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I. Enforcement of Judgments for the Payment of Money

Rule 3101. Definitions. Garnishee. Scope

(a) ***

(b) ***

(c) The rules of this chapter shall not apply to the attachment of wages, salary or commissions to satisfy a money judgment arising from a residential lease pursuant to Section 8127(a)(3.1) of the Judicial Code.

NOTE: For the attachment of wages under Section 8127(a)(3.1) of the Judicial Code, see Rule 3301 et seq.

Rule 3140. Notice by Garnishee

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NOTE: Registered mail includes certified mail. See Definition Rule 76.

Attachment of wages, salary and commissions to satisfy a money judgment arising from a residential lease pursuant to Section 8127(a)(3.1) of the Judicial Code is governed by Rule 3301 et seq.

II. Attachment of Wages, Salary and Commissions under Section 8127(a)(3.1) of the Judicial Code

Rule 3301. Scope. Definitions

(a) The rules of this chapter govern an attachment of wages to satisfy a judgment pursuant to Section 8127(a)(3.1) of the Judicial Code.

> NOTE: Section 8127(a)(3.1) of the Judicial Code provides for the attachment of wages for amounts awarded to a judgment creditor-landlord arising out of a residential lease upon which the court has rendered judgment which is final.
>
> See subdivision (b) for the definition of "judgment."
>
> Rule 3101 et seq. governing the enforcement of money judgments is not applicable to the attachment of wages under this chapter.

(b) As used in this chapter,

"defendant" means a judgment debtor-tenant,

"garnishee" means the employer of the defendant,

"judgment" means a judgment for amounts awarded to a plaintiff arising out of a residential lease**,** which has been entered in the court of common pleas or the Philadelphia Municipal Court and which shall have been entered originally in

(1) any civil action brought in the court of common pleas,

(2) the following actions brought before a magisterial district judge:

(i) a civil action pursuant to Pa.R.C.P.M.D.J. 301 et seq., or

(ii) an action for the recovery of possession of real property pursuant to Pa.R.C.P.M.D.J. 501 et seq. in which the defendant appeared or filed papers or in which the complaint was served by handing a copy to the defendant,

(3) the following actions brought in the Philadelphia Municipal Court:

(i) a civil action in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(A) or (C), or

(ii) an action in which the defendant was served pursuant to Phila. M.C.R.Civ.P. No. 111(B) and in which the defendant appeared or filed papers,

"plaintiff" means a judgment creditor-landlord, and

"wages" includes salary and commissions.

Rule 3302. Commencement. Notice

(a) The plaintiff shall commence an execution to attach wages by filing a praecipe with the prothonotary of a county in which judgment has been entered and in which the defendant resides, the defendant works or the residential real property which is the subject of the action is located. The praecipe shall be filed within five years of the date of the original judgment. The praecipe shall be in the form prescribed by Rule 3311.

(b) Upon the filing of the praecipe, the prothonotary shall issue a Notice of Intent to Attach Wages in the form prescribed by Rule 3312(a). The prothonotary shall attach to the notice a copy of both (1) the praecipe filed with the prothonotary for issuance of the Notice of Intent to Attach Wages and (2) the most recent poverty income guidelines issued by the Federal Department of Health and Human Services as they appear on the web site of the Civil Procedural Rules Committee.

> NOTE: The web site of the Civil Procedural Rules Committee is part of the home page of the Administrative Office of Pennsylvania Courts at www.aopc.org.
>
> The poverty income guidelines set forth on the Committee web site which are to be attached to the Notice of Intent to Attach Wages are stated in monthly amounts.

(c) The Notice of Intent to Attach Wages shall be served upon the defendant in the manner provided by Rule 400 et seq. for service of original process in a civil action.

> NOTE: The notice shall be served
>
> (1) by the sheriff in the manner prescribed by Rule 402(a) for the service of original process upon a defendant, or
>
> (2) pursuant to special order of court as prescribed by Rule 430 if service cannot be made as provided in paragraph (1) of this note.

Rule 3303. Exemption from Attachment. Procedure

(a) A defendant claiming an exemption from attachment based upon the federal poverty income guidelines shall file the claim for exemption with the prothonotary within thirty days of service of the Notice of Intent to Attach Wages.

NOTE: For the form of the claim for exemption, see Rule 3312(b).

(b)(1) If the defendant files a claim for exemption of wages from attachment either within thirty days as required by subdivision (a) of this rule or prior to the issuance of the writ of attachment, the prothonotary shall not issue the writ of attachment and shall send a notice of the claim for exemption of wages from attachment to the plaintiff or, if represented, to the plaintiff's attorney. The prothonotary shall attach a copy of the claim to the notice.

NOTE: For the form of the notice for exemption, see Rule 3312(c).

(2) If the defendant files a claim for exemption after the writ of attachment has been issued, the attachment of the defendant's wages shall continue unless the defendant obtains a court order staying or vacating the attachment.

(c) A plaintiff who wishes to challenge the claim of exemption shall file a motion requesting the court to direct the prothonotary to issue a writ for the attachment of wages. The motion shall set forth facts which establish that the plaintiff is entitled to attach wages pursuant to Section 8127(a)(3.1) of the Judicial Code. If the motion on its face sets forth such facts, the court shall set a hearing date or set forth another procedure provided by Rule 208.4 as may be appropriate.

Rule 3304. Writ for the Attachment of Wages. Issuance. Service

(a) The prothonotary shall issue a writ for the attachment of wages upon

(1) praecipe of the plaintiff where the defendant has not timely filed a claim for exemption of wages from attachment, or

(2) order of the court entered upon motion pursuant to Rule 3303(c).

(b) The prothonotary shall by ordinary mail send the writ to the garnishee and to the defendant.

(c) The writ of attachment of wages shall be substantially in the form provided by Rule 3313.

> NOTE: Section 8127(c)(1) of the Judicial Code provides that the employer shall send the attached wages to the prothonotary of the court of common pleas within 15 days from the close of the last pay period in each month. Upon receipt of the attached wages, the prothonotary of the court of common pleas shall record and send said wages to the judgment creditor-landlord.

Rule 3311. Praecipe for Notice of Intent to Attach Wages. Form

The Praecipe for Notice of Intent to Attach Wages shall be substantially in the following form:

(Caption)

Praecipe for Notice of Intent to Attach Wages

To the Prothonotary:

Issue a Notice of Intent to Attach Wages in the above matter

(1) against _____, defendant,

(2) against _____, employer of the defendant.

Date: _____

_____
Attorney for Judgment Creditor-Landlord or
Judgment Creditor-Landlord if unrepresented

_____
Address

_____
Telephone number

Certification by Judgment Creditor - Landlord

I certify that

1. The plaintiff judgment-creditor is _____
Name

_____
Address

2. The defendant judgment-debtor is _____
Name

_____
Address

3. The employer garnishee is _____
Name

_____
Address

4. The judgment arises out of a residential lease for the premises at _____ (address).

5. (a) The amount of the judgment is $ _____.

(b) A security deposit in the amount of $ _____ is being held by the judgment creditor-landlord. This security deposit

___ has been applied

___ has not been applied

to payment of rent due on the same premises for which the judgment has been entered.

(Any security deposit that has not already been applied to rent will be deducted by the Prothonotary from the amount of the judgment in determining the amount to be attached.)

(c) The amount of $_____ has been paid toward satisfaction of the judgment. (Do not include the security deposit.)

6. This praecipe is filed within five years of the date of the original judgment upon which execution is sought.

7. The judgment was entered (check one):

_____ in a civil action commenced in the court of common pleas.

_____ in an action brought before a magisterial district judge.

_____ in an action commenced in the Philadelphia Municipal Court.

8. Check the appropriate paragraph and attach the required documents:

___ (a) If the judgment was entered in a civil action (Pa.R.C.P.M.D.J. 301 et seq.) before a magisterial district judge, a copy of the complaint filed with the magisterial district judge is attached to this Notice, showing that the action arose from a residential lease.

___ (b) If the judgment was entered in an action for the recovery of possession of real property (Pa.R.C.P.M.D.J. 501 et seq.) before a magisterial district judge, copies of the appropriate magisterial district judge records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action or that the complaint was served by handing a copy to the defendant.

___ (c) If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(A) or (C), a copy of the complaint filed with the Philadelphia Municipal Court is attached to this Notice, showing that the action arose from a residential lease.

___ (d) If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(B), copies of the appropriate Philadelphia Municipal Court

records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action.

I certify that the statements made in this Certification 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.

Date: _____ _____

Judgment Creditor-Landlord

Rule 3312. Notice of Intent to Attach Wages. Claim for Exemption from Wage Attachment. Notice of Claim for Exemption of Wages from Attachment. Forms

(a) The notice of attachment of wages required by Rule 3302(b) shall be substantially in the following form:

(CAPTION)

NOTICE OF INTENT TO ATTACH

WAGES, SALARY OR COMMISSIONS

Date of service of this Notice: _____ (Date to be inserted by the Sheriff)

A judgment has been entered against you in court for nonpayment of rent for, or damage to, residential property that you rented. The judgment creditor-landlord has begun proceedings to attach 10% of your net wages, salary or commissions for each pay period until the judgment is satisfied.

The following exception will prevent your wages from being attached:

Poverty Guidelines -- Your wages may not be attached if your net income is below the poverty income guidelines as provided annually by the Federal Department of Health and Human Services or if the amount of the attachment would cause your net income to fall below the poverty income guidelines. A copy of the guidelines is attached to this notice.

If this exemption is applicable to you, you must return the claim for exemption of wages which is attached to the prothonotary within 30 days of the date of service of this notice upon you. The date of service of this notice is set forth above. If you return the form claiming this exemption within 30 days, your wages will not be attached without subsequent court proceedings.

There may be other legal grounds for opposing the wage attachment that you may be able to raise by filing a motion with the court. For example, your wages may not be attached if you are an abused person or victim as set forth in Section 8127(f) of the Judicial Code when the attachment is to satisfy a judgment for physical damages to the leased premises.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

_____
(Name)

_____
(Address)

_____
(Telephone Number)

(b) The claim for exemption from wage attachment shall be substantially in the following form:

(CAPTION)

CLAIM FOR EXEMPTION FROM WAGE ATTACHMENT

Notice

This Claim for Exemption must be filed with the Prothonotary of the Court within 30 days of service upon you of the Notice of Intent to Attach Wages.

To the Prothonotary:

I, the above-named defendant, claim exemption of my wages, salary or commissions from attachment on the following ground:

___ My net monthly income is below the poverty income guidelines as provided by the Federal Department of Health and Human Services.

OR

___ The amount of wages to be attached would place my net income below the poverty income guidelines as provided annually by the Federal Department of Health and Human Services.

I have _____ dependents.
(Number)

My net monthly income is $ _____.

(Net monthly income is your total monthly wages less (1) any support payments made to the court, (2) federal, state and local income taxes, (3) F.I.C.A. payments and nonvoluntary retirement payments. (4) union dues and (5) health insurance premiums.)

I certify that the statements made in this Claim for Exemption 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.

Date: _____ _____
Defendant

This claim shall be delivered or mailed to

Office of the Prothonotary
Court of Common Pleas
_____
Address
_____
Telephone Number

(c) The notice of claim of exemption required by Rule 3303(b) shall be substantially in the following form:

(CAPTION)

NOTICE OF CLAIM OF EXEMPTION

OF WAGES FROM ATTACHMENT

To the above-named plaintiff:

The defendant in the above-captioned matter has filed a claim for exemption from attachment of his or her wages, salary or commissions. A copy of the claim is attached. If you wish to challenge the claim for exemption, you should file with the court a motion setting forth facts which show that the defendant's net income is not below the Federal Department of Health and Human Services poverty income guidelines or that the attachment will not cause the defendant's net income to fall below those poverty income guidelines.

Date: _____ _____

Prothonotary

Rule 3313. Writ of Attachment of Wages. Form

The writ of attachment of wages shall be substantially in the following form:

(Caption)

Writ of Attachment of Wages, Salary or Commissions

Commonwealth of Pennsylvania :
County of _____ :

To _____
Employer of Defendant _____
Name

You have been identified as the employer of the above-named defendant.

You are directed to withhold the wages, salary and commissions of the defendant in your possession to satisfy the judgment against the defendant.

You are notified that

1. an attachment of wages, salary and commissions has been issued;
2. you are ordered to withhold from the wages, salary and commissions of the defendant an amount per pay period which does not exceed ten (10) percent of the defendant's net wages, salary and commissions;

   Net wages are all wages paid less only the following items: (1) any support payments made to the court, (2) federal, state and local income taxes, (3) F.I.C.A. payments and nonvoluntary retirement payments, (4) union dues and (5) health insurance premiums.
3. the total amount attached is $ _____ and the withholding must continue until the amount of the attachment is satisfied;
4. the attached wages shall be sent to the prothonotary of the court of common pleas within 15 days from the close of the last pay period in each month. The check must
   a. contain the name of the employee whose wages are being withheld,
   b. be made payable to the Prothonotary, and

c. be sent to

Prothonotary
Court of Common Pleas
Wage Attachment Remittance

_____
Address

_____
Telephone Number

5. you are entitled to deduct each pay period from the money collected from the defendant employee the costs incurred from the extra bookkeeping necessary to record the transaction, not exceeding $5.00 of the amount of money so collected.

6. by law, you may not take any adverse action against the defendant because his or her wages, salary or commissions have been attached.

7. you shall send the following notice to the prothonotary if the defendant has never been or is no longer an employee:

I have received a Writ of Attachment in the following case:

_____ v. _____, No. _____ of _____.
Plaintiff Defendant Year

The following person, _____, has never been (__) or
Name

is no longer an employee (__).

Date: _____ _____
Employer

****

_____
Prothonotary

Seal of the Court

By_____
Deputy

Explanatory Comment

The Supreme Court of Pennsylvania has promulgated a new chapter of rules, Rule 3301 et seq., to govern the attachment of wages, salary and commissions pursuant to Section 8127(a)(3.1) of the Judicial Code in actions or proceedings for "amounts awarded to a judgment creditor-landlord arising out of a residential lease." Rule 3101 et seq. governing the enforcement of judgments for the payment of money will not apply to a wage attachment under this provision of the Judicial Code.

Pursuant to the definition of the term "judgment" in Rule 3301(b), wages may be attached to satisfy a judgment for rent or physical damage to a leased premises entered in a "civil action" whether in a court of common pleas or before a magisterial district judge or in the Philadelphia Municipal Court. However, if the money judgment sought to be enforced is entered in an action for recovery of possession of real property before a magisterial district judge pursuant to Pa.R.C.P.M.D.J. 501 et seq. or in an action in the Philadelphia Municipal Court in which service is made pursuant to Phila.M.C.R.Civ.P. 111(B), a writ of attachment of wages may issue only if the defendant appeared or filed papers in the action or if the complaint was handed to the defendant (judgment debtor-tenant). In addition, the courts of common pleas and the Philadelphia Municipal Court may issue a writ of attachment of wages to enforce a judgment entered in those courts. However, a judgment entered by a magisterial district judge must be entered in the court of common pleas for the writ of attachment to issue on that judgment.

Section 8127 of the Judicial Code imposes certain requirements upon the attachment of wages.

Security Deposit.--

Section 8127(a)(3.1) provides for the deduction of a security deposit from the attachment under circumstances set forth in the Code. Rule 3311 prescribes a form of Praecipe for Notice of Intent to Attach Wages which requires the plaintiff (judgment creditor-landlord) to execute a Certification as to the status of the security deposit.

Exemptions from Attachment.--

1. Poverty Guidelines. Section 8127(a)(3.1) requires that the "sum attached shall be no more than 10% of the net wages per pay period of the judgment debtor-tenant or a sum not to place the debtor's net income below the poverty income guidelines as provided annually by the Federal Office of Management and Budget, whichever is less." First, the employer-garnishee will determine the ten percent limit of the net wages to be attached. Second, since the defendant (judgment debtor-tenant) is the only person who has knowledge whether the attachment will bring his or her net income below the poverty level, the rules require the defendant to assert this objection to the attachment by filing a claim for exemption which is attached to the Notice of Intent to Attach Wages served upon the defendant. Third, Rule 3302(b) requires the prothonotary to attach to the Notice a copy of the most recent federal poverty income guidelines of the Federal Department of Health and Human Services as set forth on the web site of the Civil Procedural Rules Committee.

2. Other Exemptions. The Notice of Intent to Attach Wages advises the defendant that there may be other exemptions available, giving the example of an abused person or victim, and that these exemptions are to be claimed by filing a motion with the court.

Withholding of Wages.--

Section 8127(c) sets forth duties of the employer-garnishee with respect to the withholding of wages. The form of the writ of attachment set forth in Rule 3313 advises the employer of these statutory duties.

Prohibition against Discharge.--

Section 8127(e) provides that the "employer shall not take any adverse action against any individual solely because his wages, salaries or commissions have been attached." The form of the writ of attachment advises the employer of this obligation as well.

The new rules require the intervention of the court in two circumstances. First, if the defendant files a claim for exemption on the ground that his or her income is below the federal poverty income guidelines or that the attachment will bring his or her income below the federal poverty income guidelines, the plaintiff may dispute the claim by filing a motion requesting the court to direct the prothonotary to issue a writ of attachment of wages. The motion must set forth facts which establish that the plaintiff is entitled to attach wages pursuant to Section 8127(a)(3.1) of the Judicial Code. Second, the defendant may file a motion to stay or vacate the attachment on other grounds of exemption from attachment, including the ground of being an abused person or victim.

By the Civil Procedural
Rules Committee

R. Stanton Wettick, Jr.
Chair