

INSTRUCTIONS FOR FILING COMPLAINT SUMMARY POSSESSION ACTION

Before initiating a case, you should review the booklet entitled How to File and Defend a Civil Case in the Justice of the Peace Court of the State of Delaware. This booklet will explain the process involved. In order to initiate a case, you must fill out the Complaint (J.P. Civil Form No. 1) and submit it, along with the filing fee, to the Court. If you determine that your case is a **SUMMARY POSSESSION** action, you may use the attached form as an example and follow the directions below to fill out the complaint. More information is available at <https://courts.delaware.gov/jpcourt/> including interactive forms.

(The following information is not legal advice and is not a substitute for seeking legal advice from an attorney. This information is not binding on the Court if incorrect or misunderstood. The sample form and instructions are illustrative only and may or may not apply to the specific facts of your case.)

The sections of the sample complaint will be identified by capital letters in parentheses, i.e., (A), (B). These do not appear on the actual complaint but are used to help you follow the instructions to the sample form.

(A) Fill in the County, Court No. and Court Address. You should leave blank the space for "Civil Action No." The Court will assign a case number for a new filing.

(B) In the section marked PLAINTIFF(S), you must fill in your name, address, telephone number and email. If you are not the only plaintiff, you must include the same information for all other plaintiffs in the case. Each party must be listed separately. If you have filed a case before, you may include previous System ID # created by the Court under Plaintiff information. If you have more than 2 plaintiffs, please use the Civil Form CF01AP for the additional parties. If any of the parties' addresses have changed check the box under their name that indicates an address change.

(C) In the section marked DEFENDANT(S), you must fill in the name, address, phone number and email address of each defendant. **It is extremely important that the addresses given the Court are complete and correct.** If the party you are suing has a post office box, you must include their street address as well as their post office box. If you are suing a husband and wife, you must list the name of each spouse. If you have filed against defendant before, you may include previous System ID # created by the Court under Defendant information. If you have more than 2 defendants, please use the Civil Form CF01AP for the additional parties.

(D) If you are represented by an attorney, the attorney must submit the filing electronically.

(E) You should also fill in the name of the defendant's attorney, if any, and the attorney's address and phone number, if known. You may leave this blank or write unknown if you do not know if the defendant has an attorney. The defendant's attorney is required to enter their appearance with the court.

(F) You must state whether you are an individual or corporation or other artificial entity. If you are suing as an artificial entity and are not represented by an attorney, a valid Form 50 must be attached to the complaint. A Form 50 permits a person who is not an attorney to represent an artificial entity in the Justice of the Peace Court. If you do not have a valid Form 50, you must obtain one from the Chief Magistrate's office.

(G) You must indicate whether the party you are suing is an individual, corporation, or other artificial entity. (The defendant will also be required to file a Form 50 if it is an artificial entity and does not wish to be represented by an attorney).

(H) Type of Service. The Court will attempt to serve (deliver to) the defendant unless you tell the Court that you wish to hire a special process server (SPS). A Special Process Server (SPS) is an individual approved by the Court to serve documents in lieu of the Court. If selecting a Special Process Server (SPS), be sure to indicate the name and phone number of the Special Process Server (SPS) next to your selection. You should contact a Special

Process Server (SPS) prior to filing your complaint. There is a list of Court Approved Special Process Servers (SPS) available at any JP Civil Court location.

(I) Alternate Address. Select rental and fill in the street address of the unit for which you are seeking summary possession.

(J) Type of Action. Check Summary Possession. Check the appropriate box to indicate if the rental unit is a commercial or residential unit.

(K) Concise Statement of Facts. Although only a very short statement of facts is required, it is important that you include essential information. You may attach additional pages if necessary. The following must be included in a complaint for Summary Possession.

- 1) The relationship of the plaintiff and defendant with regard to the rental unit (e.g., landlord and tenant).
- 2) The address of the rental unit, including the unit number.
- 3) A statement of the facts upon which the claim is based. A copy of any written notice of the basis of the claim must be attached. For example, if you are seeking possession of a rental unit for failure to pay rent, the demand notice required by 25 Del. C. § 5502 should be attached.
- 4) A statement of what you seek in the action.

In addition, for a landlord seeking possession because the tenant has violated a rule relating to the tenant's use of the rental unit, the following information must also be included:

- 1) The rule or provision of the rental agreement allegedly broken, the date the tenant was told of the rule, and the way in which the tenant was told about the rule (e.g., handed to tenant, mailed). **A copy of the rule, as originally provided to the tenant, must be attached.**
- 2) Facts showing that the rule was broken and that notice as required by law was given to the tenant.
- 3) Facts showing a continued or recurring violation of the rule.
- 4) A statement of the purpose served by this rule.
- 5) If the rule did not exist when the tenant entered into the rental agreement, a statement that it does not work a substantial modification of the tenant's bargain, or if it does, that the tenant consented knowingly in writing to the rule.

The requirements of the complaint are specified in 25 Del. C. § 5707 and 5708 (if applicable).

(L) Relief Sought. This section asks you to indicate what you want to obtain as a result of your suit. In the sample complaint, the relief sought is possession plus back rent and late fees.

* The amount of money which is being claimed should be put on the first line and should not include interest. Any claim for late fees should be included in this amount.

* Be sure to complete all other relief which you are seeking.

* Be sure to check the box indicating that you want possession.

* Be sure to indicate whether you wish to have a jury trial or not.

(M) Finally, be sure to date and sign your complaint. All Plaintiffs listed must sign the complaint. Once completed, submit your complaint form along with the filing fee to the Court.

SAMPLE – SUMMARY POSSESSION

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE

IN AND FOR New Castle COUNTYCOURT NO 13

CIVIL ACTION NO. _____

A COURT ADDRESS
2 Penns Way, Suite 203
New Castle, DE 19720

Please list plaintiffs and defendants. Add additional party names and addresses on form CF01AP.

B **PLAINTIFF(S)**
 1) Name John Smith
 Address 123 Court Street
☐ Address has changed Wilmington, DE 19808
System ID# _____
 Phone 302-123-4567
 Email Address John.Smith@yahoo.com

C **DEFENDANT(S)**
 1) Name Jane Doe
 Address 789 Nemo Avenue, Apt. 1
☐ Address has changed Wilmington, DE 19808
System ID# _____
 Phone 302-456-7890
 Email Address JaneDoe1@gmail.com

PLAINTIFF(S)
 2) Name _____
 Address _____
☐ Address has changed _____
System ID# _____
 Phone _____
 Email Address _____

DEFENDANT(S)
 2) Name _____
 Address _____
☐ Address has changed _____
System ID# _____
 Phone _____
 Email Address _____

D **Plaintiff's Attorney or Agent, if any:**
 Address _____
System ID# (bar#) _____
 Phone _____
 Email address _____

E **Defendant's Attorney or Agent, if any:**
 Address _____
System ID# (bar#) _____
 Phone _____
 Email Address _____

F Check One
☒ Individual
☐ Corporation or other Artificial entity (see Supreme Court Rule 57)

G Check One
☒ Individual
☐ Corporation or other Artificial entity (see Supreme Court Rule 57)
 Alternate Address ☐ Physical ☐ Mailing ☒ Rental

H **Type of Service:** (Check One)
☒ Court Service
☐ Special Process Server

I 456 Nemo Avenue, Apt. 2
Wilmington, DE 19808

J **Type of Action:** (Check One)
☐ Debt ☐ Replevin
☐ Deficiency Judgment

☐ Trespass ☒ Summary Possession (LLT) - Specify
☐ Commercial Unit ☒ Residential Unit

COMPLAINT-

1. Concise Statement of Facts: (Who, What, When, Where, How?)

K Jane Doe signed a lease with me (landlord/Plaintiff) to rent the above listed apartment in May of 2025. The lease called for a rental payment of \$900.00 per month to be paid on the 1st of each month, with a late fee of \$45.00 if rent is paid after the 5th of the month. Ms. Doe failed to pay rent for November. Pursuant to the Landlord-Tenant Code, I sent a demand letter via certificate of mailing. She failed to respond, so I am seeking rent plus possession.

L 2. Relief Sought:
\$ 945.00 Amount of money claimed. (Not including interest)
\$ Pre Judgment Interest at _____ % legal rate
\$ Post Judgment Interest at _____ % legal rate
\$ 45.00 Court Costs.

OR _____ % contractual rate
 OR _____ % contractual rate

\$ X Other Accrued rent
☒ Possession Jury Trial Demanded (Possession only) ☐ Yes ☐ No
☐ Return of personal property OR \$ _____ Total value (Attach list of property stating
description, number and value of items on 8 1/2" x 11" paper

TO: THE JUSTICE OF THE PEACE COURT
Please docket the above-captioned case and issue a Summons to the above-named Defendant(s) to appear before you so there may be a trial on this case and judgment for the Plaintiff(s), together with interest and costs of this proceeding: or, for an Attachment in Lieu of Summons, please issue same and direct the Constable to execute the proper process.

M 11/24/2025 John Smith
Date Plaintiff or Plaintiff's Attorney

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS; PLEADINGS; MOTIONS AND ORDERS. Rule 3. Commencement of action.
(a) Commencement. A civil action is commenced by filing a complaint and praecipe with the Court in such form as the Court prescribes. Sufficient copies of the complaint shall be filed so that one copy can be served on each defendant. When an action is governed by a special statute, it shall be commenced in the manner prescribed by such statute.