LANDLORD'S GUIDE TO NONPAYMENT SUMMARY PROCEEDINGS

For Courts Outside New York City

New York State Unified Court System

DIVISION OF COURT OPERATIONS
OFFICE OF TRIAL COURT OPERATIONS

SEPTEMBER 2007

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LABEL FOR LOCAL COURT INFORMATION

Introduction

The New York State Unified Court System has published this booklet to give landlords without a lawyer information about the legal procedures for evicting a tenant from a rental property if the tenant fails to pay the rent. A similar booklet is available from the Unified Court System for tenants that provides information about procedures for responding when a landlord files an eviction case.

A court case to evict a tenant for failing to pay the rent is called a Nonpayment Summary Proceeding. In this kind of lawsuit, the landlord asks the judge to grant a Judgment that will allow the landlord to evict the tenant. The judge may order the tenant to pay past due rent to the landlord.

This booklet can help if you are a landlord, your tenant has failed to pay the rent, and you have decided to evict the tenant by starting a Nonpayment Summary Proceeding in court. You may also want to ask for help from the Court Clerk's Office which may be able to answer some of your questions about the lawsuit. Please keep in mind, however, that court staff are not allowed to give legal advice, and so may not be able to answer all of your questions.

If you feel you need legal advice at any time during your case, speak with a lawyer. If you cannot afford a lawyer, or are unsure how to find one, these resources can help you:

- Go to www.lawhelp.org/ny;
- Call the New York State Bar Association Lawyer Referral Service (toll free) at 1-800-342-3661;
- Go to www.nycourthelp.gov and click on "Lawyers";
- Go to www.nycourts.gov/attorneys/nybarassociations.shtml;
- Ask at any courthouse about lawyer referral services.

A Nonpayment Summary Proceeding is for evicting a tenant. If you want to sue for unpaid rent or for money to pay for damages to the rental property that the tenant caused and are NOT seeking to evict the tenant, a Nonpayment Summary Proceeding is the wrong type of lawsuit. Do not use this booklet if that is your situation. Ask the Court Clerk's Office for more information.

Which Courts Handle Nonpayment Summary Proceedings?

A landlord must start the case where the rental property is located.

Rental Property Location	Court
Village	* Village Court
Town	Town Court
City	City Court
Nassau County	District Court
Part of Suffolk County with District Court	District Court
Part of Suffolk County without District Court	Town or Village Court

*** If a village does not have a Village Court, the summary proceeding can be started in the Town Court of the town that surrounds the village.**

If a Nonpayment Summary Proceeding is started in a City Court or District Court, a landlord that is a corporation or a voluntary association ***must*** appear in court with a lawyer. If the case is started in a Town Court or Village Court, however, a landlord that is a corporation may appear in court either by an attorney or by any authorized officer, director, or employee.

What to do Before Starting a Nonpayment Summary Proceeding

Before starting a Nonpayment Summary Proceeding, a landlord must ask the tenant to pay the past due rent. This is called making a Demand for the rent.

There are two types of "demands." As a landlord, you are allowed to use either one:

- **Oral Demand.** You may speak to the tenant in person and ask for the past due rent. If the tenant does not pay after you have made the Oral Demand, you can begin the Nonpayment Summary Proceeding immediately.

- **Written Demand.** You may provide the tenant a written notice demanding that the tenant pay the rent or leave the rental property. A Written Demand must be given to the tenant in the same way as the Notice of Petition and Petition. See pages 4 and 5 of this booklet for the rules on delivering or "serving" court papers. You are not allowed to give the tenant a Written Demand yourself.

  If you make a Written Demand, you must allow three days for the tenant to pay the rent. If the rent is not paid after the three days, you may begin the Nonpayment Summary Proceeding.

If you accept a partial rental payment from the tenant after you have made a Demand, you must make a new demand for the correct amount due before beginning a Nonpayment Summary Proceeding. If the tenant pays the entire amount of past due rent, you may not bring a Nonpayment Summary Proceeding.

The forms and instructions for preparing a Written Demand are included in the Forms and Instructions section of this booklet.

How to Begin a Nonpayment Summary Proceeding

A landlord must file two court forms to begin a Nonpayment Summary Proceeding: (1) a Notice of Petition: Nonpayment Proceeding; and (2) a Nonpayment Petition to Recover Possession of Real Property.

These may be filed with the court if the tenant has not paid the past due rent after the landlord has made a Demand.

The two court forms and instructions for filling them out are included in the Forms and Instructions section of this booklet.

Bring your completed Notice of Petition and Petition to the court. If you made a Written Demand for the past due rent, attach a copy of it to the Petition.

There will be a fee for filing the court papers. If you do know the amount, you can contact the Court Clerk's Office for this information.

A court clerk will assign an index number or a docket number to your case. You must write this number on the Notice of Petition and Petition before you have them "served" on the tenant. (More information about "service" is provided below.) You must also include this number on all other papers that you file with the court about this case.

The court clerk will assign a date for your case to be heard in court.

The next step is for you to deliver or "serve" the court papers on the tenant.

"Serving" the Court Papers

There are only three ways to deliver or "serve" a Notice of Petition and Petition in a Nonpayment Summary Proceeding. A Written Demand also should be served in one of these three ways.

As a landlord, you must get a friend or licensed process server to give the papers to every tenant named in the documents. ***You cannot serve the tenant yourself.*** Your friend must be more than 18 years old and may not have served more than five legal papers in the year to be able to serve your papers. If you wish to hire a process server, you may look in the yellow pages of the phone book to locate one.

- **Personal Delivery**. The person who serves the papers must first try to give the papers to the tenant personally, by giving them to the tenant in his or her hand. The papers can be handed to the tenant anywhere.

- **Substituted Service**. If the person serving the papers tries to serve the tenant at home and the tenant is not present, the server can give the papers to the person who answers the door as long as (1) the person resides in the apartment; and (2) is of an appropriate age and has appropriate judgment to take the papers. By the next business day, the server must mail two copies of the papers to the tenant, one by regular mail and one by certified mail.

- **Conspicuous Place Service ("Nail and Mail")**. If the person serving the papers is unsuccessful on the first try to serve the papers either by personal delivery or substituted service, then he or she must make a second attempt during a different time period. For example, if no one is home during working hours (9:00 a.m. to 5:00 p.m.), the server can return at 7:30 p.m. during non-working hours. After two unsuccessful attempts have been made to serve the person at home either by personal delivery or substituted service, the server may then use conspicuous place delivery. This is also known as "nail and mail."

  "Nail and Mail" requires that a copy of the papers be attached to the door of the actual residence of the tenant or be slipped under the entrance door of that residence. By the next business day, the server must mail two copies of the papers to the tenant, one by regular mail and one by certified mail.

Important rules about "serving" the court papers:

- The court papers cannot be served on a Sunday, Sabbath day, or any other day of religious observance.

- The person who serves the court papers must complete an Affidavit of Service form for each person served. An Affidavit of Service form and instructions is included in the Forms and Instructions section of this booklet. After completing the form, the person who served the papers must sign the Affidavit of Service before a Notary Public, and have it notarized. The completed Affidavit of Service must be submitted to the court within three days of the personal delivery or mailing.

- The Notice of Petition and Petition must be served no more than twelve days and no less than five days before the court date shown on the Notice of Petition.

If the papers are not served as described above, the tenant may tell this to the court clerk or judge as a Defense to the Nonpayment Summary Proceeding. You will read more about Defenses later in this booklet.

What Happens in Court?

You must appear in court on the date and at the time specified in the Notice of Petition. If you fail to appear on the court date, the judge is allowed to dismiss your case against the tenant. If your tenant fails to appear on the assigned court date, the court may grant you a default judgment.

The tenant may have filed a written Answer to your Petition. If you receive an Answer, read it carefully, as it may contain a description of the tenant's Defenses to the eviction. (More information about Defenses is provided below.)

Bring all of your evidence to court. This might include, for example, rental receipts, a lease or other written agreement, or photographs of the condition of the rental property. You can bring witnesses to testify about the rental property or about the tenant.

When the court clerk or the judge announces your case, you should say that you are present. Then follow the clerk's and the judge's directions.

The judge may ask both you and the tenant if you are the people named in the Notice of Petition and Petition. The judge may also ask other questions to see if there is any possibility of a Settlement, in order to learn whether you or the tenant would like to work with a mediator or if a trial will be necessary.

What is the Difference between Settlement, Mediation and Trial?

- **Settlement**. A Settlement is an agreement between you and the tenant about the case. The terms are determined by you and the tenant. For example, the tenant may agree to pay the past due rent if you make certain repairs to the rental property. Or, you may agree to let the tenant stay in the rental property for a certain time period so that the tenant can find another place to live. You and the tenant may agree to have the court enter a Judgment against the tenant allowing the eviction but delaying the time when it will happen.

  In some courts, a Settlement is called a Stipulation and Agreement. The judge may state the terms of the agreement in while you and the tenant are in court to avoid any misunderstanding on your part, the tenant's part, or the court's part about what each has agreed to do.

- **Mediation**. In some courts, you and the tenant can agree to have a mediator handle your case instead of the judge. A mediator is a professional, neutral person who is trained to help you and the tenant come to an agreement about your dispute without the need for a judge to decide it.

- **Trial**. If you and the tenant cannot agree to settle the dispute, the judge will hold a trial to get information that the judge needs to decide the case. During the trial, you will be asked for evidence to support the request to have the tenant evicted. The judge will give the tenant a chance to ask you questions about your evidence. The judge also may ask questions. Then the tenant will have the chance to present evidence. The judge will give you a chance to ask questions about the tenant's evidence and also may ask the tenant questions about it.

During the trial, the tenant may claim certain Defenses. Some of the more common Defenses are described below. If the tenant claims one or more of these, the judge will give you the chance to explain your side.

- You (the landlord) did not make a Demand for the rent before starting the case;
- You did not follow the rules for having the Notice of Petition and Petition served on the tenant;
- The person named as the "petitioner" (usually you, as the landlord) is not a person authorized to file a Nonpayment Summary Proceeding;
- The amount of the claimed past due rent is wrong;
- The tenant paid some or all of the past due rent;
- The tenant offered you the rent, but you refused to accept it;
- You owe the tenant money for a rent overcharge;
- There are conditions in the rental property that make it unsafe and/or unliveable for the tenant.

After you and the tenant have offered all evidence, the judge will make a decision. For further information about what you can expect at a trial, see *How to Prepare for a Landlord-Tenant Trial* (New York City Civil Court), available at http://www.nycourts.gov/publications/L&TPamphlet.pdf.

The Judge's Decision

If the judge rejects your claims and decides in the tenant's favor, the court will dismiss your lawsuit. This means that you cannot evict the tenant on this lawsuit.

If the judge accepts your claims and decides against the tenant, the court will give you a Judgment. The Judgment will give you the right to have the tenant evicted and to take back possession of the rental property. The Judgment may also give you the right to collect money based on the past due rent.

Even if you win a Judgment, the judge may delay or "stay" the date when the tenant has to move in order to give the tenant time to find another place to live.

Procedures After a Judgment

You may be required to complete a Judgment form for the judge to sign. A Judgment form and instructions are included in the Forms and Instructions section of this booklet.

Only a sheriff, constable, marshal, or other enforcement officer — ***not you*** — can evict a tenant after you win a Judgment. It is illegal for a landlord to do it personally. You must get a Warrant of Eviction from the judge, then ask a sheriff, constable, marshal or other enforcement officer to use the Warrant of Eviction to evict the tenant.

Some courts fill out the Warrant of Eviction form, others ask the landlord to fill it out before the judge signs it. The form is attached in the Forms and Instructions section of this booklet. If the judge wants you to fill it out, complete the form as instructed and then present it to the court clerk for signature.

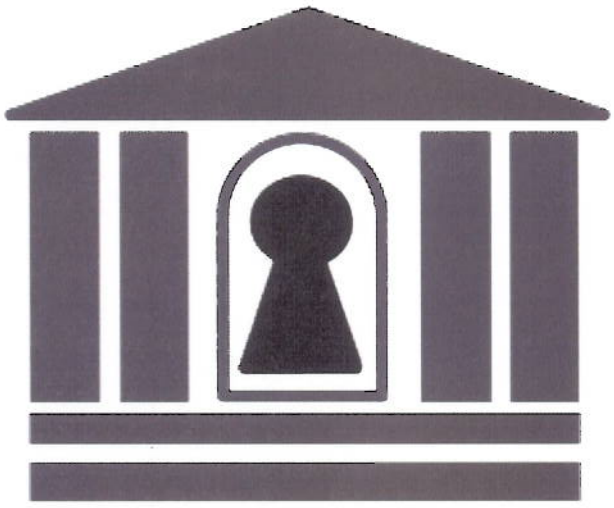
The actual eviction cannot take place until *72* ***hours*** after the enforcement officer gives the tenant written notice that the eviction is going to happen. There will be fees to pay and procedures to follow with the enforcement officials. Contact the enforcement officer to discuss this information.

Important Notes:

- **Orders to Show Cause**. You should also be aware that the tenant may file a court paper called an Order to Show Cause after you have won a Judgment. An Order to Show Cause will usually ask the judge for the chance to re-open the case for one or more reasons.

  If you are served with an Order to Show Cause, read it carefully and be sure to go to court on the date indicated in the court papers. Also read carefully the Affidavit accompanying the Order to Show Cause. This Affidavit will tell you why the tenant is asking the judge to re-open the case.

- **Appeals**. You and the tenant both have the right to appeal the judge's decision to another court if you disagree with it. If you want to appeal, discuss this promptly with the Court Clerk's Office because there are strict time limits that must be followed.



Glossary

ACTION
A lawsuit or proceeding commenced in a court.

ADJOURNMENT
A temporary postponement of the proceedings of a case until a specified future time.

AFFIDAVIT
A sworn or affirmed statement made in writing and signed; if sworn, it is notarized.

AFFIDAVIT OF SERVICE
An affidavit intended to certify the service of a writ, notice, or other court document.

AFFIRMATION
An act of declaring something to be true under the penalty of perjury.

AGENT
A person authorized by another to transact business or manage some affairs on his/her behalf, an agent for the landlord.

ALLEGATION
The assertion, declaration, or statement of a party to an action, made in a pleading, setting out what the party expects to prove.

ALLEGE
To assert a fact in a pleading.

ANSWER
A paper submitted by a defendant/respondent in which he/she responds to and/or denies the allegations of the plaintiff/petitioner.

APPEARANCE
The participation in the proceedings by a party summoned in an action, either in person or through an attorney.

AT ISSUE
Whenever the parties to a suit come to a point in the pleadings that is affirmed on one side and denied on the other, that point is said to be "at issue".

BENCH
The judge's seat or the judge, himself/herself, (e.g., the attorney addressed the bench).

CALENDAR
A schedule of matters to be heard in court.

CALENDAR CALL
The calling of matters requiring parties, or their attorneys, to appear and be heard, usually done at the beginning of each court day.

CAPTION
The heading or introductory clause which shows the names of the parties, name of the court, index number, etc., in a pleading, deposition or other paper connected with a case in court.

CASE FILE
The court file containing papers submitted in a case.

CERTIFIED COPY
Copy of a document signed and certified as a true copy of an original by the Clerk of the Court or other authorized persons (e.g., lawyer).

CONSPICUOUS
Easy to notice, obvious.

COSTS
An allowance for expense in prosecuting or defending a suit (ordinarily does not include attorney's fees).

COUNSEL
Lawyer or attorney.

CROSS-EXAMINATION
Questioning by a party or his attorney of an adverse party or a witness called by an adverse party.

DEFAULT
A default in an action occurs when a defendant fails to plead or otherwise defend within the time allowed, or fails to appear at the trial.

ENFORCEMENT OFFICER
An authority, usually the County Sheriff, Constable, or Marshal, who is empowered to execute a mandate of the court.

EVICTION
A legal proceeding to remove a tenant from possession of rental property.

EVIDENCE
Facts presented at the trial of an issue through witnesses, records, documents, physical objects, etc.

EXHIBIT
A paper, document or other article produced and exhibited to a court during a trial or hearing and, on being accepted, marked for identification or admitted in evidence.

EX PARTE
A proceeding, order, motion, application, request, submission, etc., made without notice to any other party.

FEE
A fixed charge for service rendered by a court.

INDEX NUMBER
A number issued by the court clerk which is used to identify a case. In civil matters there is a charge to obtain an index number.

JUDGMENT
A final determination of the rights of the parties in an action or special proceeding.

JURISDICTION
The court's legal power, right and authority to hear and decide cases; geographical area within which court's authority may be exercised. The parties may not waive a court's lack of jurisdiction.

LANDLORD
The owner of the property to whom the tenant pays rent.

LEASE
A legally enforceable agreement between two or more persons or parties (oral or written) which gives rise to the relationship of landlord and tenant.

MOTION
An oral or written request made to a court at any time before, during or after court proceedings, asking the court to make a specified finding, decision or order.

MEDIATION
A confidential dispute resolution process during which an impartial mediator helps parties to identify issues, explore options and reach a mutually acceptable solution to their dispute.

NOTICE OF PETITION
Written notice by a petitioner that a hearing will be held in a court to determine the relief requested in an attached petition.

OATH
A solemn declaration that one's statement is true or one that will be bound to a promise.

ORDER TO SHOW CAUSE
An order by a court requiring a party to appear and show cause (argue) why a certain thing should or should not be done or permitted.

PARTY
A person having a direct interest in a legal matter, transaction or proceeding.

PETITION
A formal written application to a court requesting specific relief.

PETITIONER
One who files a formal written application beginning a special proceeding.

PLEADINGS
The formal written allegations (petition; answer) by the parties in an action of their respective claims and defenses.

PROCEEDING
A lawsuit commenced in court.

PRO SE
See Self-represented

REPLY
A paper submitted by a petitioner in response to the answer of a respondent.

RESPONDENT
One who formally answers the allegations stated in a petition which has been filed with the court. Also known as a defendant.

SATISFACTION
Discharge of a legal obligation, as in a "Satisfaction of Judgment."

SELF-REPRESENTED
A party is self-represented when he/she is not represented by an attorney (also referred to as pro se).

SERVICE
The actual delivery of a paper officially notifying a person of some action or proceeding in which that person is concerned.

STIPULATION OF SETTLEMENT
A formal agreement between litigants and/or their attorneys resolving their dispute.

STAY
A judicial order whereby some action is forbidden or held off until some event occurs or the court lifts its order.

SUBTENANT
See Under-tenant

TENANT
The person(s) who has the use and occupancy of property owned by another person (the landlord). The duration and terms of the tenancy are usually fixed by an instrument called a lease.

TESTIMONY
An oral declaration made by a witness or party under oath.

TRIAL
The formal examination of a legal controversy in court so as to determine the issue.

UNDER-TENANT
A person renting from the tenant named in the rental agreement. Also referred to as the sub-tenant.

VERIFICATION
A signature before a notary public, or other officer authorized to administer an oath, attesting to the accuracy or truth of an allegation or statement.

WARRANT OF EVICTION
A legal mandate authorizing an enforcement officer to remove persons and their personal property from a premises.

WITNESS
One who testifies in court to what he/she has seen, heard, or otherwise observed.

Sample Forms & Instructions

Instructions for Preparing:

Written Demand for Payment of Past Due Rent

Find the number on the form for each instruction below.
Type or print in black ink only.

1. Write the date you are preparing the Written Demand for Payment of Past Due Rent.
2. Write the number of rooms, on which floor, which side of the building, and the apartment number of the rental property. (For example, 4 rooms, 2nd floor, Left side, Apt No. 33)
3. Write the address of the rental property (for example, 321 FIRST ST., ANYWHERE, NY).
4. Check ☑ the first box if the property is used for business purposes.

   Check ☑ the second box if the property is used for residential purposes.
5. Write the name of the tenant(s) residing at the property.
6. Write the tenant's address, including the zip code.
7. If there are any under-tenants, write their names.
8. If there are any under-tenants, write their address including the zip code.
9. List the amounts of rent due and the months for which the rent is due.
10. Write the total amount of rent due.
11. The landlord signs on this line. Print the landlord's name next to the signature.
12. If the landlord has an agent, the agent signs on this line. Print the agent's name next to the signature.
13. If the landlord signed the form, write the landlord's address. If the agent signed the form, write the agent's address.

WRITTEN DEMAND FOR PAYMENT OF PAST DUE RENT

(1) _____, 20____

Re: Premises:
(2) ____rooms____floor(s)____side, Apt. No.____
(3) at _____

(4) used for ☐ Business ☐ Residence

TO:

Tenant(s), under-tenant(s) or assigns and
every person in possession of the premises.

(5)_____ (6)_____

_____ _____

(7)_____ (8)_____

_____ _____

(9)Take notice that you owe rent for the following period(s):

$_____for month of_____20____
$_____for month of_____20____
$_____for month of_____20____
$_____for month of_____20____
$_____for month of_____20____

(10) The total now due is:$_____

If you do not pay the total rent due on or before the expiration of **three days** from the date of the service of this notice, or surrender up the possession of said premises to the landlord, the landlord will commence summary proceedings to evict you.

(11) Landlord: _____ _____
Signature Print or Type Name

(12) Agent: _____ _____
Signature Print or Type Name

(13) Landlord or Agent's Address: _____

_____

Instructions for Preparing:

Notice of Petition: Nonpayment Proceeding

Find the number on the form for each instruction below.
Type or print in black ink only.

1. Write the name of the court where the case is being started.
2. Write the name of the county where the court is located.
3. Write the Index Number or Docket Number after the court gives you one for this case.
4. Write the landlord's name and address. (The landlord is the "Petitioner.")
5. Write the name and address of the tenant(s). (The tenant is the Respondent.")
6. Write the name of the court where the case is being started
7. Write the name of the county in which the court is located.
8. Leave blank. The court will fill in this information.
9. Write the address and description of the rental property.
10. Write the name of the county where the rental property is located.
11. Write the total amount of money you want the judge to award to you.
12. Write the first date that the unpaid rent was due.

Leave the rest blank. Do not sign the form.

STATE OF NEW YORK
CITY/DISTRICT/TOWN/VILLAGE COURT (1) _____
COUNTY OF (2) _____

(4) _____
_____
_____ (3) Index/Docket No. _____
Petitioner(s)/Landlord(s)

-against-

NOTICE OF PETITION
NON-PAYMENT PROCEEDING

(5) _____
_____
_____
Respondent(s)/Tenant(s)

To the Respondents:

PLEASE TAKE NOTICE that a hearing at which you must appear will be held at the

(6) _____
City/District/Town/Village Court

County of (7)_____ on the (8)_____ day of _____, 20 ___, at _____am/pm, upon the annexed petition, which you must answer, which requests a final judgment evicting you from, and awarding to the petitioner the possession of, the premises designated and described a follows:

(9) _____
Street Address Including Zip Code

the _____rooms on the _____floor, Apartment No._____, in the County of (10) _____ and such other and further relief as is demanded in the petition.

TAKE NOTICE that demand also is made in the petition for judgment against you for the sum of (11) $_____, with interest thereon from (12) _____, 20____.

TAKE NOTICE that your answer may set forth any defense or counterclaim you may have against the petitioner.

TAKE NOTICE also that if you shall fail at such time to interpose and establish any defense that you may have to the allegations of the petition, you may be precluded from asserting such defense or the claim on which it is based in any other proceeding or action.

TAKE NOTICE that your failure to appear and answer may result in final judgment by default for the petitioner evicting you from the premise and ordering you to pay the amount demanded in the petition.

DATED: the _____day of _____, 20_____.

_____
Judge/Clerk/Attorney

Instructions for Preparing:

Nonpayment Petition to Recover Possession of Real Property

Find the number on the form each instruction below.
Type or print in black ink only.

1. Write the name of the court.
2. Write the name of the county where court is located.
3. Write the Index Number or Docket Number after the court gives you one for this case.
4. Write the landlord's name and address. (The landlord is the "petitioner.")
5. Write the name and address of the tenant(s). (The tenant is the "Respondent.")
6. Write the landlord's name.
7. Write the tenant's name.
8. Write ***either*** the word "**oral**" or the word "**written**" (***not both***) depending on whether the rental agreement is oral or in writing.
9. Write the date the rental agreement was made.
10. Write the monthly rental amount.
11. Write the day of the month that the rent is due.
12. Write the full address of the rental property (include the room/apartment number).

NOTE FOR 10 AND 11: If the rent is not due on a monthly basis (e.g., weekly), cross out the word "month" and write in the time period that applies.

13. Write each date the unpaid rent was due and the amount for each date.
14. Write the total amount of rent due.
15. Check the box that is true for your case.

Instructions continue on page 21

STATE OF NEW YORK
CITY/DISTRICT/TOWN/VILLAGE COURT (1) _____
COUNTY OF (2) _____

(4) _____
_____
_____
Petitioner(s)/Landlord(s)

(3) Index/Docket No. _____

-against-

NON-PAYMENT PETITION TO RECOVER POSSESSION OF REAL PROPERTY

(5) _____
_____
_____
Respondent(s)/Tenant(s)

THE PETITION OF (6) _____ owner and landlord of the premises alleges that:

1. The undersigned is the owner/landlord of the premises claimed herein and the petitioner in this action.

2. Respondent(s) (7) _____ is/are the tenant(s) of said premises who entered into possession thereof under (8) _____ rental agreement made on or about (9) _____ between respondent(s) and the landlord (landlord's predecessor), wherein respondent(s) promised to pay to landlord as rent (10)$ _____ each month in advance on the (11) _____ day of each month.

3. Respondents are now in possession of said premises.

4. The premises from which removal is sought are described as follows: (12) _____ _____ which is situated within the territorial jurisdiction of this court.

5. Pursuant to said agreement there was due to landlord from respondent tenant(s) rent as follows:

(13) (Month) _____, 20 ____ (Amount) $ _____, (Month) _____, 20 ____ (Amount) $ _____,
(Month) _____, 20 ____ (Amount) $ _____, (Month) _____, 20 ____ (Amount) $ _____,
(Month) _____, 20 ____ (Amount) $ _____, (Month) _____, 20 ____ (Amount) $ _____,
(Month) _____, 20 ____ (Amount) $ _____, (Month) _____, 20 ____ (Amount) $ _____,

Respondent/Tenant(s) have defaulted in the payments thereof, and the total rent in arrears is (14) $_____.

6. Said rent having been duly demanded from the respondent(s) since same became due:
(15)

☐ Personally by the landlord/owner.

☐ By the service of a written three(3)-day demand for rent on the respondent(s).

Form continues on page 20

(Page 2) NON-PAYMENT PETITION TO RECOVER POSSESSION OF REAL PROPERTY

7. Respondent(s) hold over and continue in possession of premises without landlord's permission after said default. **(16)**

- ☐ The landlord is in full compliance with the Emergency Tenant(s) Protection Act of 1974 (ETPA), as amended, and the rent demanded is not greater than the maximum rent permitted by law.
- ☐ The premises are subject to rent control and the rent demanded herein does not exceed the maximum rent prescribed by the New York State Division of Housing and Community Renewal (DHCR).
- ☐ The premises are presently subject to ETPA, as amended, because: _____

_____

_____ and the owner of the premises: has registered rents and services with the DHCR pursuant to ETPA and the tenant(s) Protection Regulations promulgated thereunder; is in compliance with ETPA; and the rent demanded herein does not exceed the legal regulated rent permitted the owner under said Law, Regulations, and appropriate Rent Guidelines Board Orders.

The apartment is not subject to rent control by reason of:

- ☐ The premises are located in a community which has not adopted ETPA.
- ☐ The building in which the premises are located was constructed after December 31,1973.
- ☐ The building in which the premises are located has less than 6 units.

Petitioner requests final judgment: awarding possession of the premises to the petitioner/landlord; issuance of a warrant to remove respondent(s) from possession thereof; judgment for rent in arrears against respondent Tenant(s) for **(17)** $_____; interest from **(18)**_____, 20 ; costs and disbursements herein.

(19) Dated: _____

(20) Petitioner_____ /_____.

Signature Type or Print Name

STATE OF NEW YORK, COUNTY OF **(21)** _____ ss: The undersigned

(22)

- ☐ Petitioner
- ☐ Attorney for petitioner (petitioner is not within the county in which deponent's office is located)
- ☐ Agent for petitioner

Being duly sworn states: That deponent has ***read /heard*** the petition, and the contents of the petition are true to deponent's own knowledge except as to those matters which are alleged on information and belief, and as to them deponent believes them to be true.

(23)

_____
Signature

_____
Type or Print Name

(24)

Sworn to before me on this _____ day of

_____, 20 _____.

_____
Notary Public

Instructions continued from page 18

Instructions for Preparing:

Nonpayment Petition to Recover Possession of Real Property

16. Check all the boxes that are true for your case.

17. Write the total amount of rent due.

18. Write the first date that the unpaid rent was due.

19. Write the date you finish filling out this form

20. The landlord signs on this line. Print the landlord's name next to the signature.

21. Write the name of the county where you are signing this form.

NOTE: ***THIS FORM MUST BE NOTARIZED. LEAVE THE REST OF THE FORM BLANK UNTIL YOU ARE IN THE PRESENCE OF THE NOTARY PUBLIC.***

22. Check the box that applies.

23. The person signing this form (from # 22) must do so in the presence of a Notary Public.

24. The Notary will complete the date and sign his/her name after it has been signed in their presence by the person indicated in # 22.

Instructions for Preparing:

Affidavit of Personal Service

Find the number on the form for each instruction below.
Type or print in black ink only.

1. Write the name of the court.
2. Write the name of the county where court is located.
3. Write the Index Number or Docket Number after the court gives you one for this case.
4. Write your name and address, if you are the landlord. (The landlord is the "Petitioner.") If you are filling out this form for the landlord, write the ***landlord's*** name and address, not your own.
5. Write the name and address of the tenant(s). (The tenant is the "Respondent.")
6. Write the name of the county where this Affidavit will be signed and sworn to.
7. Write the name of the city, town, or village where this Affidavit will be signed and sworn to.
8. Write the name of the person who served the papers.
9. Write the name of the document that was served.
10. Write the name of the tenant(s) as it appears on the case papers.
11. Write the address of the place where the tenant was served with the case papers.
12. Write the time and date the tenant was served.
13. Fill in the description of the person served.

NOTE: ***THIS FORM MUST BE NOTARIZED. LEAVE THE REST OF THE FORM BLANK UNTIL YOU ARE IN THE PRESENCE OF THE NOTARY PUBLIC.***

14. The person who served the papers should sign here in the presence of a Notary Public.
15. The Notary will complete the date and sign his/her name. The person who served the papers must sign and print his/her name in the presence of a Notary Public.

STATE OF NEW YORK
CITY/DISTRICT/TOWN/VILLAGE COURT (1) _____
COUNTY OF (2) _____

(4) _____
_____
_____
Petitioner(s)/Landlord(s)

(3) Index/Docket No. _____

-against-

AFFIDAVIT OF PERSONAL SERVICE

(5) _____
_____
_____
Respondent(s)/Tenant(s)

State of New York
County of (6) _____ ss.: City/Town/Village of (7) _____

(8) _____, being duly sworn, deposes and says

that (s)he served the (9) _____
In the above entitled action upon the following named respondent(s) at the following place(s) and time(s):

(10) TENANT NAME(S)	(11) ADDRESS (CITY/TOWN/VILLAGE) & STATE	(12)TIME & DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____

by delivering to and leaving with respondent(s), personally, a true copy thereof, and deponent further says that (s)he knew the person so served to be the same person mentioned and described in the said summons as respondent therein, and that at the time of making such service deponent was over eighteen years of age and not a party to this action. That (s)he asked respondent whether respondent was in the military service of the United State Government, in any capacity whatever, and respondent replied (s)he was not. Respondent was clad in ordinary civilian clothes and wore no military uniform of any kind.

(13) The person served is described as follows:
Sex_____, Color of Skin _____, Hair Color_____, Approximate: Age _____, Weight _____ . Height_____. Other Identifying features: _____
_____

(14)
_____
Signature

_____
Type or Print Name

(15)
Sworn to before me on this _____
Day of _____, 20 _____.

_____
Notary Public

Instructions for Preparing:

Affidavit of Substituted or Conspicuous Place Service

Find the number on the form each instruction below. Type or print in black ink only.

1. Write the name of the court.
2. Write the name of the county where court is located.
3. Write the Index Number or Docket Number after the court gives you one for this case.
4. Write your name and address, if you are the landlord. (The landlord is the "Petitioner.") If you are filling out this form for the landlord, write the ***landlord's*** name and address, not your own.
5. Write the name and address of the tenant(s). (The tenant is the "Respondent.")
6. Write the name of the county where this Affidavit will be signed and sworn to.
7. Write the name of the person who served the papers.
8. Write the name of the case paper(s) that was served.
9. Write the name of the tenant(s) as it appears on the case papers.
10. Write the name of the person who received the papers.
11. Write the date and time that the papers were served.
12. Write the address where the papers were served and place a ☑ in the box that describes that place.
13. Provide the information that describes the person who was served.
14. Write the address to which the papers were mailed.
15. Write the date the papers were mailed.
16. If the papers were affixed or left at the tenant's address, write that address and place a ☑ in the box that describes that place.
17. Write the date and time the papers were affixed or left at the tenant's address.
18. Write the address to which the papers were mailed.
19. Write the date the papers were mailed.
20. Write the dates and times you tried to make personal service on the tenant. Leave blank if no attempts were made at personal service.

NOTE: ***THIS FORM MUST BE NOTARIZED. LEAVE THE REST OF THE FORM BLANK UNTIL YOU ARE IN THE PRESENCE OF THE NOTARY PUBLIC.***

21. The person who served the papers should sign here in the presence of a Notary Public.
22. The notary public will complete the date and sign his/her name.

STATE OF NEW YORK
CITY/DISTRICT/TOWN/VILLAGE COURT (1) _____
COUNTY OF (2) _____

(4) _____
_____
_____
Petitioner(s)/Landlord(s)

(3) Index/Docket No._____

-against-

AFFIDAVIT OF SUBSTITUTED OR CONSPICUOUS PLACE SERVICE

(5) _____
_____
_____
Respondent(s)/Tenant(s)

State of New York, County of (6) _____

(7) _____, being duly sworn, deposes and says that (s)he served the (8) _____ in the above entitled action in the following manner, stated herein at the following place and time: By personally delivering to and leaving a true copy for (9) _____ with (10) _____, a person of suitable age and discretion, on the (11) _____ day of _____, 20 _____, at _____ am/pm at (12) _____ the☐ dwelling place, ☐ usual place of abode, ☐ place of business within the State of New York .
Deponent further states that (s)he describes the person actually served as follows:
(13) Sex _____, Color of skin _____, Hair Color _____, Approximate: Age _____ Height _____. Other identifying features _____
_____.

AND

by mailing a true copy to the respondent at (14) _____
_____
his/her last known residence by both first class and certified mail on the: (15) _____ day of _____, 20___

OR

by affixing a true copy thereof to respondent's door or by placing a copy of the papers under the entrance door at (16) _____
_____
the☐ dwelling place, ☐ usual place of abode, ☐ place of business within the State of New York on the (17) _____ day of _____, 20 ____ at _____am/pm.

AND

by mailing a true copy of the same to the respondent at (18) _____
_____
his/her last known residence by both first class and certified mail on the: (19) _____ day of _____, 20___
Deponent previously attempted to serve the respondent on the(20)___day of_____, 20___, at___am/pm, the____ day of _____, 20 _____, at ____ am/pm, and the____ day of _____, 20 _____, at ____ am/pm.

(21) _____
Signature

_____
Type or Print Name

(22) Sworn to before me on this _____
Day of _____, 20 _____.

_____
Notary Public

Instructions for Preparing:

Nonpayment Judgment

Find the number in the form for each instruction below.
Type or print in black ink only.

1. Write the name of the court where the case was started.
2. Write the name of the county where the court is located.
3. Write the Index Number or Docket Number for this case.
4. Write your name and address, if you are the landlord. (The landlord is the "Petitioner.") If you are filling out this form for the landlord, write the ***landlord's*** name and address, not your own.
5. Write the name and address of the tenant(s). (The tenant is the "Respondent.")
6. Write the name of the landlord.
7. Write the name of the landlord.
8. Write the name of the tenant(s)
9. Write the tenant's current address.

Do not complete this form after # 9. The remainder of this form will be completed by the Court.

STATE OF NEW YORK
CITY/DISTRICT/TOWN/VILLAGE COURT (1) _____
COUNTY OF (2) _____

(4) _____
_____
_____
Petitioner(s)/Landlord(s)

-against-

(5) _____
_____
_____
Respondent(s)/Tenant(s)

(3) Index/Docket No. _____

NON PAYMENT JUDGMENT

The Notice of Petition and Petition in this proceeding having been duly served and filed with the Court and the Respondent/Tenant(s) having failed to appear and answer or Respondent/Tenant(s) having appeared and an inquest/trial held, and the issues in this proceeding having come before the Court,

NOW, on motion of Petitioner/Landlord **(6)** _____, it is

ADJUDGED that the Petitioner/Landlord,**(7)**_____, recover of the Respondents/Tenant(s),**(8)** _____, residing at **(9)**_____, New York, the sum of $_____, together with $ _____costs and disbursements of this proceeding, amounting in all to the sum of $_____, and that the Petitioner/Landlord have execution therefor, and it is further

ADJUDGED that the possession of the premises described in the Petition be granted to the Petitioner/Landlord with $_____ costs of this proceeding, and it is further

ADJUDGED that a warrant of eviction issue, such issuance to be stayed to and including the day of _____, 20 _____.

OR

ADJUDGED that Respondent/Tenant(s) have judgment dismissing the Petition herein on the merits (or) without prejudice, with _____ costs.

Dated: _____ **Date of Judgment:** _____

_____
Judge

_____
Clerk

Instructions for Preparing:

Nonpayment Warrant of Eviction

Find the number in the form for each instruction below.
Type or print in black ink only.

1. Write the name of the court where the case is being started.
2. Write the name of the county where the court is located.
3. Write the Index Number or Docket Number for this case.
4. Write the landlord's name and address, if you are the landlord. (The landlord is the "Petitioner.")
5. Write the name and address of the tenant(s). (The tenant is the "Respondent.")
6. Write the name of the county where the rental property is located.
7. Write the name of the landlord.
8. Write the date of the Court's judgment giving the right to evict the tenant.
9. Write the full address of the rental property, including apartment number, upper, lower, etc.
10. Write the full name of the tenant(s).
11. Write the name of all under-tenants, if any.

Do not complete this form after # 11. The remainder of this form will be completed by the Court.

STATE OF NEW YORK
CITY/DISTRICT/TOWN/VILLAGE COURT (1) _____
COUNTY OF (2) _____

(4) _____
_____
_____
Petitioner(s)/Landlord(s)

(3) Index/Docket No._____

-against-

WARRANT OF EVICTION
NON PAYMENT

(5) _____
_____
_____
Respondent(s)/Tenant(s)

TO THE SHERIFF OF (6) _____ COUNTY OR MARSHAL/CONSTABLE:

After presenting a petition in the above captioned matter to this court by (7) _____Petitioner/Landlord and final judgment for Petitioner having been rendered in the above-entitled proceeding on (8)_____ 20 ___, awarding to said Petitioner the delivery of possession of the premises located at: (9) _____
_____
and a warrant to Remove: (10) _____Respondent/Tenant(s)
and (11) _____Respondent/Undertenant(s).

THEREFORE, you are hereby commanded to remove Respondent/Tenant(s) and all other persons from the previously described premises, on the grounds that said tenant(s):_____
_____
_____

FAILED TO PAY RENT and continued in possession of aforementioned premises without permission of Landlord/Petitioner after Notice of Petition with date of hearing, petition and proof of service were presented to this Court. That no defense was established by respondent, and that the Court awarded possession of said property to the landlord/ petitioner.

Enter.

_____ _____
DATE CITY/DISTRICT COURT JUDGE
TOWN/VILLAGE JUSTICE

Notes

THE NEW YORK STATE UNIFIED COURT SYSTEM