

Eviction Process Summary (Unopposed Matters)

Basic summary of the stages which needs to be followed in a matter which is undefended by the debtor / Tenant. Where a matter is defended, it becomes far more intricate.

Stage 1 - Instructions

1. Receive instructions to proceed with eviction proceedings.
2. Open office file.
3. Letter to client wherein acknowledge receipt of new instruction.
4. Letter of termination to Tenant.
5. Reaction from Tenant send to client for instructions.
6. Settlement instructions received and notify Tenant.
7. No settlement achieved, advised client accordingly and receive obtain instructions to proceed to launch application for eviction.

Stage 2 – Application for eviction

1. Drafted Notice of Motion and founding affidavit.
2. Send affidavit to client in order to be deposed to before a commissioner of oaths;
3. Receive peruse and consider original founding affidavit to check if it was properly commissioned and signed.
4. Make necessary copies of the Notice of Motion
5. Deliver Notice of Motion to Court to be issued by the Clerk of the Court.
6. Receive issued Notice of Motion back from the Clerk of Court with allocated case number.
7. Send issued Notice of Motion to the Sheriff for service thereof on the Tenant, Occupants and the Municipality.
8. Received returns of Service from Sheriff and send copy thereof to Client. Request client's instruction to appoint tracer in event of non-service.
9. Tracer appointed on "no trace, no fee basis".
10. Trace report received and sheriff instructed to serve summons again on new address.

Stage 3 – *Ex parte* application for direction to bring PIE application to notice of Tenant

1. Letter send to client requesting instructions to proceed to apply for direction to serve notice of motion of eviction application on the respondents.
2. Drafted Notice of Motion and founding affidavit and draft order.
3. Formal attendance at commissioner of oaths to depose to the founding affidavit on behalf of client;
4. Make necessary copies of the Notice of Motion;
5. Arrange a date and time for the ex parte application with the Magistrate through the offices of the Clerk of the Court. Also obtain a date for the hearing of the main application (Pie application) from the clerk of the court to complete draft order
6. Attend at court with Notice of Motion in order for the Clerk of the Court to issue the notice of motion and to prepare the court file.
7. Receive issued Notice of Motion and court file back from the Clerk of Court with allocated court date.
8. Formal attendance court in order to obtain ex parte order (direction to serve notice of motion of eviction application on the respondents)

9. Send issued Notice of Motion, ex parte application and court order to the Sheriff for service thereof on the Tenant, Occupants and the Municipality by way of personal service.
10. Received returns of Service from Sheriff and send copy thereof to Client. Request client's instruction to appoint tracer in event of non-service (not personal service).
11. Tracer appointed on "no trace, no fee basis".
12. Trace report received and sheriff instructed to serve summons again on new address.
13. On date appointed for the hearing of the Notice of Motion apply for further directions to serve notice of motion of eviction application on the respondents other than by way of personal service

Stage 4 – Order for eviction

1. Letter send to client requesting instructions to proceed to apply for an order for eviction.
2. Instruction to proceed with application for eviction order received from client.
3. Prepare draft order.
4. Attend Court to apply for the order for eviction.
5. Send letter to client advising that the order has been granted with date thereof.
6. Send court order to the Sheriff for service thereof on the Tenant and Occupants by way of personal service.
7. Receive instructions that the Tenant and Occupants failed to vacate the leased premises.
8. Obtain instructions from client to have the Tenant and Occupants evicted from the premises.
9. Instruct Sheriff to evict the Tenant and illegal Occupants form the lease premises.
10. Received returns of Service from Sheriff and send copy thereof to Client.

Stage 5 - Conclusion

1. Report to client re the finalisation of the matter and request further instructions.
2. Obtain instruction to proceed with closing of file.