



Summary Ejectment v. Expedited Removal

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UNC School of Government

One-Day Civil Law Seminar 2026

Agenda

- Summary Ejectment—Procedure and Timelines
- Expedited Removal—Procedure and Timelines



Summary Ejectment

Procedure & Timelines

Some Key Points in Summary Ejectment

- Requires a landlord-tenant relationship
- Applies to residential and commercial properties
- Parties have a lease, either oral or written
- Tenant pays rent
- Tenants have statutory protections

Relationships Matter-Summary Ejectment



- The remedy provided by GS 42-26 is restricted to cases where the relation between parties is simply that of landlord and tenant and must be proven for the **SUMMARY EJECTMENT** remedy to be granted.
- An action to recover possession of real property not involving a **SIMPLE LANDLORD-TENANT RELATIONSHIP** is not an action in summary ejectment.
- A judicial official is without **SUBJECT MATTER JURISDICTION** to hear such an action.

WHY DOES SUBJECT MATTER JURISDICTION MATTER?

Without it, judgment is invalid.

It can be challenged at any point, even for the first time on appeal.

If there is no evidence to support a finding of a landlord-tenant relationship, the court must dismiss the plaintiff's summary ejectment proceeding.

Timeline-Summary Ejectment Hearing



Clerk issues summons
and sets hearing within 7
days, excluding weekends
& legal holidays

LEO attempts service
within 5 days of summons

Minimum notice of 2 days,
excluding legal holidays



- Landlord files a complaint for summary ejectment on October 1.
- Clerk issues the summons and sets a hearing date of October 12. The summons and complaint are taken to the sheriff's office on October 1.
- Sheriff mails the summons and complaint on October 2.
- On October 9, sheriff attempts service. No one answers, so the summons and complaint are posted on the premises.
- Can the hearing take place on October 12?

- Landlord files a complaint for summary ejectment on October 1.
- Clerk issues the summons and sets a hearing date of October 12. The summons and complaint are taken to the sheriff's office on October 1.
- Sheriff mails the summons and complaint on October 2.
- On October 9, sheriff attempts service. No one answers, so the summons and complaint are posted on the premises.
- Can the hearing take place on October 12?

Counting Time in Summary Ejectment

Date	Event	Day
Friday, October 9	Summons and complaint posted	0
Saturday, October 10	Weekend Day	1
Sunday, October 11	Weekend Day	2
Monday, October 12	Hearing Date	3

What happens after judgment in summary ejectment?

- Tenant has 10 days from date judgment rendered to vacate or appeal
- If appealing, tenant has 10 days from date judgment rendered to pay costs of court
- Tenant can stay execution of the judgment for possession
 - Rent in arrears
 - Undertaking to pay rent
 - Pro rata rent

File No.	Abstract No.	STATE OF NORTH CAROLINA	
Scan No.	Judgment Docket Book And Page No.	County	In The General Court Of Justice District Court Division - Small Claims
JUDGMENT IN ACTION FOR SUMMARY EJECTMENT		This action was tried before the undersigned on the cause stated in the complaint. Except as may be indicated below, the record shows that the defendant(s) was given proper notice of the nature of the action and the date, time and location of trial.	
Name And Address Of Plaintiff County Telephone No.		FINDINGS	
		The Court finds that: 1. a. Defendant 1 ☐ was ☐ was not present, and ☐ was served ☐ personally (Rule 4) ☐ by posting. ☐ was not served. b. Defendant 2 ☐ was ☐ was not present, and ☐ was served ☐ personally (Rule 4) ☐ by posting. ☐ was not served. 2. ☐ a. the plaintiff has proved the case by the greater weight of the evidence. ☐ b. the plaintiff has failed to establish the greater weight of the evidence. ☐ c. the plaintiff requested and was entitled to a judgment for possession based on the pleading. 3. ☐ a. there is no dispute as to the amount of rent in arrears, and the amount is \$ _____. ☐ b. there is an actual dispute as to the amount of rent in arrears. The defendant(s) claims the amount of rent in arrears is \$ _____, and this amount is the undisputed amount of rent in arrears. 4. other: _____	
		ORDER	
		It is ORDERED that: ☐ 1. the defendant(s) be removed from and the plaintiff be put in possession of the premises described in the complaint. ☐ 2. this action be dismissed with prejudice. ☐ 3. this action be dismissed with prejudice because the defendant(s) tendered the rent due and the court costs of this action. ☐ 4. the plaintiff recover rent of the defendant(s) in the amount and at the rate listed below, plus other damages in the amount indicated. The plaintiff is also entitled to interest on the total principal sum from this date until the judgment is paid. ☐ 5. at the request of the plaintiff, the claim for money damages is severed from the claim for possession and is not determined by this Judgment. ☐ 6. other: (specify) _____ ☐ 7. costs of this action are taxed to the ☐ plaintiff. ☐ defendant(s). If the magistrate finds in favor of the plaintiff, the defendant appeals the judgment, and a stay of execution is entered, the clerk of superior court is required to comply with the provisions in G.S. 42-34(e) or (g) for release of rental payments within five (5) business days of receiving a written request from the plaintiff.	
Name And Address Of Defendant 1 County Telephone No.		Rate Of Rent (Tenant's Share) ☐ Mo. ☐ Wk. Amt. Of Rent In Arrears (Owed To Date) \$ _____ per \$ _____ Judgment Announced And Signed In Open Court ☐	
Name And Address Of Defendant 2 County Telephone No.		Amount Of Other Damages \$ _____ Date Signature Of Magistrate TOTAL AMOUNT \$ _____ Name Of Party Announcing Appeal In Open Court CERTIFICATION	
Name And Address Of Plaintiff's Attorney County Telephone No.		(NOTE: To be used when magistrate does not announce and sign this Judgment in open court at the conclusion of the trial.) I certify that this Judgment has been served on each party named by depositing a copy in a post-paid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service. Date Signature Of Magistrate	
Name And Address Of Defendant's Attorney County Telephone No.			

Motion to Dismiss Summary Ejectment Appeal

- After appeal noticed & perfected, landlord may serve on tenant a motion to dismiss if tenant failed to raise a defense orally or in writing in small claims court and failed to do one of the following:
 1. File a motion, answer, or counterclaim in district court
 2. Comply with any obligation set forth in Bond to Stay Execution on Appeal
- Motion shall state deficiencies and that court will decide without a hearing if defendant fails to respond within 10 days of receipt

Tenant’s Defense
Judgment Form in
Summary
Ejectment
AOC-CVM-401

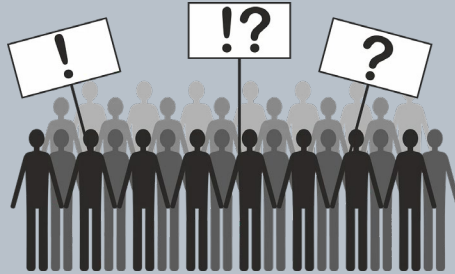
File No.		Abstract No.	
Scan No.		Judgment Docket Book And Page No.	
JUDGMENT IN ACTION FOR SUMMARY EJECTMENT G.S. 7A-210(2), 7A-224; 42-30			
Name And Address Of Plaintiff			
County	Telephone No.		
VERSUS			
Name And Address Of Defendant 1			
County	Telephone No.		
Name And Address Of Defendant 2			
County	Telephone No.		
Name And Address Of Plaintiff's Attorney			
Name And Address Of Defendant's Attorney			
AOC-CVM-401, Rev. 11/24 © 2024 Administrative Office of the Courts			

STATE OF NORTH CAROLINA			
_____ County		In The General Court Of Justice District Court Division - Small Claims	
This action was tried before the undersigned on the cause stated in the complaint. Except as may be indicated below, the record shows that the defendant(s) was given proper notice of the nature of the action and the date, time and location of trial.			
		FINDINGS	
The Court finds that:			
1. a. Defendant 1 ☐ was ☐ was not present, and ☐ was served ☐ personally (Rule 4) ☐ by posting. ☐ was not served.			
b. Defendant 2 ☐ was ☐ was not present, and ☐ was served ☐ personally (Rule 4) ☐ by posting. ☐ was not served.			
2. ☐ a. the plaintiff has proved the case by the greater weight of the evidence.			
☐ b. the plaintiff has failed to prove the case by the greater weight of the evidence.			
☐ c. the plaintiff requested and was entitled to a judgment for possession based on the pleading.			
3. ☐ a. there is no dispute as to the amount of rent in arrears, and the amount is \$ _____.			
☐ b. there is an actual dispute as to the amount of rent in arrears. The defendant(s) claims the amount of rent in arrears is _____, and this amount is the undisputed amount of rent in arrears.			
4. other: _____			
		ORDER	
It is ORDERED that:			
☐ 1. the defendant(s) be removed from and the plaintiff be put in possession of the premises described in the complaint.			
☐ 2. this action be dismissed with prejudice.			
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☐ 4. the plaintiff recover rent of the defendant(s) in the amount and at the rate listed below, plus other damages in the amount indicated. The plaintiff is also entitled to interest on the total principal sum from this date until the judgment is paid.			
☐ 5. at the request of the plaintiff, the claim for money damages is severed from the claim for possession and is not determined by this Judgment.			
☐ 6. other: (specify)			
☐ 7. costs of this action are taxed to the ☐ plaintiff. ☐ defendant(s).			
If the magistrate finds in favor of the plaintiff, the defendant appeals the judgment, and a stay of execution is entered, the clerk of superior court is required to comply with the provisions in G.S. 42-34(e) or (g) for release of rental payments within five (5) business days of receiving a written request from the plaintiff.			
Rate Of Rent (Tenant's Share) ☐ Mo. ☐ Wk. \$ _____		Amt. Of Rent In Arrears (Owed To Date) ☐ Judgment Announced And Signed In Open Court	
Amount Of Other Damages \$ _____		Date	Signature Of Magistrate
TOTAL AMOUNT  \$ _____		Name Of Party Announcing Appeal In Open Court	
		CERTIFICATION	
(NOTE: To be used when magistrate does not announce and sign this Judgment in open court at the conclusion of the trial.)			
I certify that this Judgment has been served on each party named by depositing a copy in a post-paid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.			
Date		Signature Of Magistrate	

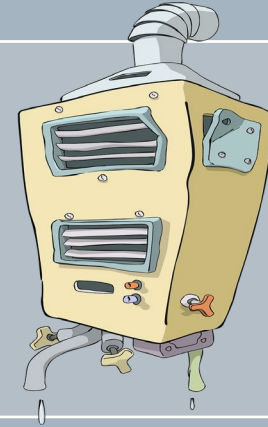
Tenants' Rights Statutes



Self-Help
Eviction



Retaliatory
Eviction



Residential
Rental
Agreements
Act

Expedited Removal

Procedure & Timelines

Some Key Points in Expedited Removal

- Requires that there be no landlord-tenant relationship
- Requires that occupant have no ownership interest in subject property
- Applies to residential property ONLY
- Parties never had a lease
- No rent has been paid or demanded

A Word about Trespass

- Right to occupancy derives from consent of the owner (no LL-T relationship).
 - Right ceases when consent is withdrawn.
 - Trespass may be either civil or criminal.
 - Civil Trespass (**NOT EXPEDITED**)
 - Possession, entry, damage (invasion of possessory rights)
 - Criminal Trespass
 - 1st Deg.-unauthorized entry into building G.S. 14-159.12
 - 2nd Deg.-entry after notification not to enter or remain G.S. 14-159.13
-  Expedited Removal statute does not deprive owner or law enforcement from bringing criminal charges. G.S. 14-159.56.

Unauthorized Person

G.S. 14-159.50(7)

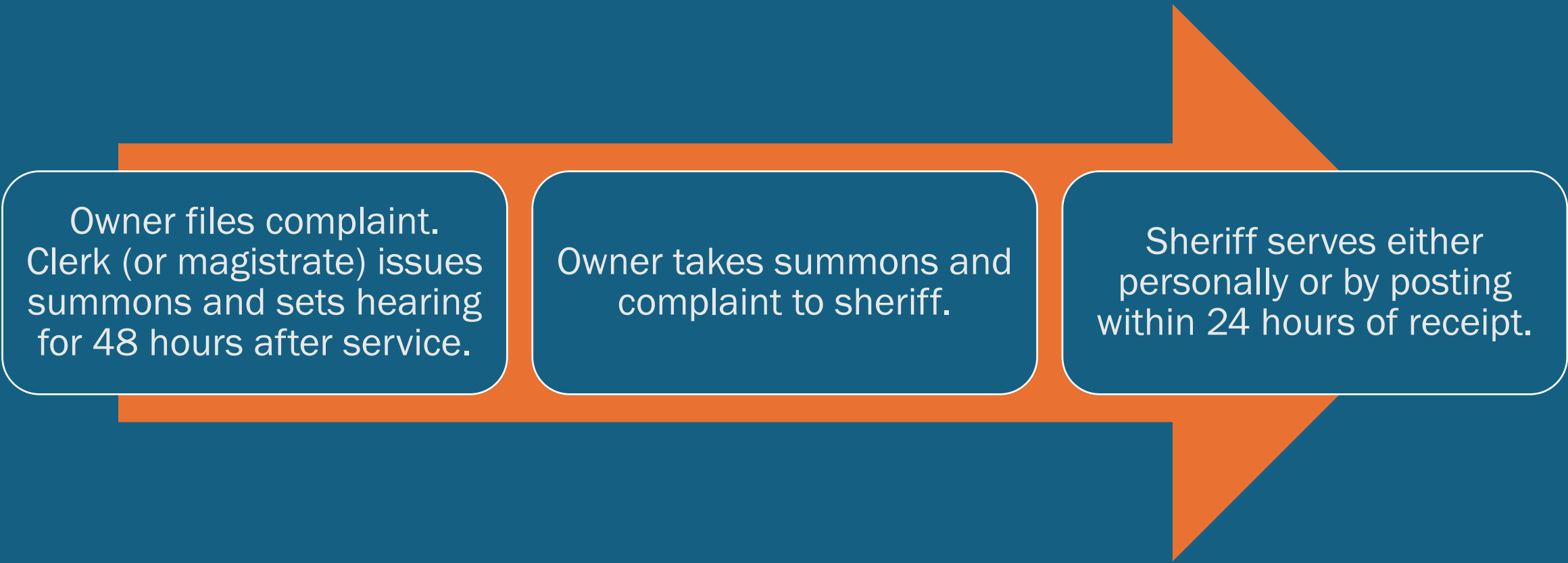
- Occupying residential property
- No legal claim to property
- No valid rental agreement
- No contract for deed
- Not paid any rent or other form of payment
- Not otherwise authorized to occupy the property
- Not a tenant holding over after lease term has expired

Relationships Matter-Expedited Removal



- Requesting party-Owner or authorized representative
- Unauthorized person (UP)-entered after Owner acquired property
- Owner directed UP to leave
- UP not a tenant or owner
- No pending litigation related to property between owner and UP
- No lease or contract for deed
- No rent or other form of payment from UP to Owner

Timeline-Expedited Removal Hearing



Owner files complaint.
Clerk (or magistrate) issues
summons and sets hearing
for 48 hours after service.

Owner takes summons and
complaint to sheriff.

Sheriff serves either
personally or by posting
within 24 hours of receipt.

Example #2

- Owner files a complaint for expedited removal of unauthorized persons from residential property on October 6.
- Clerk or magistrate issues the summons and sets a hearing date of October 9. Owner takes the summons and complaint to the sheriff's office on October 6.
- On October 7, sheriff attempts personal service. No one answers, so the summons and complaint are posted on the front door.
- Can the hearing take place on October 9?



STATE OF NORTH CAROLINA
County

Magistrate Summons
COMPLAINT IN ACTION FOR EXPEDITED
REMOVAL OF UNAUTHORIZED PERSONS
FROM RESIDENTIAL PROPERTY

U.S. 14-100-02

A Civil Action Has Been Commenced Against You!
You are notified to answer the complaint of the plaintiff and appear before the magistrate at the specified date, time, and location of trial listed below. You will have the opportunity at the trial to defend yourself against the claim stated in the complaint and to present evidence. Failure to appear at the trial may result in a default judgment being entered against you. If you fail to appear and defend against the complaint, the magistrate may enter a judgment against you.

NOTE TO PLAINTIFF: The plaintiff or plaintiff's attorney or agent is required to provide the summons and the complaint to the sheriff for service.

2025-01-01, New 1025
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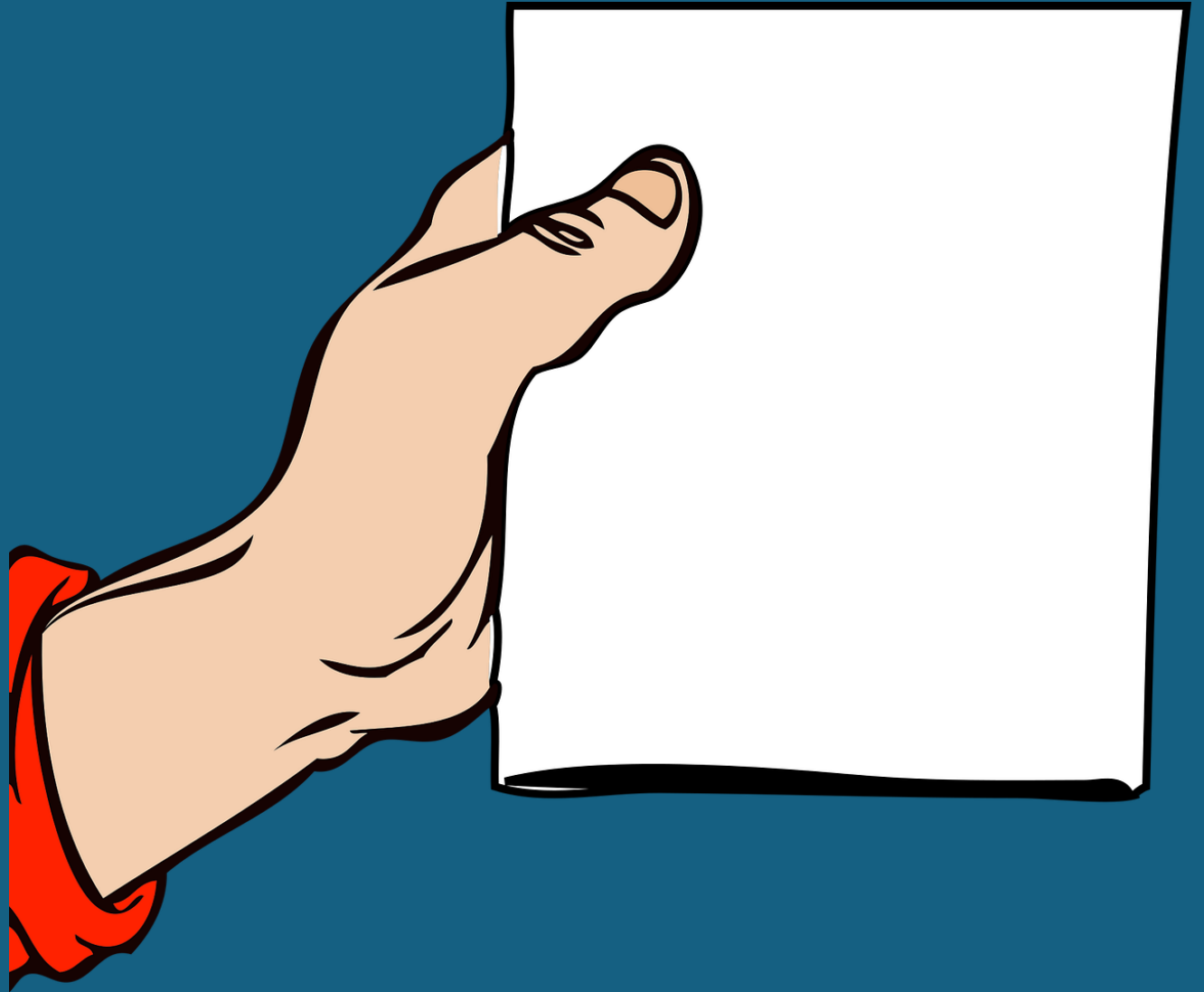
Expedited Removal Dates and Times

Date	Event
October 6	Owner files complaint, clerk or magistrate issues summons, owner takes summons and complaint to sheriff
October 7	Sheriff serves within 24 hours of receipt
October 9	Hearing date of summons falls within 48 hours of service

Service of Order

G.S. 14-159.52(b)

- If present, defendant is served with order in court. Defendant has 4 hours to vacate.
- If not present, owner provides order to sheriff and sheriff serves personally or by posting within 24 hours. Defendant has 4 hours to vacate from service.



AOC-CVM-409

File No.		STATE OF NORTH CAROLINA	
Scan No.		In The General Court Of Justice District Court Division	
JUDGMENT IN ACTION FOR EXPEDITED REMOVAL OF UNAUTHORIZED PERSONS FROM RESIDENTIAL PROPERTY		County _____	
G.S. 14-159.52, -159.53; Chapter 42, Art. 22D		This action was tried before the undersigned on the cause stated in the complaint. The record shows that the defendant(s) was given proper notice of the nature of the action and the date, time and location of trial.	
Name Of Plaintiff(s)		FINDINGS	
VERSUS		The Court finds that:	
Name Of Defendant(s)		1. a. Defendant 1 ☐ was ☐ was not present, and ☐ was served ☐ personally ☐ by posting. ☐ was not served. b. Defendant 2 ☐ was ☐ was not present, and ☐ was served ☐ personally ☐ by posting. ☐ was not served. c. Defendant 3 ☐ was ☐ was not present, and ☐ was served ☐ personally ☐ by posting. ☐ was not served. d. Defendant 4 ☐ was ☐ was not present, and ☐ was served ☐ personally ☐ by posting. ☐ was not served.	
Street Address Of Residential Property		2. ☐ a. the plaintiff(s) has proved the case by the greater weight of the evidence and is entitled to possession of the residential property. ☐ b. the plaintiff(s) has failed to prove the case by the greater weight of the evidence.	
City Of Residential Property		3. ☐ a. the amount of the bond that defendant(s) must pay to the clerk to stay judgment on appeal is \$10,000. ☐ b. the amount of the bond that defendant(s) must pay to the clerk to stay judgment on appeal is \$_____	
State Of Residential Property Zip Code Of Residential Property		based on the following: _____	
Physical Description Of Residential Property		4. Other: _____	
Name Of Property Owner		ORDER	
Date		It is ORDERED that:	
Signature Of Magistrate		☐ 1. the plaintiff(s) is granted possession and the defendant(s) must vacate the premises ☐ (choose this option if defendant(s) is present in court for service) by the date and time listed below.	
Date		Time (must be no more than 4 hours after Order served on defendant(s)) ☐ AM ☐ PM	
Signature Of Magistrate		☐ (choose this option if defendant(s) is not present in court) within four hours after service of the judgment by the sheriff.	
Date		☐ 2. this action be dismissed with prejudice.	
Signature Of Magistrate		☐ 3. Other: _____	
Date		☐ 4. costs of this action are taxed to the ☐ plaintiff(s). ☐ defendant(s).	
Signature Of Magistrate		CERTIFICATION OF SERVICE	
Date		I certify that I handed a copy of this order to the defendant(s) at the hearing.	
Signature Of Magistrate		Date	
Signature Of Magistrate		Signature Of Magistrate	
NOTES TO MAGISTRATE: You are required to enter the written judgment in this case immediately and may not reserve judgment as in small claims cases. If a defendant is present in the courtroom when you render your judgment, you must give the defendant a copy of the judgment and certify on the original judgment that you have done so. If you are unable to serve a defendant in the courtroom, the plaintiff(s) should be given a copy of the order to take to the sheriff's office for service on the defendant. The minimum bond to stay the judgment is \$10,000, but may be set at a higher amount based on an estimate of the rent that could reasonably be charged for a valid rental of the property during the time the unauthorized person is prosecuting the appeal and reasonable damages that the property owner may suffer, including damage to property and damages arising from the inability of the property owner to reside in or rent the property during the unauthorized person's possession of the property.			
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Choose this option if defendant(s) not in court. Must vacate within four hours after service of the judgment by the sheriff.

Return of Service on AOC-CVM-409

RETURN OF SERVICE IF NOT SERVED IN THE COURTROOM		
I certify that this Judgment In Action For Expedited Removal Of Unauthorized Persons From Residential Property was received and served as follows:		
DEFENDANT 1		
Date Served	Time Served ☐ AM ☐ PM	Name Of Defendant
☐ By delivering to the defendant named above a copy of the Judgment.		
☐ By posting a copy of the Judgment on the front door of the following property:		
Address Of Property Where Posted		

Appeal of Expedited Removal

- G.S. 14-159.53
 - Either party may appeal to district court for trial de novo.
 - Magistrate must set a minimum \$10,000 bond.
 - Based on estimate of rent that could be charged during appeal, reasonable damages, and loss of use



Violation of Court Order & Wrongful Removal

- Failure to vacate may result in a criminal trespass charge. Personal property may be removed to or near the property line. G.S. 14-159.54
- A person harmed by a wrongful removal may bring an action to recover possession of the property and actual damages. G.S. 14-159.56

Key Takeaways

- The only permissible way for a landlord to remove a tenant from residential property is to follow the procedures in the statute for summary ejectment.
- Expedited removal is not a substitute for summary ejectment and does not prohibit the owner or law enforcement from bringing criminal charges.



Thank You!

Melanie Crenshaw

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