

Rule 515. Request for Order for Possession.

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Official Note

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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. **When a supersedeas has been terminated in a case that has been appealed to a court of common pleas, the plaintiff may request an order for possession from the magisterial district judge as long as the request is made within 120 days of the date of the entry of the judgment, and judgment has not been entered by the court of common pleas. The entry of a compulsory arbitration award pursuant to Pa.R.C.P. No. 1307(c) is not a bar to the issuance of an order for possession. After a court of common pleas enters judgment, the judgment of the magisterial district court is extinguished and may no longer be executed upon in any court. All further process must take place in the court of common pleas.**

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At the time the plaintiff files the request for an order for possession, the magisterial district court should collect server fees for all actions through delivery of 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)] 44 Pa.C.S. § 7161(d).**

Rule 516. Issuance and Reissuance of Order for Possession.

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Official Note

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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of the date of the entry of the judgment or, in a case in which the order for possession is issued and subsequently superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy proceeding, only within 120 days of the date the appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated, or the bankruptcy stay is lifted. **When a supersedeas has been terminated in a case that has been appealed to a court of common pleas, the plaintiff may request an order for possession from the magisterial district judge as long as the request is made within 120 days of the date of the entry of the judgment, and judgment has not been entered by the court of common pleas. The entry of a compulsory arbitration award pursuant to Pa.R.C.P. No. 1307(c) is not a bar to the issuance of an order for possession. After a court of common pleas enters judgment, the judgment of the magisterial district court is extinguished and may no longer be executed upon in any court. All further process must take place in the court of common pleas.** 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 magisterial district judge 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.

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Rule 1007. Procedure on Appeal.

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Official Note

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**When a supersedeas has been terminated in a case that has been appealed to a court of common pleas, the plaintiff may request an order for possession from the magisterial district judge as long as the request is made within 120 days of the date of the entry of the judgment, and judgment has not been entered by the court of common pleas. The entry of a compulsory arbitration award pursuant to Pa.R.C.P. No. 1307(c) is not a bar to the issuance of an order for possession. After a court of common pleas enters judgment, the judgment of the magisterial district court is extinguished and may no longer be executed upon in any court. All further process must take place in the court of common pleas.**