

No. 1995-36

AN ACT

HB 1154

Amending the act of April 6, 1951 (P.L.69, No.20), entitled "An act relating to the rights, obligations and liabilities of landlord and tenant and of parties dealing with them and amending, revising, changing and consolidating the law relating thereto," further providing for the definition of "justice of the peace" and for notice to quit; providing for summons and service, for hearing, judgment, writ of possession and payment of rent by tenant and for return of writ.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 102(2) of the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951, is amended to read:

Section 102. Definitions.—As used in this act—

* * *

(2) "Justice of the peace" shall include justices of the peace, *district justices*, aldermen [and], magistrates *or any other court having jurisdiction over landlord and tenant matters, excluding a court of common pleas.*

* * *

Section 2. Section 501 of the act, amended December 20, 1990 (P.L.1465, No.221), is amended to read:

Section 501. Notice to Quit.—(a) A landlord desirous of repossessing real property from a tenant may notify, in writing, the tenant to remove from the same at the expiration of the time specified in the notice under the following circumstances, namely, (1) Upon the termination of a term of the tenant, (2) or upon forfeiture of the lease for breach of its conditions, (3) or upon the failure of the tenant, upon demand, to satisfy any rent reserved and due.

[In] (b) *Except as provided for in subsection (c), in* case of the expiration of a term or of a forfeiture for breach of the conditions of the lease where the lease is for any term of [less than one year] *one year or less* or for an indeterminate time, the notice shall specify that the tenant shall remove within [thirty] *fifteen* days from the date of service thereof, and when the lease is for [one year or more] *more than one year*, then within [three months] *thirty days* from the date of service thereof. In case of failure of the tenant, upon demand, to satisfy any rent reserved and due, the notice[, if given on or after April first and before September first,] shall specify that the tenant shall remove within [fifteen] *ten* days from the date of the service thereof[, and if given on or after September first and before April first, then within thirty days from the date of the service thereof].

(c) *In case of the expiration of a term or of a forfeiture for breach of the conditions of the lease involving a tenant of a mobile home park as*

defined in the act of November 24, 1976 (P.L.1176, No.261), known as the "Mobile Home Park Rights Act," where the lease is for any term of less than one year or for an indeterminate time, the notice shall specify that the tenant shall remove within thirty days from the date of service thereof, and when the lease is for one year or more, then within three months from the date of service thereof. In case of failure of the tenant, upon demand, to satisfy any rent reserved and due, the notice, if given on or after April first and before September first, shall specify that the tenant shall remove within fifteen days from the date of the service thereof, and if given on or after September first and before April first, then within thirty days from the date of the service thereof.

(d) In case of termination due to the provisions of section 505-A, the notice shall specify that the tenant shall remove within [fifteen] *ten* days from the date of service thereof.

(e) The notice above provided for may be for a lesser time or may be waived by the tenant if the lease so provides.

(f) The notice provided for in this section may be served personally on the tenant, or by leaving the same at the principal building upon the premises, or by posting the same conspicuously on the leased premises.

Section 3. The act is amended by adding sections to read:

Section 502. Summons and Service.—(a) Upon the filing of the complaint, the justice of the peace shall issue a summons which recites substantially the complaint, is directed to any writ server, constable or the sheriff of the county and commands that writ server, constable or sheriff to summon the tenant to appear before the justice of the peace to answer the complaint on a date not less than seven nor more than ten days from the date of the summons.

(b) The summons may be served personally on the tenant, by mail or by posting the summons conspicuously on the leased premises.

Section 503. Hearing; Judgment; Writ of Possession; Payment of Rent by Tenant.—(a) On the day and at the time appointed or on a day to which the case may be adjourned, the justice of the peace shall proceed to hear the case. If it appears that the complaint has been sufficiently proven, the justice of the peace shall enter judgment against the tenant:

(1) that the real property be delivered up to the landlord;

(2) for damages, if any, for the unjust detention of the demised premises; and

(3) for the amount of rent, if any, which remains due and unpaid.

(b) At the request of the landlord, the justice of the peace shall, after the fifth day after the rendition of the judgment, issue a writ of possession directed to the writ server, constable or sheriff commanding him to deliver forthwith actual possession of the real property to the landlord and to levy the costs and amount of judgment for damages and rent, if any, on the tenant, in the same manner as judgments and costs are levied and collected on writs of execution. This writ is to be served within no later than forty-

eight hours and executed on the eleventh day following service upon the tenant of the leased premises. Service of the writ of possession shall be served personally on the tenant by personal service or by posting the writ conspicuously on the leased premises.

(c) At any time before any writ of possession is actually executed, the tenant may, in any case for the recovery of possession solely because of failure to pay rent due, supersede and render the writ of no effect by paying to the writ server, constable or sheriff the rent actually in arrears and the costs.

Section 504. Return by Constable or Sheriff.—The writ server, constable or sheriff shall make return of the writ of possession to the justice of the peace within ten days after receiving the writ. The return shall show: (1) the date, time, place and manner of service of the writ; (2) if the writ was satisfied by the payment of rent due or in arrears and costs by or on behalf of the tenant, the amount of that payment and its distribution; (3) the time and date of any forcible entry and ejection, or that no entry for the purpose of ejection had been made; and (4) his expenses and fees, which expenses and fees shall have been paid by the tenant or, if paid by the landlord, reimbursed to the landlord by the tenant in order to satisfy the writ.

Section 4. This act shall take effect in 60 days.

APPROVED—The 6th day of July, A.D. 1995.

THOMAS J. RIDGE