

IN THE SUPREME COURT OF PENNSYLVANIA

IN RE:	:	
	:	No. 140
ORDER AMENDING RULE 512	:	
AND REVISING THE NOTE TO	:	
RULE 514 OF THE RULES OF	:	Magisterial Docket No. 1
CONDUCT, OFFICE STANDARDS	:	
AND CIVIL PROCEDURE	:	
FOR DISTRICT JUSTICES	:	Book No. 2
	:	

ORDER

PER CURIAM:

AND NOW, this 25th day of November, 2002, upon the recommendation of the Minor Court Rules Committee; the proposal having been published before adoption at 30 Pa.B. 6547 (December 23, 2000), and a *Final Report* to be published with this **ORDER**:

IT IS ORDERED pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 512 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices is amended, and the Note to Rule 514 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices is revised, in the attached form.

This **ORDER** shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2003.

NOTE: New material is **bold** and underlined.
Deleted material is **bold** and [**bracketed**].

Rule 512. Hearings and Evidence.

A. The plaintiff must appear at the hearing and present testimony in an action for the recovery of possession of real property.

B. The district justice shall be bound by the rules of evidence, except that a bill, estimate, receipt or statement of account which appears to have been made in the regular course of business may be introduced in evidence by any party without affidavit or other evidence of its truth, accuracy or authenticity.

Note

Subdivision A of this rule is intended to make clear that the district justice may not enter a default judgment in a possessory action, including a judgment for money only. The plaintiff must appear and give testimony to prove the complaint even when the defendant fails to appear for the hearing. See Rule 514A and Note. See also Section 503(a) of The Landlord and Tenant Act of 1951, 68 P.S. § 250.503(a). When the plaintiff fails to appear at the hearing, the district justice may continue the hearing for cause or dismiss the complaint without prejudice.

[This] **Subdivision B of this** rule is the same as Rule 321 of the [trespass and assumpsit] **civil action** rules.

Amended June 30, 1982, effective 30 days after July 17, 1982; **amended November 25, 2002, effective July 1, 2003.**

Rule 514. Judgment.

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Note

Subdivision A of this rule requires that the plaintiff appear and give testimony to prove the complaint before the district justice can enter judgment against the defendant, even when the defendant fails to appear for the hearing. The district justice may not enter a default judgment in a possessory action, including a judgment for money only. See Rule 512A and Note. The various issues that the district justice must determine at the hearing include: whether notice to quit was given to the defendant in accordance with law or that no notice was required under the terms of the lease; the amount of rent due, if any; damages to the leasehold premises, if any; the amount found to constitute the monthly rental, and; the amount of the security deposit held by the landlord, if any.

As to the notice to quit requirement, see Section 501 of The Landlord and Tenant Act of 1951, 68 P.S. § 250.501. See also *Patrycia Bros., Inc. v. McKeefrey*, 38 Pa. D. & C.2d 149 (Delaware County C.P. 1966).

The separate entries provided in Subdivision A are made necessary as a result of the rental deposit provisions for appeal or certiorari contained in [**Pa. R.C.P.D.J. Nos. 1008.B. and 1013.B.] Rules 1008B and 1013B, as well as the wage attachment provisions contained in [**Act 5 of 1996] Section 8127 of the Judicial Code, 42 Pa.C.S. § 8127.****

Subdivision B of this rule makes provision for a money judgment for the defendant if the defendant prevails in a greater amount on the defendant's cross-complaint.

Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended effective Dec. 1, 1983; amended March 27, 1992, effective June 25, 1992 [The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the Project will become effective as the District Justice offices are brought on-line."]; March 28, 1996, effective March 29, 1996; **Note revised November 25, 2002, effective July 1, 2003.**