



Legal Aid of Southeastern PA

How to File a Landlord and Tenant Appeal to Stop an Eviction in Montgomery County, PA.

If you are a tenant and want to appeal an eviction judgment and remain in your home, you must do so within **10 days** of the Magisterial District Court Judge's decision. 10 days includes weekends and holidays. All appeals must be filed in person at the Prothonotary's Office, located in the Montgomery County Court of Common Pleas at 2 E Airy St Ste 1, Norristown, PA 19401.

Follow these steps to file your appeal:

Step 1: You will need a copy of the Magisterial District Court Judge's decision (called a "*Notice of Judgment/Transcript*"), which should have been mailed to you after your eviction hearing. If you didn't get it, call the Magisterial District Court and request a copy.

Step 2: Fill out the "*Court of Common Pleas Civil Cover Sheet*" (Form 1). You are the defendant. Your landlord is the plaintiff.

Step 3: Fill out the "*Notice of Appeal and Rule to File a Complaint*" (Form 2). You are the appellant. Your landlord is the appellee.

Step 4: You must pay a filing fee to file your appeal. If you cannot afford to pay the filing fee, you can ask the court to waive the fee by completing a "*Petition to Proceed In Forma Pauperis*" (Form 3). You must answer all questions about your income or the court may deny the petition. You should attach some proof of your income to the petition. If you do not have any proof of your income, you should explain why in the petition or the court may deny your request. You have a right to file the petition even if you do not have proof of income.

Step 5: You must pay your portion of the monthly rent to the court when you file the appeal. Choose one of the following:

- If you are low-income, complete the "*Tenant's Supersedeas Affidavit (Non-Section 8)*" (Form 4). If you have not paid rent to your landlord this month, you must pay 1/3 of your monthly rent to the Court when you file the appeal. You must then pay 2/3 of your monthly rent to the Court within 20 days after you file the appeal. From this point on, **every thirty (30) days from the day you file the appeal**, an additional month's rent will be due to the Prothonotary's Office.

- If you are a Section 8 or subsidized housing tenant, complete the “*Section 8 – Tenant’s Supersedeas Affidavit*” (Form 5). If you have not paid rent to your landlord this month, you must pay 1/3 of your monthly tenant payment to the Court when you file the appeal. You must then pay 2/3 of your monthly tenant payment to the Court within 20 days after you file the appeal. From this point on, **every thirty (30) days from the day you file the appeal**, an additional portion of one month’s rent will be due to the Prothonotary’s Office.
- If you are not low-income, you must pay 3 months' rent or the amount of rent the Magisterial District Judge says you owe (whichever is less) to the Court.
- All payments to the Prothonotary’s Office must be by certified check, money order, or cash. They **do not** accept personal checks, credit cards, debit cards, or App based payments (such as Paypal, Venmo, etc.).

Step 6: After you file your appeal, the Prothonotary’s Office should give you several copies of the “*Notice of Appeal and Rule to File a Complaint*” (Form 2). You must give one copy to your landlord and one copy to the Magisterial District Judge. You should send them each a copy by certified mail, and keep a copy of the Certified Mail Receipt.

Step 7: Lastly, complete a “*Proof of Service*” (Form 6) and file it at with the Prothonotary’s Office. You are telling the court how you gave your landlord and the Magisterial District Judge a copy the Notice of Appeal. If you sent the documents by certified mail, attach your certified mail receipts on a second page. You must file this form within **10 days** of the date you file your appeal, or you can be evicted.

Step 8: You must continue to pay your rent in full to the court escrow every 30 days from the day you file your appeal and continue until your appeal hearing. If you fail to pay the rent in full and on time, the right to possession (your right to reside at the property while the appeal is ongoing) may be terminated. Your appeal hearing will be scheduled roughly 6-12 months from the day you file the appeal.

Other info: When you file an appeal, the court takes a fresh look at the case. The Hearing is held *De Novo*, which means that your landlord can present any issues regardless of whether they came up in the MDJ hearing. The landlord can ask for more or less money from you at the appeal hearing. After you file your appeal, your landlord must file a Complaint with the court and you must file an Answer. Failure to complete any of the steps in this brochure may result in your eviction. To apply to Legal Aid of Southeastern PA call our Helpline at (877) 429-5994, or apply online at www.lasp.org/apply.

other laws, rules, or regulations not referred to here. You should not rely solely on this brochure and should consult an attorney.

Supreme Court of Pennsylvania

Court of Common Pleas
Civil Cover Sheet



County _____

<i>For Prothonotary Use Only:</i>	
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:	
<input type="checkbox"/> Complaint	<input type="checkbox"/> Writ of Summons
<input type="checkbox"/> Transfer from Another Jurisdiction	<input type="checkbox"/> Declaration of Taking
<input type="checkbox"/> Petition	
Lead Plaintiff's Name: _____	Lead Defendant's Name: _____
Are money damages requested? <input type="checkbox"/> Yes <input type="checkbox"/> No	Dollar Amount Requested: <input type="checkbox"/> within arbitration limits (check one) <input type="checkbox"/> outside arbitration limits
Is this a <i>Class Action Suit</i> ? <input type="checkbox"/> Yes <input type="checkbox"/> No	Is this an <i>MDJ Appeal</i> ? <input type="checkbox"/> Yes <input type="checkbox"/> No
Name of Plaintiff/Appellant's Attorney: _____	
<input type="checkbox"/> 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.

<p>TORT (<i>do not include Mass Tort</i>)</p> <input type="checkbox"/> Intentional <input type="checkbox"/> Malicious Prosecution <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Nuisance <input type="checkbox"/> Premises Liability <input type="checkbox"/> Product Liability (<i>does not include mass tort</i>) <input type="checkbox"/> Slander/Libel/ Defamation <input type="checkbox"/> Other: _____ _____	<p>CONTRACT (<i>do not include Judgments</i>)</p> <input type="checkbox"/> Buyer Plaintiff <input type="checkbox"/> Debt Collection: Credit Card <input type="checkbox"/> Debt Collection: Other _____ <input type="checkbox"/> Employment Dispute: Discrimination <input type="checkbox"/> Employment Dispute: Other _____ <input type="checkbox"/> Other: _____ _____	<p>CIVIL APPEALS</p> Administrative Agencies <input type="checkbox"/> Board of Assessment <input type="checkbox"/> Board of Elections <input type="checkbox"/> Dept. of Transportation <input type="checkbox"/> Statutory Appeal: Other _____ <input type="checkbox"/> Zoning Board <input type="checkbox"/> Other: _____ _____
<p>MASS TORT</p> <input type="checkbox"/> Asbestos <input type="checkbox"/> Tobacco <input type="checkbox"/> Toxic Tort - DES <input type="checkbox"/> Toxic Tort - Implant <input type="checkbox"/> Toxic Waste <input type="checkbox"/> Other: _____ _____	<p>REAL PROPERTY</p> <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Ground Rent <input type="checkbox"/> Landlord/Tenant Dispute <input type="checkbox"/> Mortgage Foreclosure: Residential <input type="checkbox"/> Mortgage Foreclosure: Commercial <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Other: _____ _____	<p>MISCELLANEOUS</p> <input type="checkbox"/> Common Law/Statutory Arbitration <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Mandamus <input type="checkbox"/> Non-Domestic Relations <input type="checkbox"/> Restraining Order <input type="checkbox"/> Quo Warranto <input type="checkbox"/> Replevin <input type="checkbox"/> Other: _____ _____
<p>PROFESSIONAL LIABILITY</p> <input type="checkbox"/> Dental <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional: _____ _____		

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS
Judicial District, County of Montgomery

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

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

IN FORMA PAUPERIS PETITION

INSTRUCTIONS

Petitioner:

Pursuant to Pennsylvania Rule of Civil Procedure 240, "a party who is without financial resources to pay the costs of litigation is entitled to proceed in forma pauperis." In order to proceed in forma pauperis, the party must file a petition and affidavit in the form prescribed by the Rule. Attached is a "fill in the blank" petition and affidavit form. You must:

1. Read paragraphs #1 and #2 carefully. If they accurately describe your current financial position, please proceed to **COMPLETE** the form. If they do not accurately describe your current financial position, you may not proceed in forma pauperis.
2. Complete paragraph #3 by providing an **ANSWER** on each line. For subsections (a), (c), (e), and (f), and (g), **YOU MUST PROVIDE AN ANSWER ON EACH LINE**, do not leave any line blank, and **do not write "n/a"** on any of the lines. If the answer is "no" or "none", then write "no" or "none". For subsections (b) and (d), however you only need to provide an answer if applicable.
3. If the line requires the entry of a dollar amount, please provide an accurate amount – **DO NOT LEAVE THE DOLLAR AMOUNT BLANK** (do not include account numbers).
4. You are required to provide the following along with this application:
 - (a) copy of your most recent Income Tax Return (if not yet filed, submit W-2's, 1099's or other statements of income for previous year)
 - (b) copy of your most recent pay stub
 - (c) copies of your most recent bank statement received for all bank accounts in your name individually or with anyone else
 - (d) copies of your most recent credit card statement for each card showing available balance.
5. Make particular note of the requirement in paragraph #4. If your financial position improves during the pendency of the action, which would permit you to pay the cost herein, **you must inform the court immediately.**

NOTE: - If you fail to follow the instructions, your Petition will not be processed by the Court.
Court Administration

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

vs. _____ NO: _____

PETITION AND AFFIDAVIT FOR LEAVE TO PROCEED IN FORMA PAUPERIS

1. I am the (plaintiff)(defendant) in the above matter and because of my financial position, 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 **and therefore request the following fees be waived:**

FILING FEE OCF FEE MEDIATION FEE _____

(a) Name: _____

Address: _____

(b) **Employment**

Are you employed in any capacity? yes no

If yes, Employer: _____

Address: _____

Contact Name and Phone Number: _____

Salary or wages per month: _____

Type of work: _____

If you are not presently employed, state:

Date of last employment: _____

Salary or wages per month: _____

Type of work: _____

Cause of termination of employment: _____

If your employment is seasonal, when do you expect to return? _____

(c) **Other income within the past twelve months** (state amount of each, if applicable)

Business or profession or other self-employment: _____
Interest and/or Dividends: _____
Pension and annuities: _____
Personal injury awards: _____
Social security benefits: _____
Support, APL or Alimony payments (for yourself): _____
Disability payments: _____
Unemployment Compensation and supplemental benefits: _____
Worker's compensation: _____
Public assistance: _____
Cash assistance: _____ Food Stamps: _____
Do you receive rental income from anyone? _____
Are you owed money by any third party? _____ If yes, how much? _____
Other income: _____

(d) **Other contributions to household support**

(Wife)(Husband) Name: _____
Husband/Wife Employer: _____
Salary or wages per month: _____
Type of work: _____
Contributions from children: _____
Contributions from parents: _____
Other contributions: _____

(e) **Property owned**

Cash: _____
Checking account (current balance): _____
Savings account (current balance): _____
Certificates of Deposit (Amount): _____
Stocks and bonds: _____
Real Estate (list all properties in which you have an interest on next page): _____

<u>Address</u>	<u>Value</u>	<u>Mortgage Balance</u>

Motor Vehicle: Make _____ Year _____
 Cost _____ Amount owed \$ _____

Other: _____

(f) Debts and obligations

Mortgage: _____ Rent: _____

Loans: _____

Other: (monthly payment)

Electric/Gas/Oil: _____ Cable TV: _____

Cell Phone: _____ Land-Line Phone: _____

Water/Sewer: _____

Have you any:

Home Equity Lines of Credit yes no If yes, available balance _____

Credit Cards yes no If yes, available balance _____

(g) Persons dependent upon you for support

(Wife) (Husband) Name: _____

Children, if any:

Name: _____ Age: _____

Name: _____ Age: _____

Name: _____ Age: _____

Other persons:

Name: _____

Relationship: _____

(h) Support Action

Are you a party in a support action? _____

If yes, date of last Order: _____

Your Income/Earning Capacity on said Order: _____

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 cost 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.
6. By my signature hereon, I am authorizing any bank and/or financial institution and/or agency to release any information to the Court for purposes of verification of the information contained in this Petition.

Date

Petitioner

ORDER

AND NOW, this _____ day of _____, 20____, upon consideration of the foregoing, it is hereby ORDERED that the Petition to Proceed in Forma Pauperis, in the above matter, is

___ GRANTED as to:

___ FILING FEE \$_____.____ FOR THIS FILING ONLY.
(If Divorce Complaint, additional fees per Count will apply.)

___ OUR CHILDREN FIRST SEMINAR FEE for this filing only. (\$60.00)

___ MEDIATION FEE for this filing only. (\$100.00)

___ Other _____

___ DENIED – Reason

If the underlying action herein is an appeal from a district justice judgment for possession of real estate, the appeal does not operate as a supersedeas unless the appellant complies with PA.

R.C.P.D.J. No. 1008B.

BY THE COURT:

J.

COMMONWEALTH OF PENNSYLVANIA

COURT OF **COMMON PLEAS**
County Of Montgomery

LANDLORD: NAME and ADDRESS 7

VS.

TENANT: NAME and ADDRESS 7

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

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

Civil Action - Law

	:
Plaintiff	:
	:
vs.	:
	:
	:
Defendant	:

SECTION 8 – TENANT'S SUPERSEDEAS AFFIDAVIT

I, _____, 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 – Public Housing 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 – Public Housing 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

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