

Hampton County Magistrate Office

411 Cemetery Road/P.O. Box 1299

Varnville, SC 29944

Phone: (803) 914-2230

Fax: (803) 914-2239

After filing a “Rule to Vacate” (Eviction) action in Magistrate’s court, the Defendant has 10 days **after being served to respond**. If the Defendant does not respond a “Writ of Ejectment” may be issued upon payment of \$10 to the court. If the Defendant responds or if you are seeking a judgment for say back rent, a court date will be set as soon as possible and you will be notified by mail of the hearing date and time.

You as the Plaintiff should contact the Magistrates office periodically throughout the process to find out if the Defendant has been served and if so, on what date. Remember the 10 day period does not start until service has been made. Once the 10 day period has passed with no response from the Defendant and you are not seeking a judgment, you will have 30 days to pay for the “Writ of Ejectment”. If you, the Plaintiff, have not paid for the Writ after the 30 days, the court will deem the matter closed. No Writ will be issued and you as the Plaintiff will need to begin the process over.

Plaintiff's Directions for Filing an Ejectment

- 1.) Complete the application for ejectment.
- 2.) Submit three copies of application, lease and/or 30 day notice to vacate upon filing the application of ejectment form with the court. You will need to send the 30 day notice to the defendant by certified/return receipt mail.
- 3.) Receive a receipt. A case number will be printed on the bottom of the receipt. Please make a note of this number; it is how your case is filed, located and identified.

Plaintiff/Landlord must have written a lease or rental agreement to file for eviction. If no lease exists, but a verbal agreement does, the plaintiff/landlord must give the defendant/tenant thirty (30) days written notice to vacate the premises and attach a copy of the written letter that was served on the defendant/tenant to vacate.

Below is the procedure that is followed when papers are brought into this office.

- 1.) The papers are processed and served by our local sheriff's department. When the defendant is in receipt of the papers he/she must vacate the premises or that appears on the rule to show cause hearing form.
- 2.) The landlord must notify the court if the defendant/tenant has vacated the premises or for whatever reason the case should be dismissed by putting your response in writing. If the defendant/tenant does not vacate, the plaintiff/landlord must appear at the rule to show cause hearing.

When filing, if the place of employment is known please document it on the form under application of ejectment.

If the above steps and directions are followed as instructed it will assure a more efficient system and court process.

If it is also very important for you the plaintiff/landlord to keep up to date with your eviction. When this form is submitted with the filing and services fees it also has to be notarized.

Make checks payable to Magistrate Court.

Filing fee: \$40.00

Writ fee: \$10.00

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Rule to Vacate General Procedures

Once the application for ejectment is filed with the \$40.00 fee, the Sheriff's Department will attempt to serve the "Rule to Vacate" to the tenant three times, with the attempts separated by at least 24 hours.

If at any point in the process the arrears are paid in full and you do not wish to evict the tenant or the tenant vacates, the Court should be notified in writing of such. (Fax (803) 914-2239)

If the tenant is personally served, the paperwork will return to the court upon which your case is scheduled for court.

At this time, if both you and the tenant appear for court, you complete a signed agreement with the tenant for the amount and date of payment to be made. If the tenant does not follow the agreement, you may file to proceed to the FINAL STEPS in the eviction process.

- A. If both you and the tenant appear for court, you also have the option of a hearing before the Judge.
- B. If you appear for the court and your tenant does not, you may complete an Affidavit and file for the final step.
- C. If you do not appear for court and the tenant does or does not appear, the case is generally dismissed.

If the tenant is not personally served, the process server will post the "Rule to Vacate" on the door each time he attempts service. When the "Rule to Vacate" is returned to the court, the tenant will be informed by certified mail. Sometimes the tenant will vacate; sometimes the tenant will contact our office. Upon contact, a court hearing date is scheduled. If the tenant does neither of these, you must wait the 10 days for the date that the "Rule to Vacate" is mailed before the final steps may be done.

Final step is the "Writ of Ejectment". The deputy will serve or post the "Writ of Ejectment" with a 24-hour notice to the tenant to vacate. The deputy will telephone you to see if indeed the tenant vacated and if not, will schedule with you a date and time to do a setout. The deputy does not move furniture; he/she is there to supervise the property of the tenant. The filing fee for a Writ is \$10.00. An Affidavit of Landlord is to be completed at the time of filing. Plaintiff must contact the Sheriff's Department to set up a time to serve Writ.

Plaintiff's Notice to Tenant Regarding Eviction Action

Before filing a "Rule to Vacate", the plaintiff must give the tenant a notice informing that the eviction action will begin if the necessary conditions are not met.

The notice must be certified mail (return receipt) or hand delivered with a witness. Posting a notice on the tenant's door is not considered proper service.

If the notice of non-payment is written in the lease, no other non-payment notice is necessary. Section 27-4-710(B) in the SC Code of Law outlines a proper notice in the lease: "IF YOU DO NOT PAY YOUR RENT ON TIME, THIS IS YOUR NOTICE. If you do not pay your rent within five days of due date, the landlord can start to have you evicted. You will get no other notice as long as you live in this rental unit."

Only one notice of non-payment is necessary during the rental period even if more than one eviction action is initiated.

To count the days, *begin the day after mailing*. (For example, for a 5 day notice for non-payment of rent: If mailed on Friday, Saturday begins day one and Wednesday would be day five. After five full days, you could begin the eviction action on Thursday). The date in which the tenant signs for the letter is not relevant in considering proper notice being given.

WITH LEASE

5 days	Non-payment of rent
14 days	Lease has been violated
20 days	Tenant at will
30 days	Terms of tenancy is over

WITHOUT LEASE

30 day notice

STATE OF SOUTH CAROLINA

COUNTY OF _____

PLAINTIFF(S)

VS.

DEFENDANT(S)

CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

APPLICATION FOR
EJECTMENT
(Eviction)

I, _____, plaintiff in this action, state that I am the landlord-lessor of premises within the jurisdiction of Magistrate _____ which is described as: (address and description of premises – apartment, house, etc.)

I further state that, with regard to the above described premises, a landlord-tenant relationship exists between myself and the defendant _____, the tenant-lessee, as evidence by the following: (Attach lease papers or other written proof.)

Grounds for this ejectment are one or more of the following:

- The tenant fails or refuses to pay the rent when due or when demanded; or
- The term of tenancy or occupancy has ended; or
- The terms or conditions of the lease have been violated as follows:

SWORN to and Subscribed before me)

this _____ day of _____, 20____.)

Magistrate or Notary Public for South Carolina)

My Commission expires: _____)

PLAINTIFF (or his attorney)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF _____)
)
 _____)
 PLAINTIFF(S))
 VS.)
 _____)
 DEFENDANT(S))

 CIVIL CASE NUMBER
 IN THE MAGISTRATE'S COURT
 AFFIDAVIT AND ITEMIZATION
 OF ACCOUNTS

Plaintiff, _____, personally appearing before me, who, being duly sworn, states that he is the plaintiff in this action and that the itemization of accounts which follows is true and correct.

He further states that no part of the sum included in the itemization below has been paid or satisfied in any fashion, and is today due and owed to him

ITEMIZATION OF ACCOUNTS

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL	\$ _____

(Copies of bills, papers or other proof of any of the above accounts should be attached to this document.)

Sworn to before me)
 this _____ day of _____, 2 _____)
)
 _____)
 Magistrate or Notary Public for South Carolina) PLAINTIFF (or his attorney)
)
 My Commission expires _____)