

NEW COURT OFFICER DIRECTIVE - JANUARY 15, 2015

A new directive was issued by the New Jersey Administrative Office of the Courts updating the policies regarding the Special Civil Part Officers. These Officers are sometimes referred to as Court Officers, and in the past were referred to as Constables. The purpose of this article is to address the recent directive only as it relates to the job of the Court Officers with landlord - tenant matters. There are also other aspects of the directive which apply to collection procedures and other responsibilities of the Court Officers.

The Court Officers' responsibilities include serving the Landlord/Tenant Summons and Complaint, as well as serving and executing upon the Warrant of Removal. While the Court Officers work in conjunction with the New Jersey Court System, they are not employees of the Judiciary. The Court Officers earn their income according to the New Jersey Statute 22A:2-37.2.

When serving an eviction Summons and Complaint, a Court Officer is required to serve it upon a tenant on or before ten (10) calendar days prior to the trial date. A Court Officer must first attempt to personally serve either the tenant, or someone in the household over fourteen (14) years of age. If he is unable to make personal service, a copy may be attached to the door of the unit occupied by the tenant, or if that is not possible "on another conspicuous part of the subject premises." The Court Officer is then required to complete a Return of Service form which indicates the attempts made to personally serve the Defendant, describe the premises if the Summons and Complaint were posted, and indicating the date and time.

The initial attempt at service must be made within seven (7) days the Court Officer receives the Summons and Complaint from the Special Civil Part Clerk. The tenant is to be served at least ten (10) days prior to the trial date. If for some reason the Summons and Complaint cannot be served within thirty (30) days, the paperwork is to be returned as unserved, and the Court Officer must provide specific reasons why service could not be made. The Court Officer must make at least four (4) attempts at service before the Court Officer is entitled to a fee for re-service. Re-service rarely happens.

There are additional procedures for the service of and executing upon a Warrant of Removal. For a residential tenant, the Warrant of Removal cannot be served until at least three (3) business days after the trial date. This does not apply to a commercial tenant which can be locked out immediately upon service of the Warrant of Removal.

As of November 2014, the new application fee for a Warrant of Removal is \$35.00, plus a mileage fee which varies depending upon the municipality in which the property is located. The Court Officer receives \$10.00 of the application fee, as well as the mileage fee. If it becomes necessary for the Court Officer to return to execute upon the Warrant of Removal, the only extra money which the Court Officer is entitled to receive is an additional mileage fee.

After the Warrant is served, if a landlord wants the Court Officer to execute upon the Warrant for a lockout to occur, it is the landlord's duty to contact the Special Civil Part Officer. It is the Court Officer's duty to announce his or her arrival at the rental property demanding that all tenants vacate immediately. The Court Officer is to inspect the property to determine that all the tenants have left. In the event that there are tenants who have not left, the Court Officer is to immediately contact the local police.

Once everybody has been removed, the Court Officer is to affix the Warrant of Removal and a final "Eviction Notice to Tenant" form to the door of the rental premises.

These are the services to be provided by the Court Officer, without any extra fee.

The Court Officer is, however, entitled to an additional fee not to exceed \$75.00 if the Officer performs additional services (plus an additional mileage fee, if applicable). The additional service fee needs to be paid directly to the Court Officer, and not to the Court. When performing additional services, the Court Officer is required to designate on the Warrant of Removal the services performed and the fee charged.

The recent directive does not designate additional services for which a Court Officer can charge. Yet, examples would include helping to put a lock on the door, or taking an inventory of the premises.

Lastly, the Warrant of Removal and execution upon it with a lockout (if required) must be done within thirty (30) days of the issuance of the Warrant of Removal from the Court. At times the thirty (30) days may be extended based upon a post judgment relief application by a tenant. The Warrant of Removal must be requested by the landlord or the landlord's attorney within thirty (30) days of the trial date in which either a default or a judgment for possession is obtained.

If you have any questions regarding these procedures, or any other aspect of landlord - tenant or real estate law, please feel free to contact: Jonathan R. Mehl, Esq.; telephone (201) 804-0044; e-mail Jonathan@MehlLegal.com.