**PROCEDURES AND INSTRUCTIONS**

**FOR APPEALING AN EVICTION JUDGMENT**

Either party may appeal a judgment rendered in the justice court. If either party wishes to appeal an Eviction Action judgment, they must file a **NOTICE OF APPEAL** with the court **WITHIN FIVE (5) calendar days** of the entry of judgment.

***THE COURT CANNOT EXTEND THE TIME FOR APPEAL***

If a judgment is issued for a **material and/or irreparable breach**, the Writ of Restitution will be carried out immediately (within 12-24 hours). To STAY enforcement of the Writ, a **NOTICE OF APPEAL and a SUPERSEDEAS BOND** (bond set by the court) must be filed **IMMEDIATELY** with the court, before the eviction process commences. The eviction can only be stayed with the filing of a supersedeas bond. **The court cannot waive a supersedeas bond.**

It is not required to post a supersedeas bond to file an appeal. The appeal will proceed with or without a supersedeas bond.

**Please STOP**

* If there has not yet been a judgment rendered.
* If the judgment was entered by default. You cannot appeal from a default judgment.
* You must first file a Motion to Vacate Judgment.
* If the time to appeal has expired.

**Please PROCEED**

* **If you wish to appeal a judgment or ruling in your case.**

**INSTRUCTIONS:**

1. Review the Notice of Right to Appeal form.
2. Complete the Notice of Appeal form and file it with the clerk within the time allowed (five days or sooner if you are trying to avoid eviction. Refer to the judgment. If an immediate eviction was ordered (12-24 hours), the Notice of Appeal and supersedeas bond should be filed before the Writ of Restitution (eviction order) is enforced.

At the same time the Notice of Appeal is filed:

1. Pay the fees required for a copy of the court record, certification and file transmittal.
2. Pay the required Cost Bond ($250.00) or file the Affidavit of Inability to Post Bond.
3. Complete and file the Notice of Filing Cost Bond on Appeal.
4. Complete and file the Designation of Record on Appeal form.
5. Decide whether you will seek a stay of enforcement of the judgment by posting a supersedeas bond. There are two kinds of supersedeas bonds in a forcible detainer action - one stays enforcement of collection of the judgment award, the other stays enforcement of the judgment for possession. The court can tell you how much is required to be posted to effect a stay.
6. Follow the instructions in the Notice of Right to Appeal to follow through with the appeal process (paying rent to the court; obtaining a transcript; preparing a memorandum or replying to a memorandum; paying filing fees to Superior Court, etc.). Every step is critical to the appeal process. Failure to fully comply with all requirements will result in your appeal being abandoned and dismissed.

IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS. A NOTICE OF CHANGE OF ADDRESS form must be filed with the court when a party changes their address.

* **APPELLANT** is the party filing the appeal
* **APPELLEE** is the opposing party
* **TRIAL COURT** is the Justice of the Peace Court

**The Notice of Right to Appeal outlines appeal process procedures and contains important bond information.**