

## HOW TO APPEAL A MAGISTRATE'S JUDGMENT FOR EVICTION

To Appeal a Magistrate's judgment and **remain in the rental property** during the appeal, you must do the following **within ten (10) days of the judgment:**

**If you appealed in court at the end of the hearing, you have 20 days after the judgment to pay the court cost.**

Complete and file with the Clerk of Court the following documents:

1. Notice of Appeal
2. Petition to Appeal as a poor person (indigent)
3. Bond to Stay Execution

These forms are available free of charge upon request from the office of civil clerk of court.

**You should appeal only if you think the Magistrate's judgment was incorrect**

### 1. **Notice of Appeal**

- a. **Complete** the form providing the requested information.
- b. You will **file** this form and the other documents described below with the clerk of court.
- c. Mail a copy to your landlord. It must be mailed **within ten (10) days of the appeal period.**

### 2. **Bond**

When you appeal, you will probably have to pay the Clerk of Court some of the rent. The amount to pay will be calculated by the clerk (post a bond). To remain in the property during the appeal, you must also promise to pay the rent as it becomes due.

#### (a) **Pro rata rent**

If the Magistrate's judgment was entered more than five (5) days **before** the rent is due under the lease, then you pay what is called the **pro rata rent**. This amount is calculated at the rental rate per day for each day from the judgment until the next rental payment is due. For example, if the judgment was on the 10<sup>th</sup> and the rent is due on the 1<sup>st</sup> of the month, you must pay the daily rent for 20 days or from the 10<sup>th</sup> to the 1<sup>st</sup> of next month.

**(b) Rent as it becomes due:**

You also must promise to pay the regular rent to the clerk within five (5) days of the day required by your agreement with your landlord or lease. For example, if rent is due on the 1<sup>st</sup> of the month, you will have to pay the rent to the clerk by the 5<sup>th</sup>.

**If you receive government rental assistance, your payment to the clerk is the portion of the rent that you actually pay.**

If the rent is not paid within the five (5) days of the date it is due, the landlord can ask the sheriff to padlock the door and evict you.

3. **Petition to File as a Poor Person (Indigent)**

The clerk of court can **waive** the **cost** of filing an appeal if you are unable to pay the cost of filing, you must complete and file a Petition to appeal as an indigent.

The clerk can give you the form for you to complete. Please note that it must be signed in front of a notary. This step is very important because it will reduce the amount you will have to pay when you appeal.

**Appeal Checklist**

	Yes	No
1. Completed and filed Petition to sue as a poor person	( )	( )
2. Completed and filed Notice of Appeal	( )	( )
3. Completed and filed bond	( )	( )
4. Paid any monies pursuant to bond	( )	( )
5. Made copies	( )	( )
6. Mailed Notice of Appeal to landlord	( )	( )