

**Advisory Notice**

Subject: Alleged Illegal Lock-outs

Class:

AN

Category:

LT-10

Eff. Date:

Jan. 22, 1998

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Background:

It has come to my attention that some Judges have been issuing **Orders** rather than **Judgments** when determining proceedings involving a claim of illegal eviction. This is a reminder that a **motion** results in an **Order**; a **proceeding** results in a **Judgment**.


Advice

A party claiming to have been unlawfully evicted may seek to be restored to possession in Housing Court pursuant to Real Property Law §713(10). The alleged ousted party (i.e., the party claiming possession) is the Petitioner in such a proceeding and the party against whom the summary proceeding is maintained is the Respondent.

As in any other summary proceeding, if the Petitioner is successful, a Judgment and Warrant should issue; if the Respondent is successful, a Judgment of Dismissal should ensue.

The forms used by Civil Court, (CIV-LT-15, the Verified Petition in Support of an Order to Show Cause, and CIV-LT-75, the Order to Show Cause in Lieu of Notice of Petition - see attached) provide for such relief. A new form (CIV-LT-55, Decision and Judgment of Possession in Favor of Petitioner for Restoration to Possession - see attached) has been devised and will be distributed for general use in instances of alleged illegal lock-outs. Please make sure that in the instances cited above, the proper relief is granted by use of this new form.

1/22/98  
Date

  
Hon. Fern Fisher-Brandveen  
Administrative Judge