



Appendix XI-S
New Jersey Judiciary
Superior Court of New Jersey
Law Division, Special Civil Part

Landlord Tenant Trial Information

The following information is a **brief** overview of landlord tenant court procedures. This overview is not intended to take the place of legal advice, but it will give you a general understanding of the process. If you need an interpreter or an ADA accommodation, you should contact the court by phone or email.

A landlord has filed a lawsuit against a tenant to regain possession of their property. This means a landlord wants to evict (also known as “lockout”) a tenant. In order to evict a tenant, the landlord must first get a court order called a judgment for possession. Before that can happen, the tenant has a right to a trial. If a trial occurs, a judge will decide whether a judgment for possession should be entered. A judgment for possession allows a landlord to request a court order called a warrant of removal from the court. If a judgment is entered, the court will provide a written document to the landlord and tenant that explains the basis for the court’s decision and what will happen next. The warrant of removal allows a Special Civil Part Officer to proceed with a tenant’s eviction from the property.

Illegal Evictions:

A landlord cannot evict tenants from a rental property; only a Special Civil Part Officer can perform an eviction. In order to have a Special Civil Part Officer evict a tenant, a landlord must first get a judgment for possession and then a warrant of removal from the court. **It is illegal for the landlord to force a tenant out by changing the locks, padlocking the doors, or shutting off gas, water or electricity.** Landlords can only remove a tenant’s belongings after an eviction as permitted by the Abandoned Tenant Property Act N.J.S.A. 2A:18-72 (unless otherwise provided for in a non-residential lease).

Tenants who have been locked out of their homes illegally should call the police. The New Jersey Office of the Attorney General has released guidance on illegal lockouts and the role of law enforcement agencies in preventing them. More information is available at the following link: https://www.nj.gov/oag/dcj/agguide/directives/ag-Directive-2021-2_Illegal_Evictions.pdf

Tenants who have been locked out of their rental property illegally can also file a civil complaint at the county courthouse. For more information on illegal evictions (lockouts) go to Self-help Landlord/Tenant (njcourts.gov).

Available Resources:

Court staff keep a list of agencies that might be able to assist with rent, temporary shelter, or legal services. Information about rental assistance programs - including those related to the COVID-19 pandemic - is available online at Housing, Legal and Utilities Assistance During

COVID-19. Information about legal resources also is posted online at: Self-help Landlord/Tenant (njcourts.gov)

1. Appearing on Your Trial Date

Trials can be conducted virtually, by video, or in person if you are unable to participate virtually. If both the landlord and the tenant are present on the scheduled trial date, the case will be marked READY for trial. If the tenant is not present, the case may be marked "DEFAULT." This means the landlord will be able to take the next step to have them evicted. **If the landlord is not present or if both parties do not appear, the case can be "DISMISSED."** This means that the court will close the case. The landlord may need to refile, or the court might order that the landlord cannot refile the case. You will have a chance to ask questions of court staff.

2. Settlements

You will be required to attend a settlement conference before the trial. The conference generally will be conducted virtually (by video). You will have the opportunity to meet with court staff for the conference.

The landlord and tenant should talk to each other to try to settle their case. Neutral court staff will help. **You are not required to settle the case and you have the right to a trial.** You should settle only if you understand the terms of the agreement and you agree to all of the terms. If you are a tenant and do not comply with the settlement agreement, you can be evicted. If you agree on a settlement, a settlement agreement form must be completed virtually or in person. You are not limited to the contents of the settlement forms, you can add terms or delete parts of the forms. A copy of any settlement agreement will be sent to both the landlord and tenant. **NOTE:** if you are an unrepresented residential tenant, a judge must review and approve the settlement agreement.

3. Right to a Trial

If you are a tenant and you disagree with what your landlord claims, such as the amount of the rent that is owed, you have the right to explain your position, before and at trial.

4. Waiting for Trial

If you do not settle, a judge will hear your case. Most trials will be conducted virtually, by video. Parties can use courthouse technology rooms to participate, if necessary. In some cases, the trial can be conducted in person. The court expects to hear all cases on the scheduled trial date; however, if your case cannot be heard that day, you will have your case rescheduled and have to appear either virtually or in person another day. If you are a tenant and you request to adjourn (postpone) the trial date, the judge might first require you to deposit some or all of the rent due with the court. If a deposit is required, it can be paid in cash, money order or bank cashier's check made payable to the Treasurer, State of New Jersey. If the rent is not deposited as directed, a default will be entered in favor of the landlord. That means the landlord will be able to take the next steps to have you evicted.

5. Non-Payment of Rent Cases

The following information applies in cases where a landlord claims the tenant owes rent:

A. Dismissal of Case Upon Payment or Deposit. If you are a tenant, the case against you will be dismissed if you pay all of the rent that is due plus court costs to the landlord or to the court on or before the date a judge enters a judgment for possession. If your case is heard remotely, the court will delay entry of the judgment until the following business day. **Note:** The tenant can still make payments after a judgment for possession is entered.

B. Fees or Other Charges as Additional Rent. Attorney's fees, late fees and/or other charges are only allowed if there is a lease that calls these items "additional rent." Even if the lease does say that, the amount due as rent may be limited by rent control, or if there is public assistance, the rent may be limited by local, state, or federal law. For example, if a tenant receives Section 8 assistance, the landlord cannot include a late charge in the amount that the tenant owes.

6. Holdover Cases

If the eviction case is for a reason other than nonpayment of rent, the landlord should have served the tenant with written notice(s) before filing the complaint for eviction and attached these notice(s) to the complaint when filed.

7. Limitation on Court's Powers

A judge cannot force the landlord and tenant to settle. A settlement is entirely voluntary. For example, a tenant might want more time to pay rent owed or to pay in installments. Unless the landlord agrees to such terms, the court must enter a judgment for possession, which then allows the landlord to take steps to gain possession of the property and evict the tenant.

8. Eviction Procedures/Steps

Step 1 - Entry of Judgment for Possession. When the court enters a judgment for possession, the court is granting the landlord the legal right to possession of the premises. This can happen if the landlord can prove their case on the day of trial, if the tenant does not attend the trial and the case is marked as "Default," or if the landlord and tenant agree to the entry of a judgment for possession.

Step 2 - Issuance of Warrant of Removal. After the judgment for possession is entered, the landlord can ask the court to issue a warrant of removal to a Special Civil Part Officer. The warrant of removal cannot be issued until at least three (3) business days after the judgment for possession is entered. A Special Civil Part Officer is the person who serves (delivers) the warrant of removal on the tenant.

Step 3 - Service of the Warrant of Removal. The warrant of removal must be served by the Special Civil Part Officer on the tenant by delivering or posting the warrant of removal on the door of the rental property.

Step 4 –Execution of the Warrant of Removal/Eviction. Three (3) business days after the warrant of removal is served, a landlord can request that the Special Civil Part Officer return to the residential rental property a second time to **execute the warrant of removal by requiring the tenant to vacate the premises and permitting the landlord to change the locks.** This is when the eviction (lockout) is completed.

NOTE: Landlords cannot evict tenants themselves. Special Civil Part Officers are the only individuals authorized to evict tenants. Tenants cannot be evicted on a weekend or holiday.

Important Note - if you are a residential tenant, you cannot be evicted until the landlord follows the steps above. You cannot be evicted any earlier than eight (8) calendar days after a judgment for possession has been entered. In non-payment of rent cases, even after an eviction by a Special Civil Part Officer, you might be able to return to stay in the rental property if you pay the landlord all rent due plus proper costs up to **three (3) business days after the eviction.** (See 9.B. Paying all Rent Due and Owing, below)

9. Options After a Judgment for Possession

- A. **Agreement.** After a judgment for possession has been entered (See #8/Step 1 above), a landlord and tenant can still try to make an agreement to stop an eviction. If the landlord and the tenant agree, the agreement should be in writing and a copy of the agreement should be filed with the court.
- B. **Paying all Rent Due and Owing.** By law, a tenant can pay all rent due and owing plus proper costs up to three (3) business days after the eviction (See #8/Step 4 above). The landlord must accept this payment and/or cooperate with a rental assistance program or bona fide charitable organization that has committed to pay the rent.
- C. **Asking the Court for Relief.** If you are a residential tenant, you can apply to the court for relief (help) even after an eviction:
 - (1) If you need a few more days to move out, you can file an application for orderly removal requesting up to seven (7) more calendar days to move out if there is a good reason;
 - (2) If you have paid the rent or your landlord refused to accept the rent, you can file a motion requesting dismissal with prejudice of the nonpayment of rent action (meaning they cannot refile it). This will only apply if you paid all rent due and owing plus proper costs, or the landlord refused to accept your rent payment, within three (3) business days following the eviction. You can also file if the landlord refused to cooperate with a rental assistance program or bona fide charitable organization that has committed to pay the rent; and/or

- (3) You can file an application for a hardship stay which delays the eviction based on the unavailability of other housing accommodations. That delay cannot be for more than six (6) months from entry of the judgment for possession, and you will have to pay all rent and proper costs.

You can also file a motion under Rule 4:50-1 requesting that the judgment for possession be vacated (reversed) and the complaint dismissed, if you can show good reason such as mistake or excusable neglect, fraud, misrepresentation or other misconduct by an adverse party, newly discovered evidence or any other reason justifying relief from the judgment for possession.

Court staff can provide tenants with the forms needed to ask for any of the above types of relief.