

# FINAL REPORT<sup>1</sup>

## Recommendation 3-2021, Minor Court Rules Committee

*Amendment of Pa.R.C.P.M.D.J. No. 515 and 516*

### CHANGE OF TIME FOR A LANDLORD TO REQUEST AN ORDER FOR POSSESSION IN A RESIDENTIAL LEASE CASE

#### I. Introduction

In 2020, the Minor Court Rules Committee (“Committee”) recommended and the Supreme Court of Pennsylvania (“Court”) approved amendments to Rules 515 and 516 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges (“Rules”).<sup>2</sup> The amendments permitted a landlord in a case involving a residential lease to request an order for possession within 180 days from the date of entry of judgment rather than the prior 120-day period. The Committee recommended that the amendments were necessitated by exigent circumstances related to the COVID-19 pandemic requiring the immediate adoption of the proposal and they were adopted in accordance with Pa.R.J.A. No. 103(a)(3), without prior publication for public comment. The Committee subsequently published the amendments for public comment and, based on feedback, recommended that the deadline revert back to the 120-day period.

#### II. Background and Discussion

By way of background, prior to the adoption of the recent amendments, a landlord seeking to regain property must file a request for an order for possession with the magisterial district court following the issuance of a judgment in a landlord-tenant case and the requisite waiting period. See Rule 515. In residential landlord-tenant cases, the landlord must file the request for an order for possession no later than 120 days of the date of entry of the judgment. See Rule 515B(1). The recent amendments extended this deadline to 180 days. Certain filings stay the deadline for filing a request for order for possession, such as an appeal or writ of *certiorari* operating as a *supersedeas*, or a bankruptcy or other stay required by state or federal law. See Rule 515B(2).

The Committee received correspondence recommending an extension of the 120-day period within which a landlord must file a request for an order for possession in a residential landlord-tenant case. Extending the deadline would provide the parties with greater flexibility to negotiate and enter into private forbearance agreements. Such

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<sup>1</sup> The Committee’s Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee’s Official Notes or the contents of the explanatory Final Reports.

<sup>2</sup> See Order of December 4, 2020, No. 449 Magisterial Rules Docket.

private agreements could allow the tenants additional time in which to satisfy back rent obligations while maintaining current rental payments and housing status. Therefore, the Committee recommended increasing the time period within which a landlord must file a request for an order for possession in a residential lease case from 120 days to 180 days.

The Court approved the recommendation on December 4, 2020 with an effective date of January 1, 2021. The Court also directed the Committee to publish the proposal for public comment and advise the Court whether these measures should remain in place. The proposal was made available on the Committee website on January 12, 2021 and published at 51 Pa.B. 422 (January 23, 2021).

The Committee received comments from groups expressing concern that the extended deadline does not benefit tenants, but rather places tenants in situations where they are disadvantaged by unequal bargaining power between the parties. For example, a tenant may be induced to enter into an unaffordable payment plan to retain housing. The Committee did not receive any comments in favor of the extension or suggesting that it remain in place. Therefore, the Committee was persuaded that the prior time limitation should be reinstated, and made that recommendation to the Court.

### **III. Rule Changes**

Rules 515 and 516 are amended to provide for 120 days within which a landlord in a residential lease case must request an order for possession, which was the deadline in place prior to January 1, 2021.