

RULE 403. ISSUANCE AND REISSUANCE OF ORDER OF EXECUTION

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B. (1) Upon written request filed by the plaintiff within five years from the date of entry of the judgment, an order of execution [may] shall be reissued at any time, and any number of times [except that any request for reissuance must be filed within five years from the date of the judgment] .

(2) If an order of execution is superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy proceeding, and

(a) the appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated; or

(b) the bankruptcy stay is lifted; and

(c) the plaintiff wishes to proceed with the order of execution,

the plaintiff must file with the district justice a written request for reissuance of the order of execution in accordance with subparagraph (1).

C. A written request for reissuance of the order of execution filed pursuant to subparagraph B(2) must be accompanied by a copy of the court order or other documentation striking, dismissing, or terminating the appeal, writ o certiorari, or supersedeas, or lifting the bankruptcy stay.

Note

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Subdivision B will permit the reissuance of an order of execution upon written request of the plaintiff timely filed. Compare Pa.R.C.P. No. 3106(b). The written request for reissuance may be in any form and may consist of a notation on the permanent copy of the request for order of execution form, "Reissuance of order of execution requested," subscribed by the plaintiff. The district justice shall mark all copies of the reissued order of execution, "Reissued. Request for reissuance filed (time and date)." A new form [or new form sets] may be used upon reissuance, those portions retained from the original being exact copies although signatures may be typed or printed with the mark Vs/." There [is] are no filing [fee] costs for reissuing an order of execution, for the reissuance is, merely a continuation of the original proceeding. However, there may be additional server costs for service of the reissued order of execution.

Amended Jan. 29, 1976, effective in 30 days; amended effective March 24, 1977; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; 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]; amended July 16, 2001, effective August 1, 2001; **amended April 5, 2002, effective July 1, 2002.**

RULE 515. REQUEST FOR ORDER FOR POSSESSION

A. If the district justice has rendered a judgment arising out of a non-residential lease that the real property be delivered up to the plaintiff, the plaintiff may, after the [**fifteenth (15th)**] **15th** day following the date of the entry of the judgment, file with the district justice a request for an order for possession [**on a form which shall be prescribed by the State Court Administrator**]. The request [**form shall be attached to the order, and**] shall include a statement of the judgment amount, return, and all other matters required by these rules.

B. **(1) [If] Except as otherwise provided in subparagraph (2), if** the district justice has rendered a judgment arising out of a residential lease that the real property be delivered up to the plaintiff, the plaintiff may after the [**tenth (10th)**] **10th** day **but within 120 days** following the date of the entry of the judgment, file with the district justice a request for an order for possession [**on a form which shall be prescribed by the State Court Administrator**]. The request [**form shall be attached to the order, and**] shall include a statement of the judgment amount, return, and all other matters required by these rules.

(2) In a case arising out of a residential lease, if before the plaintiff requests an order for possession,

- (a) an appeal or writ of certiorari operates as a supersedeas; or**
- (b) proceedings in the matter are stayed pursuant to a bankruptcy proceeding; and**
- (c) the supersedeas or bankruptcy stay is subsequently stricken, dismissed, lifted, or otherwise terminated so as to allow the plaintiff to proceed to request an order for possession,**

the plaintiff may request an order for possession only within 120 days of the date the supersedeas or bankruptcy stay is stricken, dismissed, lifted, or otherwise terminated.

Note

The fifteen days in subdivision A of this rule, [**plus**] **when added to** the [**sixteen**] **16 day period provided for** [**days**] in Rule [**519.A**] **519A**, will give the defendant time to obtain a supersedeas within the appeal period. [**See Pa. R.C.P.D.J. Nos.**] **See Rules** 1002, 1008, 1009, and 10 13.

The 1995 amendment to [§] section 513 of [the] The Landlord [/] and Tenant Act of 1951, 68 P.S. § 250.513, [(Act No. 1995-33)] established a ten-day appeal period [of time for an appeal] from a judgment for possession of real estate arising out of a residential lease; therefore, the filing of the request for order for possession in [subdivision B.] subparagraph B(1) is not permitted until after the appeal period [of time for appeal] has expired. In cases arising out of a residential lease, the request for order for possession generally must be filed within 120 days of the date of the entry of the judgment.

Subparagraph B(2) provides that in a case arising out of a residential lease, if a supersedeas (resulting from an appeal or writ of certiorari) or bankruptcy stay is stricken, dismissed, lifted, or otherwise terminated, thus allowing the plaintiff to proceed with requesting an order for possession, the request may be filed only within 120 days of the date the supersedeas or bankruptcy stay is stricken, dismissed, lifted, or otherwise terminated.

The time limits in which the plaintiff must request an order for possession imposed in subdivision B apply only in cases arising out of residential leases and in no way affect the plaintiff's ability to execute on the money judgment. See Rule 516, Note, and Rule 521A.

At the time the plaintiff files the request for an order for possession, the district justice court should collect server fees for all actions through delivery o possession. Thereafter, if the order for possession is satisfied 48 hours or more prior to a scheduled delivery of possession, a portion of the server costs may be refundable. See Rules 516 through 520 and Section 2950(d) of the Judicial Code, 42 Pa.C.S. § 2950(d).

Amended June 1, 1971; amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; 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; amended April 5, 2002, effective July 1, 2002.

RULE 516. ISSUANCE **AND REISSUANCE** OF ORDER FOR POSSESSION

A. Upon the **timely** filing of the request form, the district justice shall issue the order for possession and shall deliver it for service and execution to the sheriff of, or any certified constable in, the county in which the office of the district justice is situated. If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth. The order shall direct the officer executing it to deliver actual possession of the real property to the plaintiff. **The district justice shall attach a copy of the request form to the order for possession.**

B. (1) Except as otherwise provided in subdivision C, upon written request of the plaintiff the district justice shall reissue an order for possession for one additional 60 day period.

(2) If an order for possession is issued and subsequently superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy proceeding, and

(a) the appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated; or

(b) the bankruptcy stay is lifted; and

(c) the plaintiff wishes to proceed with the order for possession,

the plaintiff must file with the district justice a written request for reissuance of the order for possession in accordance with subparagraph (1).

C. In a case arising out of a residential lease a request for reissuance of an order for Possession may be filed only within 120 days of the date of the entry of the judgment or, in a case in which the order for possession is issued and subsequently superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy Proceeding, only within 120 days of the date the appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated or the bankruptcy stay is lifted.

D. A written request for reissuance of the order for possession filed after an appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated, or a bankruptcy stay is lifted, must be accompanied by a copy of the court order or other documentation striking, dismissing, or terminating the appeal, writ of certiorari, or supersedeas, or lifting the bankruptcy stay.

Note

The order for possession deals only with delivery of possession of real property and not with a levy for money damages. [**When the] A** plaintiff **who** seeks execution of the money judgment part of the judgment [, **he will have to] must** proceed under Rule 521 A, using the forms and procedure there prescribed. The reason for making this distinction is that the printed notice requirements on the two forms, and the procedures involved in the two matters, differ widely.

Subdivision B provides for reissuance of the order for possession for one additional 60 day period. However, pursuant to subdivision C, in cases arising out of a residential lease, the request for reissuance of the order for possession must be filed within 120 days of the date of the entry of the judgment or, in a case in which the order for possession is issued and subsequently superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy Proceeding, only within 120 days of the date the appeal, writ of certiorari, o supersedeas is stricken, dismissed, or otherwise terminated, or the bankruptcy stay is lifted. The additional 60 day period need not necessarily immediately follow the original 60 day period of issuance. The written request for reissuance may be in any form and may consist of a notation on the permanent copy of the request for order for possession form, "Reissuance of order for possession requested," subscribed by the plaintiff. The district justice shall mark all copies of the reissued order for possession, "Reissued. Request for reissuance filed (time and date)." A new form may be used upon reissuance, those portions retained from the original being exact copies although signatures may be typed or printed with the mark "/s/." There are no filing costs for reissuing an order for possession, for the reissuance is merely a continuation of the original proceeding. However, there may be additional server costs for service of the reissued order for possession.

The time limits in which the plaintiff must request reissuance of an order for possession imposed in subdivision C apply only in cases arising out of residential leases and in no way affect the Plaintiff's ability to execute on the money judgment. See Rule 521A.

Amended June 30, 1982, effective 30 days after July 17, 1982; amended July 16, 2001, effective August 1, 2001; **amended April 5, 2002, effective July 1, 2002.**

RULE 519. FORCIBLE ENTRY AND [**EJECTMENT**] **DELIVERY OF POSSESSION**

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C. No order for possession [**shall**] **may** be executed [**on or**] after [**sixty (60)**] **60** days following its issuance **or reissuance**. [**An order for possession shall be reinstated for one (1) additional sixty (60) day period upon written request for order for possession to the district justice. (See Pa. R.C.P.D.J. No. 515).**]

Note

The differing lengths of notices set for nonresidential leases and residential leases are made necessary by reason of the 1995 amendment to [Section] section 513 of the Landlord [/] **and** Tenant Act **of 1951, 68 P.S. § 250.513.** [**See Note following Pa. R.C.P.D.J. No. 515.**] **See Rule 515, Note.**

[**Subdivision C of this Rule will permit the reinstatement, upon written request of the plaintiff of an order for possession which had not been executed on or after sixty (60) days following its issuance. The written request for reinstatement may be in any form and may consist of a notation on the permanent copy of the order for possession form "Reinstatement of Order requested," subscribed by the plaintiff. the district justice shall mark all copies of the reinstated order for possession "Order Reinstated. Request for reinstatement filed on _____ . (Date)." If it is necessary to use a new form or new form sets for the reinstated order for possession, the reinstated order for possession, except for service portions thereof, shall be an exact copy of the original order for possession, although signatures may be typed with the mark "/s/" indicating an actual signature. Since a reinstated order for possession is merely a continuation of the original action, there is no filing fee for reinstating an order for possession.**]

Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; 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; **amended April 5, 2002, effective July 1, 2002.**