

Magisterial District Court

Questions and Answers

Defending

An Action in Magisterial District Judge Court

A landlord who wants to evict a tenant, who has not moved in response to the landlord's eviction notice, must file a lawsuit at the Magisterial District Judge called a Landlord/Tenant Complaint. The Complaint, and a notice scheduling a hearing on the Complaint, will be given to the tenant by a constable or sheriff's deputy in person or by posting it on the tenant's door. A copy of the Landlord/Tenant Complaint will also be sent to the tenant by regular mail.

A person sued by someone who does not want to evict them will get a Civil Complaint instead of a Landlord/Tenant Complaint.

What is a Magisterial District Judge?

A Magisterial District Judge is a locally elected official who decides civil lawsuits including landlord/tenant matters. The Magisterial District Judge used to be called a District Justice and before that a Justice of the Peace.

Do I Need an Attorney to Defend Myself?

No. The system is designed to work without attorneys.

Should I Attend the Hearing?

Yes, especially if you have a defense or a counterclaim. Even if you do not have a defense to what the Complaint says, you should still go to the hearing, because the person suing you might try to get the Magisterial District Judge to enter a bigger judgment against you than what is stated in the Complaint. If there is a problem with the date the hearing is scheduled, you may ask the Magisterial District Judge to reschedule it—called a continuance. If a Civil Complaint was filed your first request for continuance should be granted. Additional continuances or continuance of a hearing scheduled on a Landlord and Tenant Complaint for more than a very short period of time may be denied. **NOTE:** If the Complaint filed against you is called a Civil Complaint, you must verbally or in writing file a notice of intention to defend with the Magisterial District Judge as soon as you receive the Complaint but **at least five days** before the hearing.

What is a Defense?

A defense is your argument about why the landlord should not be allowed to evict you or why you should not have to pay the amount of money the landlord or other party suing you claims you owe. Some common defenses are that the landlord did not give a proper eviction notice, rent owed should be reduced or waived due to serious defects with the property (warranty of habitability) or the past due rent was not correctly calculated.

What is a Counterclaim?

If you have a claim against the landlord or other party who sued you, you may file a counterclaim, also called a “cross-complaint,” at the Magisterial District Judge’s office. To file a counterclaim, go to the Magisterial District Judge’s office with your copy of the Landlord/Tenant or Civil Complaint and tell the clerk you want to file a counterclaim to that Complaint. (A counterclaim to a Civil Complaint must be filed at least 5 days before the hearing.) The Magisterial District Judge will provide a Civil Complaint form for you to fill out and return to the clerk. There is no filing fee, but you will have to pay other ancillary court fees and, if you are defending against a civil complaint, a fee to have your counterclaim served on the party that sued you. The Magisterial District Judge will, at the hearing, make a decision on both the original complaint and the counterclaim. **Instructions for completing a counterclaim are included beginning on page 5 of this pamphlet.**

How Should I Prepare My Case?

Presenting the case is a matter of common sense. You should make a written outline or checklist to use at the hearing. You want to be sure you ask all the questions and present all the evidence you want the Magisterial District Judge to consider.

What Happens at the Hearing?

At the hearing, the person who sued you is allowed to testify first. He or she can testify and also have witnesses testify. After the party who sued you and their witnesses testify, the Magisterial District Judge will give you a chance to ask questions of those persons. You and your witnesses will then have a chance to testify. After you and each of your witnesses testify, the other party may question you and your witnesses. The Magisterial District Judge may ask questions of the witnesses or you and the party who sued you at any time. It is important not to interrupt the Magisterial District Judge or a witness unless you are making a legal objection to the testimony being presented. Remember, all testimony is under oath so it is important that you tell the Magisterial District Judge the truth to the best of your ability.

May I Bring Documents?

Yes, you can bring any documents that help prove your case. Any document important for the case must be presented at the hearing. The Magisterial District Judge will not give you a chance to go home and get any documents you forget to bring to the hearing. The Magisterial District Judge cannot consider written statements from people who do not come to the hearing to testify if the other party objects. However, the Magisterial District Judge can consider a bill, estimate, receipt, canceled check or bank statement if it helps prove your defense or counterclaim.

What if Someone I Want to Be a Witness Does Not Want to Come to the Hearing?

You have the right to get subpoenas from the Magisterial District Judge. A subpoena requires a witness to come to the hearing even if he or she does not want to come. If you request it in the subpoena, the witness can also be required to bring documents needed to prove your defense or counterclaim. This is important, for example, if you subpoena someone who made a record of an inspection of your home such as a municipal housing inspector or gas company repair person. You should obtain and serve subpoenas as soon as possible after you get the Landlord/Tenant or Civil Complaint to be sure that the witnesses get them in time for the hearing.

May I Object to Something a Witness is Saying?

Yes. The most common objections are relevancy and hearsay.

1. You can object to a statement that does not have anything to do with the case and is, therefore, not relevant. Example: The landlord testifies that they arrested your father fifteen years ago for drunk driving. That is not relevant to the eviction proceeding.
2. You can also object to hearsay. Example: The landlord testifies that your neighbor said to the landlord he saw your son breaking a window. A witness can only testify to what he or she actually saw, not what someone else said they saw.

You must make your objection at the time the witness is giving testimony that is not relevant or is hearsay. To object, interrupt the witness' testimony by stating: "I object because the testimony of the witness is (hearsay) (not relevant)."

When Will the Magisterial District Judge Decide?

After all the testimony, the Magisterial District Judge will decide the case. The Magisterial District Judge may issue a decision in court after taking all the evidence. If not, the Magisterial District Judge must make a decision within three (3) days of the hearing on a Landlord/Tenant Complaint and five (5) days of the hearing on a Civil Complaint. The Magisterial District Judge will send a copy of the decision, or judgment, to you in the mail.

The judgment on a Landlord/Tenant Complaint must include separate amounts for the following: 1) the rent due; 2) the amount of damages; 3) the court costs due; 4) the amount awarded to you on any counterclaim you filed (this will reduce the amount of the judgment obtained by the landlord); 5) the amount of your normal monthly rent. If judgment for possession of your home is granted, "yes" will be stated next to the words "Grant possession." If you are only being sued for unpaid rent, the Magisterial District Judge may give you the option to stay in your home if you pay all rent due and court costs incurred before the date set for eviction. If you get this option, "yes" will be next to the words, "Grant possession if money judgment is not satisfied by the time of eviction."

What If I Do Not Agree With the Magisterial District Judge's Decision?

You have the right to appeal a judgment entered against you. You file your appeal with the Prothonotary at the County Courthouse. Bring a copy of the judgment with you to the Prothonotary. There you will complete a form called a Notice of Appeal. There will be a filing fee, but you can request waiver of the fee by filling out an IFP form (www.pacourts.us/learn/representing-yourself). After filing, you must serve, by registered mail or personal service, the party who sued you and the Magisterial District Judge whose decision you are appealing. After doing so, you must complete and sign, in the presence of a notary, a proof of service form which must then be filed with the Prothonotary within 10-days of filing the appeal (attach sender's receipts to the proof of service if you completed service by certified mail). If you file an appeal from a Judgment for Possession and want to stay in your home until the appeal is decided, you must file your appeal within 10-days of the date the Magisterial District Judge entered the judgment. If you are only appealing a money judgment, you have 30-days to file the appeal. The judgment date is the "disposition date" listed on the written decision.

If you owe rent at the time you file your appeal and want to stay in possession during the appeal, you must post a bond in the amount of rent stated on the Notice of Judgment from the Magisterial District Judge, or three months' rent, whichever is less. However, if you have very low income, you may only have to pay a third of your usual monthly rent as a bond when you file your appeal, although additional bond payments will be required during the appeal. Contact Northwestern Legal Services right away after the hearing for help in pursuing your appeal if you want to stay in possession of your home during the appeal—especially if you want to pay a reduced initial bond payment.

What Happens if There is No Appeal?

If the Magisterial District Judge grants a Judgment for Possession the landlord must wait 10 days and then request a document called an Order for Possession from the Magisterial District Judge. A constable or sheriff's deputy will serve the Order for Possession on you which gives you an additional 10 days to vacate the premises. If you do not move by the lock out date on the Order for Possession, the constable or sheriff's deputy will physically remove you from the property.

If the Magisterial District Judge grants a money judgment, you have 30 days to pay the judgment. If you do not pay it, the party who sued you can then go back to the Magisterial District Judge and request a document called an Order of Execution. A constable or sheriff's deputy will serve the Order of Execution on you. At the time the Order of Execution is given to you, the constable or sheriff's deputy will make a list of property he or she will sell to pay off the judgment against you. This list is called a levy. **Call Northwestern Legal Services right away for more help if a levy is put on your property.** If you do nothing, your property will be sold several weeks after the levy is made at a constable or sheriff's sale, unless it is worth less than \$300; or \$600 if you are married, and you and your spouse were both sued.

**To apply for services call: 1-800-665-6957 or 814-452-6957
9:00 a.m. - 4:00 p.m. Monday through Friday
You can also apply online anytime at: www.nwls.org**

We have attempted to insure the accuracy of the information in this pamphlet at the time it was created or revised. However, the law does change, sometimes quickly and unexpectedly. Therefore, you should consult an attorney before taking or refraining from any action based on the information in this pamphlet.



IMPORTANT

If you want to file a countersuit to a case filed against you in Magisterial District Judge court, read the instructions on the following pages. You can obtain the Civil Complaint form needed to file your countersuit at your local Magisterial District Judge Office, or online at:

www.pacourts.us/assets/files/setting-897/file-771.pdf?cb=0bb1db

The Magisterial District Judge's clerk may help you fill out the complaint form, if you ask. However, they will not give you legal advice. Also, do not try to plead your case. That is what the hearing is for.

The next page is a sample of the Civil Complaint form that you will use to file a complaint for money damages in Magisterial District Judge court. It is a sample, and cannot be used to file a complaint.

COMMONWEALTH OF PENNSYLVANIA
 COUNTY OF: _____

CIVIL COMPLAINT

Magisterial District Number:
 MDJ Name: Hon.
 Address:
 Telephone: ()

PLAINTIFF: NAME and ADDRESS
 VS.
 DEFENDANT: NAME and ADDRESS

Sample Only

Docket No.:
 Date Filed:



	AMOUNT	DATE PAID
FILING COSTS	\$	
POSTAGE	\$	
SERVICE COSTS	\$	
CONSTABLE ED.	\$	
TOTAL	\$ 0.00	

Social security numbers and financial information (e.g. PINS) should not be listed. If the identity of an account number must be established, list only the last four digits. 204 Pa.Code §§ 213.1 - 213.7.

Pa.R.C.P.M.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$_____ together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

I, _____ verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

 (Signature of Plaintiff or Authorized Agent)

The plaintiff's attorney shall file an entry of appearance with the magisterial district court pursuant to Pa.R.C.P.M.D.J. 207.1.

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD SO NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within magisterial district judge jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five (5) days before the date set for the hearing.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

AOPC 308A-11

INSTRUCTIONS

Completing a Counterclaim/Cross-Complaint

Note: Please Type all Court Forms if Possible. If Necessary, Print Neatly.

1. Fill in the plaintiff's name and address. Because you are countersuing, you are the Plaintiff.
2. Fill in Defendant's name and address. For a counterclaim, the Defendant is the person(s) who originally filed suit against you.
3. There is no filing fee, but you will have to pay ancillary court fees and a fee to have the complaint served (Note: if your cross-complaint is to a Landlord and Tenant Complaint, you can ask for the Magisterial District Judge to serve the cross-complaint by regular mail, which will reduce the service fees. If you are filing a cross-complaint to a Civil Complaint, you must file it no later than 5-days before the scheduled hearing. Failure to do so will require you to pay the normal fees to file a Civil Complaint and delay when you will get a hearing on your claim.)
4. Enter the dollar amount of the damages you are seeking.
5. Describe the date, time and place of the transaction and the reason you are entitled to a judgment.
6. Print your name.
7. Sign your name. When you sign your name, you are swearing that what you have stated is true.
8. Leave the attorney information blank.
9. The Magisterial District Judge will insert the hearing time and date on the form and the address of the magisterial office on the complaint form.

Counterclaims are heard at the same time as the hearing scheduled on the original complaint filed against you.

The Magisterial District Judge will serve the defendant with a copy of the complaint form before the hearing.