

## **Rule 16. Execution**

### *(a) Issuance of the writ.*

(1) No writ of restitution may issue in a case in which a judgment for possession has been entered in favor of the plaintiff based upon the defendant's nonpayment of rent until (A) the Court has set a redemption amount on the record in the presence of the parties or the plaintiff has filed a Notice to Tenant of Payment Required to Avoid Eviction pursuant to Rule 14-II, and (B) the expiration of two days after the entry of (i) a default judgment entered pursuant to Rule 11 or (ii) a judgment entered pursuant to Rule 11-I or 14.

(2) No writ of restitution may issue in any other case until the expiration of two days after the entry of (A) a default judgment entered pursuant to Rule 11 or (B) a judgment entered pursuant to Rule 11-I or 14. A prepared writ of restitution and the United States Marshal's 3-day notice to tenant shall be filed with the Clerk at the time that said writ is ordered. If alias writs of restitution are ordered, prepared writs and notices shall be filed with the Clerk. The Clerk shall deliver the original or alias writ and notice to the Marshal, who shall mail all such notices to the tenants before executing the original or alias writs. A writ of restitution shall be valid for a period of 75 days.

*(b) Stay of execution.* In its discretion and upon the posting of a bond or on such other conditions for the security of the adverse party as are proper, the Court may stay the execution of judgment in a Landlord and Tenant action pending the disposition of any motion made pursuant to Superior Court Rules of Civil Procedure 50, 52(b), or 59 or any appeal of the judgment, provided that any such motion or notice of appeal is filed within 3 days of the date of judgment.

*(c) Motion for stay of execution.* A party may seek a stay of execution of a writ of restitution by either oral or written motion. Said motion shall include a statement that the adverse party has been notified and has been given an opportunity to appear. Prior to a hearing on movant's request for a stay, the Court shall inquire of the Clerk's office when the defendant is pro se or of counsel when movant is represented by counsel, whether or not the adverse party has been notified of the movant's intent to appear before the Court on an Application for Stay.

#### *(i) Notice.*

*(A) By counsel.* When the movant is represented by counsel, the movant's attorney shall notify the adverse party of the date and time that the Motion for Stay will be presented before the Court.

*(B) By Clerk's Office.* When the movant is not represented by counsel, the Landlord-Tenant Clerk's Office shall notify the adverse party on the movant's behalf.

*(ii) Appearance by adverse party.* If the Clerk's Office is notified that the adverse party intends to oppose the request for a stay or if the adverse party cannot be reached, the motion shall be held in abeyance until the adverse party has an opportunity to be heard if the writ of restitution is not capable of being executed. If the writ is capable of being executed, then the Motion may be presented to the Court, which may, in its discretion, impose a stay of execution no greater than three business days unless the adverse party consents to a longer stay, in order to give the adverse party an opportunity to appear before the Court.

*(iii) New hearing date.* If the Court grants a stay of execution, the Court shall set a date for further hearing on the request. If the adverse party was absent for the

Application for Stay, the Clerk's Office shall notify the adverse party by facsimile transmission, mail or telephone of the date so set by the Court.

(d) *Ninety day time limit.* No writ of restitution shall be issued later than (1) 90 days after entry of judgment; or (2) 90 days after entry of default, if a default was taken; or (3) 90 days after vacation of a stay of execution; except by leave of court granted not less than 3 days after service of notice on the defendant in the form set forth in L&T Form 2.

(e) *Automatic stay of the enforcement of a money judgment.* No execution shall issue, or proceedings be taken to enforce, a money judgment until the expiration of 10 days after its entry. Nothing herein shall be construed to interfere with the Court's right to enter a stay pursuant to paragraph (b) of this Rule or with a party's right to funds deposited in accordance with SCR Civ. 67.