

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS
TRIAL DIVISION**

Administrative Order

No. 01 of 2017

In re: *Amendment of Philadelphia Civil Rule *1008 regarding Philadelphia Municipal Court Appeals as Supersedeas*

ORDER

AND NOW, this 8th day of March, 2017, the Court notes that the Philadelphia Civil Rules governing appeals from orders issued by the Philadelphia Municipal Court have created confusion, and pending a comprehensive review of said rules and the adoption of necessary amendments, it is hereby ORDERED and DECREED that Philadelphia Civil Rule *1008, is amended as attached. It is further ORDERED and DECREED that the *Supplemental Instructions* and *Affidavits* referenced in Philadelphia Civil Rule *1008 are amended as attached.

It is further ORDERED and DECREED that the amendments shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

This Administrative Order is issued in accordance with the April 11, 1986 order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1. As required by Pa.R.J.A. 103(d), this Administrative Order and the proposed local rule were submitted to the Supreme Court of Pennsylvania Minor Court Rules Committee for review and written notification has been received from the Rules Committee certifying that the proposed local rule is not inconsistent with any general rule of the Supreme Court. This Administrative Order and the attached local rule shall be filed with the Office of Judicial Records (formerly the *Prothonotary, Clerk of Courts and Clerk of Quarter Sessions*) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this Administrative Order and the attached local rule, as well as one copy of the Administrative Order and local rule shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this Administrative Order and local rule shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://courts.phila.gov>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order and local rule shall also be published in *The Legal Intelligencer* and will be submitted to *American Lawyer Media*, *Jenkins Memorial Law Library*, and the Law Library for the First Judicial District.

BY THE COURT:

/s/ **Jacqueline F. Allen**

HONORABLE JACQUELINE F. ALLEN
Administrative Judge, Trial Division
Court of Common Pleas, Philadelphia County

PROPOSED AMENDMENTS TO PHILADELPHIA CIVIL RULE *1008

Note: Deleted text is in ~~strikethrough font~~, and bracketed; new text is in **CAPS bolded and underlined**

PHILADELPHIA CIVIL RULE *1008. MUNICIPAL COURT APPEALS AS SUPERSEDEAS.

* * *

(d) Supersedeas in Appeals of Judgments of Possession of Real Property Pursuant to Residential Leases. Indigent Tenants.

(1) Residential tenants who seek to appeal from a Municipal Court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the Municipal Court judgment for rent shall file with the Office of Judicial Records, as applicable, either a *Tenant's Supersedeas Affidavit (Non-Section 8)*, substantially in the form set forth below [~~as Attachment 1~~], or ***Section 8-Tenant's Supersedeas Affidavit (SECTION 8)***, substantially in the form set forth below [~~as Attachment 2~~].

(2)(a) If the rent has already been paid to the landlord in the month in which the Notice of Appeal is filed, the tenant shall pay into an escrow account with the Office of Judicial Records the monthly rent [~~as it becomes due under the lease for the months subsequent to the filing of the Notice of Appeal~~] **IN THIRTY (30) DAY INTERVALS FROM THE DATE THE NOTICE OF APPEAL WAS FILED, AND EACH SUCCESSIVE THIRTY (30) DAY PERIOD THEREAFTER**; or

* * *

(3) The Office of Judicial Records shall provide residential tenants who have suffered a judgment for possession with "Supplemental Instructions for Obtaining a Stay of Eviction," substantially in the form set forth below [~~as Attachment 3~~].

* * *

(6) If the tenant fails to make monthly rent payments to the Office of Judicial Records as described in paragraph (2), the supersedeas may be terminated by the Office of Judicial Records upon praecipe by the landlord or other party to the action, substantially in the form set forth below [~~as Attachment 4~~] which is to be filed together with a certificate that a copy of the praecipe has been mailed to each other party who has appeared in the action. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record; however, upon implementation of the Civil Electronic Filing System as provided in Philadelphia Civil Rule * 205.4, notice of the termination of the supersedeas will be served on the Philadelphia Municipal Court electronically by the Civil Electronic Filing System. The landlord may obtain a *writ of possession* from the Municipal Court ten (10) days after the supersedeas is terminated by the Office of Judicial Records.

* * *

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION – CIVIL

SUPPLEMENTAL INSTRUCTIONS FOR
OBTAINING A STAY OF EVICTION

****IMPORTANT****

PLEASE READ THESE INSTRUCTIONS CAREFULLY!

This document contains important information about your case.

Failure to comply with any instructions provided in these materials may cause you to be evicted before your appeal is heard.

FOR TENANTS – SUPERSEDEAS: If you are a tenant and you file a *Notice of Appeal*, you must pay money into an escrow account to remain in the property until your appeal is decided. This is called a “supersedeas.” The supersedeas will suspend the Municipal Court judgment and will prevent your eviction until your case is heard by a Court of Common Pleas judge and a final decision is made on the appeal.

IF YOU FAIL TO PAY YOUR MONTHLY RENT INTO ESCROW IN FULL AND ON TIME, YOU COULD BE EVICTED BEFORE YOUR APPEAL IS HEARD.

Begin by looking at the income limits attached to these instructions.

If your income is **below the income limits**, complete a *Tenant's Supersedeas Affidavit (Non-Section 8)* or *Tenant's Supersedeas Affidavit (Section 8)*, then follow the instructions for low-income tenants below. There are several different options available; pick the **Option (A, B, or C)** that best describes your situation.

If your income is **higher than the income limits** attached to these instructions, follow the instructions for **Option D**.

These forms are available on the website of the First Judicial District at <http://www.courts.phila.gov/forms>.

If you fail to pay into escrow the required monthly amount when it is due, the supersedeas can be terminated upon the filing of a *Praecipe Requesting Termination of Supersedeas*, and you may be evicted before your appeal is heard.

**FFY 2017 INCOME LIMITS* FOR FILING SUPERSEDEAS
AS A LOW INCOME TENANT**

Number of Persons in Household	Maximum Gross Monthly Income	Maximum Gross Yearly Income
One	\$ 1,005	\$ 12,060
Two	\$ 1,354	\$16,240
Three	\$ 1,702	\$20,420
Four	\$ 2,050	\$ 24,600
Five	\$ 2,398	\$ 28,780
Six	\$ 2,747	\$ 32,960
Seven	\$ 3,095	\$ 37,140
Eight	\$ 3,443	\$ 41,320
For each additional person add	\$ 348	\$ 4,180.00

* Issued by the Federal Department of Health and Human Services. Will be updated as applicable.

OPTION A. If you are a **low-income** tenant and there was a **money judgment** entered against you for nonpayment of rent, and you **HAVE NOT paid rent for the month** in which the Notice of Appeal is filed, you must:

1. File an ***In Forma Pauperis petition*** (a petition for low-income parties) pursuant to Pa.R.C.P. No. 240;
2. Pay one-third of your monthly rent into an escrow account with the Office of Judicial Records at the time the ***Notice of Appeal*** is filed;
3. Pay the remaining two-thirds (2/3) of your monthly rent into the escrow account within twenty (20) days of the date the ***Notice of Appeal*** was filed; and
4. Pay your monthly rent on an ongoing basis into the escrow account in thirty (30) day intervals from the date the Notice of Appeal was filed until the time of your trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

OPTION B. If you are a **low-income** tenant, and there was a **money judgment** against you for nonpayment of rent, and you **HAVE paid rent for the month** in which the Notice of Appeal is filed, you do not have to pay rent at the time you file your Notice of Appeal. You must:

1. File an ***In Forma Pauperis petition*** (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the Office of Judicial Records in thirty (30) day intervals from the date the ***Notice of Appeal*** was filed until the time of trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

OPTION C. If you are a **low-income** tenant, and **no money judgment** was entered against you for nonpayment of rent, you do not have to pay rent at the time you file your ***Notice of Appeal***. *This option is to be used if at the Municipal Court hearing, the judge determined that you owed “zero” or “nothing” in rent.* You must:

1. File an ***In Forma Pauperis petition*** (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the Office of Judicial Records in thirty (30) day intervals from the date the ***Notice of Appeal*** was filed until the time of your trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

OPTION D. If your **income is higher** than the income limits on the attached chart, you must:

1. Pay the fee to file a ***Notice of Appeal***;
2. Pay the lesser of three (3) months' rent or the amount of rent awarded to the landlord in the Municipal Court into an escrow account with the Office of Judicial Records' office at the time the ***Notice of Appeal***; and
3. Pay your monthly rent into the escrow account in thirty (30) day intervals from the date the ***Notice of Appeal*** was filed until the time of trial. It is important to count the thirty (30) days exactly because the date on your payment will change depending on the number of days in a given month.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION-CIVIL

Plaintiff, : _____ TERM, 20__
: :
: NO. _____
v. : :
: :
Defendant. : _____
Landlord - Tenant Number

**TENANT'S SUPERSEDEAS AFFIDAVIT
(NON-SECTION 8)**

I, _____
PRINT NAME AND ADDRESS HERE

_____,
have filed a Notice of Appeal from a Municipal Court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the judgment for rent awarded by the Municipal Court. My total household income does not exceed the income guidelines set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an In Forma Pauperis (IFP) petition to verify this.

Check one: I have paid the rent this month. I have not paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$_____.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties in 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

DATE: _____

SIGNATURE OF APPELLANT

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION-CIVIL

Plaintiff, : _____ TERM, 200__
: :
: NO. _____
v. :
: :
Defendant. : **Landlord – Tenant Number**

PRAECIPE REQUESTING TERMINATION OF SUPERSEDEAS

TO THE OFFICE OF JUDICIAL RECORDS:

Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Philadelphia Civil Rule *1008 when it became due.

Date: _____

Appellee

Upon confirmation of failure of the appellant to deposit the monthly rent when it became due, the supersedeas is terminated.

[DATE/TIME STAMP]

OFFICE OF JUDICIAL RECORDS