.1 prior to filing an appeal with the court of common pleas. If the Affidavit is filed with the magisterial district court, the tenant should attach a copy of the Affidavit to the notice of appeal. If the tenant does not file the Domestic Violence Affidavit with the magisterial district court or does not appeal to the court of common pleas within 21 days following the entry of the judgment, the tenant is at risk of eviction.

This Domestic Violence Affidavit is not a public record and it shall not be publically accessible.

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

**ORDER TO PROCEED WITHOUT
PAYMENT OF FEES AND COSTS**

AND NOW, this _____ day of _____, 20____, upon consideration of the within Petition, it is hereby ordered that the Petitioner shall/shall not be permitted to proceed in this matter without payment of fees and costs.

BY THE COURT,

J.

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

PETITION TO PROCEED WITHOUT PAYMENT OF FEES AND COSTS

1. I am a party in the above matter and because of my financial condition I 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: _____

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 and supplemental benefits: _____

Workers' compensation: _____

Public assistance: _____

Other: _____

(d) Other contributions to household support

Do you have a spouse? _____

Name of your spouse: _____

If your spouse is employed, state

Employer: _____

Address: _____

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: _____

(g) Persons dependent upon you for support

Spouse Name: _____

Children

List INITIALS of each child. Initials: _____

List ages of children (no birthdates). Ages: _____

Other persons who depend on you for support

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: _____

Signature of Petitioner: _____

Print Name Here: _____