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# BE AWARE OF THESE PROCEDURAL RULES FOR SUMMARY EJECTMENT CASES

In the absence of a “simple landlord-tenant relationship,” both small claims magistrate and district court judge lack subject matter jurisdiction to hear action labeled as “summary ejectment.”

Agent with personal knowledge may sign complaint and represent LL. GS 7A-223(a).

Property owner is rpii and must be listed as plaintiff in complaint.

Action must be calendared within 7 business days of complaint being filed.

Sheriff must serve summons and complaint within 5 days of complaint being filed.

Service of process must occur at least 2 days prior to trial date.

Service by first class mail + posting on rental premises is sufficient for award of possession only. Magistrates should leave #7 related to award of costs on CVM-401 Judgment Form blank.

If landlord is seeking both money damages and possession, service is by posting, and defendant is not present, 2017 amendment allows plaintiff to ask that the claims be “severed,” with claim for possession heard immediately and money damages claim heard at later time after defendant has been personally served.

Service by private process server not allowed even after unsuccessful attempt by sheriff for possession claim, but private process server allowed to serve severed claim for money damages..

Plaintiff is entitled to judgment on the pleadings if:

- ≈ Defendant was served, but has not filed answer nor appeared for trial
- ≈ Complaint lists breach of lease condition for which re-entry is specified as grounds
- ≈ Plaintiff requests JOTP in open court

Continuances are available only for good cause and for no more than five days or next session of court, whichever is greater, unless parties consent to longer period

Magistrate prohibited from reserving judgment unless parties agree or court finds the case is “more complex.” In case of complex case, magistrate required to enter judgment within 5 business days.

If judgment is for landlord in small claims court and tenant appeals, tenant is subject to being evicted while appeal is pending unless tenant satisfies statutory requirements for obtaining stay.

Costs of appeal for trial de novo must be paid within 10 (not 20) days of entry of judgment.

Appeal subject to dismissal in district court under some conditions, requiring magistrate to make a finding when tenant presents a defense in small claims court.

Sheriff must execute a writ of possession within 5 days of issuance.