

Landlord/Tenant Pre-Calendar Call Instructions

Preamble

The judge presiding at the call of the landlord/tenant trial list on the day of the trial will provide instructions to the tenants and landlords who have come to court for a trial. The instructions are set forth below. A written copy of the instructions provided by the judge will be made available to you at the calendar call. These instructions need not be recited verbatim. However, what is said must contain and explain in plain language all of the points set forth in these instructions and may be supplemented by local information. A Spanish version of these instructions will be given via a videotape recording and in writing in those counties with a significant Spanish speaking population.

Instructions

Si usted necesita un interprete porque usted habla solamente Espanol, por favor, ponga se de pie.

We are about to call a list of cases where the landlord is suing to evict, that is, lock out, a tenant. After the list has been called, you will have a chance to ask questions. Written copies of the instructions I am about to give are available.

1. The Calendar Call

- A.** When we call each case, please identify yourself. We will mark a case “**READY**” when both the landlord and the tenant are here. We will mark a case “**DEFAULT**” when the landlord is here but the tenant isn't. If a default is entered, then the landlord must file an affidavit or certification, which must include the facts necessary to get a judgment for possession and a statement that all charges and fees are permitted by law and the lease. The landlord's attorney, if there is one, must also file a certification that the charges and fees, including attorney fees, are permitted by law and the lease. The judgment for possession allows a landlord to have a tenant evicted by a Special Civil Part Officer. We will mark a case “**DISMISSED**” if the landlord is not here. Tenants should identify themselves even if the landlord is not here.
- B.** Everyone must stay here until you get additional instructions and permission to leave.

2. Settlements

Now I want to talk to you about settlements. After we have called the list of cases, we suggest that landlords and tenants talk to each other to try to settle your cases. Here are some important points. You do not have to settle your case, and you have the right to a trial. You should settle only if the terms are agreeable to you. A settlement must be voluntary to both parties. If you are able to agree on a settlement, please let the staff in this courtroom know and you will be given a settlement agreement form, the landlord's certification and the certification for the landlord's attorney. I advise the parties that they are not limited to the contents of the settlement forms. You may change them as desired. Complete the forms, date and sign them, and give them back to court staff. You will receive a copy for your own records. Make sure that you understand the words in the settlement because if you agreed to entry of a judgment for possession and don't comply with the terms of the settlement, you will be evicted. Any agreement that says a judgment for possession will or may be entered must be approved by me or another judge.

3. Waiting for Trial

If you are not able to settle your case, you will have to wait until a judge is available to hear your case. We expect to reach all cases today. However, if your case cannot be completed today, then the tenant may have to deposit with the clerk of the court the amount of rent to be determined by the court, no later than 4:30 p.m. today, in cash or money order or bank cashier's check made payable to the Treasurer, State of New Jersey, rather than to the landlord. If it is deposited, the Clerk will reschedule the case with a new trial date. If the rent is not deposited today, a Judgment for Possession will be entered in favor of the landlord. That means that a landlord will be able to have a tenant evicted by a Special Civil Part Officer. A landlord cannot lock out a tenant by himself or herself; a Special Civil Part Officer must be used to evict a tenant.

4. Non-Payment Cases

Introduction. The following points relate to a landlord's claim that a tenant owes rent:

- A. Dismissal Upon Payment or Deposit.** First, if the landlord claims that the tenant owes rent, it is still not too late to pay the rent that is due and have the case dismissed. If the tenant pays the rent that is due plus costs of

court by 4:30 p.m. today, the case will be dismissed. The tenant may pay the rent plus costs to the landlord, or to the clerk of the court by cash, money order, or bank cashier's check. If a tenant disagrees with the landlord on the amount of the rent that is owed, a tenant has the right to a trial so that a judge can decide how much rent is owed. After the judge decides how much rent is owed, the tenant can pay the rent and the case will be dismissed.

B. Items Constituting Rent. A tenant does not have to pay for attorney's fees, late fees or other charges to avoid eviction unless there is a written lease that calls these items "additional rent." Even if the lease does say that, the amount really due as rent may be limited by rent control, or if there is public assistance, the rent may be limited by federal law. For example, if the tenant gets Section 8 assistance, the landlord cannot include a late charge to determine the amount that the tenant owes.

C. Limitation on Court's Powers. If the only issue is that a tenant who owes rent wants more time to pay it, or to pay it in installments but the landlord does not agree, then I will have to enter a judgment for possession; I have no right to make a landlord wait for the rent or to take it in installments. A judgment for possession is the court order giving the landlord the right to possession of the premises. However, the landlord cannot actually evict the tenant until the warrant of removal is issued.

5. Eviction Procedures

A. Issuance of Warrant. A judgment for possession gives a landlord the right to request a warrant to have a tenant evicted by a Special Civil Part Officer. That warrant may be issued no sooner than three business days after entry of the judgment for possession.

B. Service of the Warrant. The warrant will have to be served by the Officer on the tenant, and a residential tenant may be evicted no sooner than three business days after it has been served, but not on a weekend or holiday. To put it very simply, a residential tenant may not be evicted any earlier than 8 days plus holidays, after a judgment for possession has been entered.

6. Stopping an Eviction After a Judgment for Possession

A. By Agreement. After a judgment for possession has been entered, a tenant may still try to make an agreement with a landlord to stop an eviction. If the landlord does agree, make sure that the agreement is in writing and that a copy is filed with the court.

B. By Going to the Court. If the landlord does not agree, then, even after a warrant of removal has been served on a tenant or after the tenant has been removed, the tenant may apply to the court, as soon as possible, for relief to stop the eviction or put the tenant back, including:

- (1) An Order to Show Cause [based on Court Rule 4:50-1] requesting that the judgment for possession be reversed and the complaint dismissed, if the tenant can show good reasons.
- (2) A delay [stay] of the eviction based on the unavailability of other dwelling accommodations [based on New Jersey Statute 2A:42-10.1 or 2A:42-10.6]. That delay cannot be for more than 6 months and must be applied for no later than 10 days after the eviction, but the tenant will have to pay all rent and proper costs.
- (3) An application for orderly removal requesting more time to move out if there is a good reason.

A court may grant or deny these applications, and if one of these applications is granted, the court may also establish certain conditions.

7. Jurisdictional Instruction

Landlords who want to evict a tenant when they either got title from the tenant or gave the tenant an option to purchase, must stay here to testify in court even if the tenant isn't here. This does not apply to most eviction cases.

8. Services/Facilities Available

We have a list of agencies that may assist you with rent, temporary shelter or legal services. A list of these agencies or legal services programs, and a copy of this announcement, is available, and you should get a copy if you do not have one. [Identify any welfare representatives who are present in court.]

**PLEASE WAIT UNTIL THE LIST OF CASES HAS BEEN COMPLETED
AND ADDITIONAL INSTRUCTIONS HAVE BEEN GIVEN**