

Rule 501. Definition

[A.] As used in this chapter[,]:

(1) [“action”] **“Action”** means an action by a landlord against a tenant for the recovery of possession of real property brought before a magisterial district judge.

[B.](2) [As used in this chapter, “complaint”] **“Complaint”** shall include, where applicable, the attached and completed Recovery of Real Property Hearing Notice form.

(3) “Victim of domestic violence” means a person who has obtained a protection from abuse order against another individual or can provide other evidence of abuse.

Official Note: Distress for rent will not be covered in rules of civil procedure for magisterial district judges, for it is not an action or proceeding before a magisterial district judge and any constable carrying out the “landlord's warrant” is acting as an agent of the landlord and not as an officer serving process of a magisterial district judge. See § 302 of the Landlord and Tenant Act of 1951, 68 P.S. § 250.302. Actions for rent (§ 301 of the Act, 68 P.S. § 250.301) and to defalcate (§ 307 of the Act, 68 P.S. § 250.307) are not included in this chapter, for these are actions of assumpsit. See *also* § 572 of the Act, added by Act of May 3, 1968, P.L. 107, No. 56, § 1, 68 P.S. § 250.512. A number of trespass actions are also detailed in the Landlord and Tenant Act of 1951 (see §§ 311-313, 68 P.S. §§ 250.311-250.313), and these would be brought under the rules pertaining to trespass actions. Consequently, this chapter will be concerned only with the action for the recovery of possession of real property. *But see* Rules 503C(8) and 508 as to joinder of actions and cross-complaints.

The definition of a victim of domestic violence is derived from 68 P.S. § 250.513. For additional definitions related to victims of domestic violence and abuse, see Pa.R.C.P.M.D.J. No. 1202.

Rule 514. Judgment; Notice of Judgment or Dismissal and the Right to Appeal

A. If it appears at the hearing that the complaint has been proven, the magisterial district judge shall enter judgment against the defendant that the real property be delivered up to the plaintiff and shall enter judgment by separate entries:

- (1) for the amount of rent, if any, which remains due,
- (2) for the amount of damages, if any, for unjust detention,
- (3) for the physical damages, if any, to the leasehold premises, and
- (4) for the costs of the proceeding;

less any amount found due the defendant on any cross-complaint filed by the defendant.

In addition, the magisterial district judge shall make an entry identifying the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises.

B. A money judgment may be rendered for the defendant on a cross-complaint filed by the defendant if the amount found due thereon exceeds any amount found due the plaintiff on the plaintiff's complaint.

C. (1) Judgment shall be given at the conclusion of the hearing or within three days thereafter.

(2) Upon the entry of the judgment, the magisterial district court shall promptly give or mail to the parties written notice of judgment or dismissal.

D. The written notice of judgment or dismissal shall contain:

(1) notice of the right of the parties to appeal, the time within which the appeal must be taken, and that the appeal is to the court of common pleas,

(2) **notice that a defendant in a residential lease action who is a victim of domestic violence may appeal the judgment within 30 days of the date of entry of judgment, as well as filing instructions for asserting such an appeal,**

(3) notice that, except as otherwise provided in the rules, if the judgment holder elects to enter the judgment in the court of common pleas, all further process must

come from the court of common pleas and no further process may be issued by the magisterial district judge, and

[(3)](4) notice that unless the judgment is entered in the court of common pleas anyone interested in the judgment may file a request for entry of satisfaction with the magisterial district judge if the debtor pays in full, settles, or otherwise complies with the judgment.

Official Note: Paragraph A of this rule requires that the plaintiff appear and give testimony to prove the complaint before the magisterial district judge can enter judgment against the defendant, even when the defendant fails to appear for the hearing. The magisterial district judge 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 magisterial district judge 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 or 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 paragraph A are made necessary as a result of the rental deposit provisions for appeal or certiorari contained in Rules 1008B and 1013B, as well as the wage attachment provisions contained in Section 8127 of the Judicial Code, 42 Pa.C.S. § 8127.

[Subdivision] Paragraph 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.

For procedure for entry of satisfaction of money judgments, see Rule 341.

Paragraph D of this rule provides for certain notices the magisterial district court shall include in the written notice of judgment or dismissal.

Subparagraph D(2) is intended to facilitate the provisions of 68 P.S. § 250.513, which extends the appeal period for a victim of domestic violence in a case arising out of a residential lease from 10 days to 30 days. A defendant who is a victim of domestic violence may file a domestic violence affidavit with the magisterial district court within 10 days of the date of entry of judgment in order

to stay the issuance of an order of possession until after the 30th day following the date of entry of the judgment. See Rule 514.1.

As to paragraph D[(2)](3), see Rule 402D and Note. As to paragraph D[(3)](4), see Rule 341.

THIS IS AN ENTIRELY NEW RULE

Rule 514.1. Domestic Violence Affidavit

A. A defendant in a residential lease action who is a victim of domestic violence may file a domestic violence affidavit with the magisterial district court within 10 days of the date of entry of the judgment in order to prohibit the issuance of an order of possession until after the 30th day following the date of entry of judgment.

B. The domestic violence affidavit shall be on a form prescribed by the State Court Administrator, and affirm that the defendant is a victim of domestic violence.

C. The filing of the domestic violence affidavit with the magisterial district court shall operate as a supersedeas, and will terminate as of the filing of an appeal with the prothonotary pursuant to Rule 1002 or 30 days after the date of entry of the judgment, whichever is earlier.

D. The magisterial district court shall enter the domestic violence affidavit on the docket of the magisterial district court proceedings of the residential lease action.

E. The defendant shall serve a copy of the domestic violence affidavit on the plaintiff by mailing it to the plaintiff at the address as listed on the complaint form filed in the magisterial district court or as otherwise appearing in the records of that office, or the attorney of record, if any, of the plaintiff.

F. The defendant shall attach a copy of the domestic violence affidavit to an appeal filing made pursuant to Rule 1002.

Official Note: The appeal period for a victim of domestic violence in a case arising out of a residential lease is 30 days, rather than 10 days. See 68 P.S. § 250.513(b). A defendant who is a victim of domestic violence must file a domestic violence affidavit with the magisterial district court in order to prevent the issuance of an order for possession, and avail himself or herself of the additional time within which to file an appeal pursuant to Rule 1002. The filing of the affidavit will prohibit the issuance of an order of possession until after the 30th day following the date of entry of judgment, giving the defendant time to make the necessary appeal filing with the prothonotary pursuant to Rule 1002. If the defendant does not file a domestic violence affidavit with the magisterial district court within 10 days following the date of entry of judgment, any further filings to assert the 30-day appeal period due to domestic violence status must occur with the prothonotary, and may require additional filings, such as a request for *nunc pro tunc* relief.

The domestic violence affidavit set forth in Paragraph B shall contain the name of the victim, the name of the perpetrator, the perpetrator's relationship to the victim, the dates, locations and descriptions of incidents of domestic violence, and any protection from abuse orders sought or obtained against the perpetrator. The affidavit shall contain the defendant's verification that the statements made in the affidavit are true and correct to the best of the defendant's knowledge, information and belief, and that any false statements are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities. Any subsequent action by a plaintiff to strike an affidavit of domestic violence shall be conducted in accordance with the relevant Rules of Civil Procedure.

Rule 515. Request for Order for Possession

A. If the magisterial district judge 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 15th day following the date of the entry of the judgment, file with the magisterial district judge a request for an order for possession. The request shall include a statement of the judgment amount, return, and all other matters required by these rules.

B. (1) Except as otherwise provided in subparagraph (2), if the magisterial district judge 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 10th day but within 120 days following the date of the entry of the judgment, file with the magisterial district judge a request for an order for possession. The request 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, domestic violence affidavit 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.

Official Note: The **[fifteen] 15** days in **[subdivision] paragraph** A of this rule, when added to the 16-day period provided for in Rule 519A, will give the defendant time to obtain a supersedeas within the appeal period. See Rules 1002, 1008, 1009, and 1013.

The 1995 amendment to section 513 of The Landlord and Tenant Act of 1951, 68 P.S. § 250.513, established a **[ten]10**-day appeal period from a judgment for possession of real estate arising out of a residential lease, and a 30-day appeal period for defendants found to be victims of domestic violence; therefore, the filing of the request for order for possession in subparagraph B(1) is not permitted until after the appeal period 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, domestic violence affidavit, 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.

A supersedeas resulting from the filing of a domestic violence affidavit will terminate as of the filing of an appeal with the prothonotary pursuant to Rule 1002 or 30 days after the date of entry of the judgment, whichever is earlier.

The time limits in which the plaintiff must request an order for possession imposed in **[subdivision] paragraph 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 magisterial district judge 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 1001. Definitions

As used in this chapter(.):

[(1) “Judgment” means a judgment rendered by a magisterial district judge under Rule 319, 322 or 514.

(2) “Appeal” means an appeal from a judgment to the court of common pleas.

(3) “Certiorari” means an examination by the court of common pleas of the record of proceedings before a magisterial district judge to determine questions raised under Rule 1009A.

(4) “Supersedeas” means a prohibition against any further execution processes on the judgment affected thereby.

(5) “Court of common pleas” means the court of common pleas of the judicial district in which is located the magisterial district wherein the questioned action of the magisterial district judge took place.

(6) “Claimant” includes a defendant with respect to a defendant's cross-complaint or supplementary action filed pursuant to Rule 342 in the action before the magisterial district judge.

(7) “Defendant” includes a plaintiff with respect to the defendant's cross-complaint or supplementary action filed pursuant to Rule 342 in the action before the magisterial district judge.]

(1) “Appeal” means an appeal from a judgment to the court of common pleas.

(2) “Certiorari” means an examination by the court of common pleas of the record of proceedings before a magisterial district judge to determine questions raised under Rule 1009A.

(3) “Claimant” includes a defendant with respect to a defendant's cross-complaint or supplementary action filed pursuant to Rule 342 in the action before the magisterial district judge.

(4) “Court of common pleas” means the court of common pleas of the judicial district in which is located the magisterial district wherein the questioned action of the magisterial district judge took place.

(5) “Defendant” includes a plaintiff with respect to the defendant's cross-complaint or supplementary action filed pursuant to Rule 342 in the action before the magisterial district judge.

(6) “Judgment” means a judgment rendered by a magisterial district judge under Rules 319, 322 or 514.

(7) “Proof of service” means a verified written statement that service was made by personal service or by certified or registered mail, with the sender's receipt for certified or registered mail attached thereto if service was made by mail.

(8) Service “by certified or registered mail” means the mailing of properly addressed certified or registered mail.

(9) “Supersedeas” means a prohibition against any further execution processes on the judgment affected thereby.

(10) “Victim of domestic violence” means a person who has obtained a protection from abuse order against another individual or can provide other evidence of abuse.

Official Note: Although one of the purposes of the definitions in this rule is to avoid needless repetition throughout these appellate rules, some of the definitions are intended to state or clarify the law as well.

In connection with the definition of “appeal” in **[subdivision] paragraph [(2)](1)**, see *also* Rule 1007 and the note thereto.

Under **[subdivision] paragraph [(3)](2)**, certiorari is restricted to an examination of the record of the proceedings before the magisterial district judge, which will appear on the complaint forms prescribed by the State Court Administrator. See *Flaherty v. Atkins*, **[189 Pa.Super. 550,]** 152 A.2d 280 (**Pa. Super.** 1959). This is a narrow form of certiorari, both with respect to procedure and the matters which can be considered under Rule 1009A. Since an aggrieved party will be entitled to a broad form of appeal de novo under these rules, there seems to be no justification for providing also for a broad form of certiorari. These restrictions on the writ of certiorari are authorized by § 26 of the Schedule to Article V of the 1968 Constitution. The writ of error, which at common law was probably available only to review the proceedings of a court of record (see *Beale v. Dougherty*, 3 Binn. 432 (1811)), is not a form of appellate process permitted by these rules. See *also County of Carbon v. Leibensperger*, **[439 Pa. 138,]** 266 A.2d 632 (**Pa.** 1970) (court of common pleas cannot issue writ of prohibition).

[The definition of “supersedeas” in subdivision (4) points out the proper office and limited nature of a supersedeas. See *also* Rules 1008 and 1013 and the notes thereto.]

Under **[subdivision] paragraph [(9)](7)**, there is no requirement that the sender's receipt for certified mail be postmarked. There is no return receipt requirement for certified or registered mail. It is no longer necessary that the proof of service be under oath or affirmation; however, the statement is now made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

The definition of “supersedeas” in paragraph (9) points out the limited nature of a supersedeas. See *also* Rules 1008 and 1013 and the notes thereto.

Under paragraph (10), the definition of a victim of domestic violence is derived from 68 P.S. § 250.513. For additional definitions related to victims of domestic violence and abuse, see Pa.R.C.P.M.D.J. No. 1202.

Rule 1002. Time and Method of Appeal.

A. A party aggrieved by a judgment for money, or a judgment affecting the delivery of possession of real property arising out of a nonresidential lease, may appeal therefrom within **[thirty (30)] 30** days after the date of the entry of the judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form **[which] that** shall be prescribed by the State Court Administrator together with a copy of the Notice of Judgment issued by the magisterial district judge. The prothonotary shall not accept an appeal from an aggrieved party **[which] that** is presented for filing more than **[thirty (30)] 30** days after the date of entry of the judgment without leave of court and upon good cause shown.

B. **(1) Except as otherwise provided in subparagraph (2), [A]**a party aggrieved by a judgment for the delivery of possession of real property arising out of a residential lease may appeal therefrom within **[ten (10)] 10** days after the date of the entry of judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form **[which] that** shall be prescribed by the State Court Administrator, together with a copy of the Notice of Judgment issued by the magisterial district judge. The prothonotary shall not accept an appeal from an aggrieved party **[which] that** is presented for filing more than **[ten (10)] 10** days after the date of entry of judgment without leave of court and upon good cause shown.

(2) A defendant who is aggrieved by a judgment for the delivery of possession of real property arising out of a residential lease, and who is a victim of domestic violence, may appeal the judgment within 30 days after the date of the entry of judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form that shall be prescribed by the State Court Administrator, together with a copy of the Notice of Judgment issued by the magisterial district judge, and the domestic violence affidavit. The prothonotary shall not accept an appeal from an aggrieved party that is presented for filing more than 30 days after the date of entry of judgment without leave of court and upon good cause shown.

Official Note: The **[thirty day] 30-day** limitation in **[subdivision] paragraph A** of this rule is the same as that found in the Judicial Code § 5571(b), 42 Pa.C.S. § 5571(b), as amended by § 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P. L. 202, No. 53. The **[ten day] 10-day** limitation in **[subdivision] subparagraph B(1)** of this rule, **as well as the 30-day limitation in subparagraph B(2)**, is designed to implement the time for appeal set forth in § 513 of the Landlord and Tenant Act of 1951 (Act No. 1995-33, approved July 6, 1995) (Act No. 1995-33 was suspended by the Pa. Supreme Court on March 28, 1996 by Order of Court insofar as the Act is inconsistent with Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges, as adopted by that Order.) **[The two subdivisions of t]This rule [are]**

is intended to clarify that where the right of possession of residential real estate is at issue, **and the tenant is not a victim of domestic violence**, the shorter, **[ten day] 10-day** period for appeal applies; where the appeal is taken from any judgment for money, **[or] a judgment affecting a nonresidential lease, or a judgment affecting the delivery of possession of real property arising out of a residential lease where the defendant is a victim of domestic violence** under these rules, the **[thirty day] 30-day** period of time for appeal applies. A party may appeal a money judgment only within the **[thirty day] 30-day** appeal period specified in **[subsection] paragraph A** of this rule. It is the intent of this rule that no supersedeas under Pa.R.C.P.M.D.J. No. 1008 shall be issued by the Prothonotary after the **[ten (10) day] 10-day** period for filing an appeal, unless **a tenant who is a victim of domestic violence files an appeal within 30 days of the date of entry of judgement or** by order of court.

The method of appeal is by filing with the prothonotary a “notice of appeal” on a form to be prescribed by the State Court Administrator. Copies of this same form will be used for service under Pa.R.C.P.M.D.J. No. 1005. This permits use of the same form for filing and service. No useful purpose would be served by having two forms, one called an “appeal” for filing and another called a “notice of appeal” for service.

The domestic violence affidavit set forth in Paragraph B(2) shall be on a form to be prescribed by the State Court Administrator. The domestic violence affidavit shall contain the name of the victim, the name of the perpetrator, the perpetrator’s relationship to the victim, the dates, locations and descriptions of incidents of domestic violence, and any protection from abuse orders sought or obtained against the perpetrator. The affidavit shall contain the defendant’s verification that the statements made in the affidavit are true and correct to the best of the defendant’s knowledge, information and belief, and that any false statements are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities. Any subsequent action by a plaintiff to strike an affidavit of domestic violence shall be conducted in accordance with the relevant Rules of Civil Procedure.

The 1990 amendment is intended to encourage the complete utilization of the hearing process available before the magisterial district judge.

A copy of the Notice of Judgment must be filed since it will contain the separate entries required by Pa.R.C.P.M.D.J. No. 514[.]A and will be needed by the Prothonotary.

Rule 1005. Service of Notice of Appeal and Other Papers.

A. The appellant shall by personal service or by certified or registered mail serve a copy of **[his] the** notice of appeal upon the appellee and upon the magisterial district judge in whose office the judgment was rendered. If required by Rule 1004B to request a rule upon the appellee to file a complaint, **[he] the appellant** shall also serve the rule by personal service or by certified or registered mail upon the appellee. The address of the appellee for the purpose of service shall be **[his]the** address as listed on the complaint form filed in the office of the magisterial district judge or as otherwise appearing in the records of that office. If the appellee has an attorney of record named in the complaint form filed in the office of the magisterial district judge, the service upon the appellee may be made upon the attorney of record instead of upon the appellee personally.

B. The appellant shall file with the prothonotary proof of service of copies of **[his] the** notice of appeal, and proof of service of a rule upon the appellee to file a complaint if required to request such a rule by Rule 1004B, within **[ten (10)] 10** days after filing the notice of appeal.

C. In lieu of service and proof of service pursuant to **[sub]paragraphs A[.] and B[.]** of this **[R]rule**, the court of common pleas may, by local rule, permit or require that the appellant file with the notice of appeal a stamped envelope pre-addressed to the appellee at **[his] the** address as listed on the complaint form filed in the office of the magisterial district judge or as otherwise appearing in the records of that office, or the attorney of record, if any, of the appellee, and a stamped envelope pre-addressed to the magisterial district judge in whose office the judgment was rendered. Copies of the notice of appeal, and Rule pursuant to 1004B, if applicable, shall thereupon be mailed by the prothonotary or court by first class mail, with such service and any return being noted on the court's docket.

D. The party filing a complaint under Rule 1004 shall forthwith serve it upon the opposite party in the appeal by leaving a copy for or mailing a copy to **[him at his] the** address as shown in the magisterial district court records mentioned in **[subdivision] paragraph A** of this rule. If the opposite party has an attorney of record either in the magisterial district court or court of common pleas proceeding, service upon the opposite party may be made upon the attorney of record instead of upon the opposite party personally.

E. Service and proof of service may be made by attorney or other agent.

Official Note: **[Subdivision] Paragraph A** requires service of a copy of the notice of appeal upon the magisterial district judge as well as upon the appellee, or **[his] the appellee's** attorney of record. **The notice of appeal includes all documents filed**

with the prothonotary, including a domestic violence affidavit, if applicable. This copy, when received by the magisterial district judge, may operate as a supersedeas under Rule 1008. As to **[subdivision] paragraph** B, there is no return receipt requirement for service by certified or registered mail and consequently no such receipt need be filed with the prothonotary, although if service is by certified or registered mail the sender's receipt must be attached to the proof of service. See Rule 1001~~[(9)](7)~~ and the last paragraph of the note to Rule 1001. The notice of appeal and the proof of service may be filed simultaneously. See *also* Rule 1006 and its note. **[Subdivision] Paragraph** C prescribes a pleading type service of the complaint, which may be made by ordinary mail, upon the opposite party in the appeal or **[his] the party's** attorney of record.