

Interest of Justice Standard

A Practical Understanding for Landlord/Tenant Eviction Requests

Landlords seeking eviction must:

- Have been awarded possession in the judgment
- Show additional factor(s) satisfying the interest of justice standard.

Such factors **may** include:

- o Landlord applied for rental assistance with the Delaware State Housing Authority (DSHA) (if they qualify);
- o Landlord complied with Federal CARES Act;
- o Emergency issues consistent with forthwith summons standards,
 - see 25 Del. C. § 5702;
- o Substantial economic injury affecting the ability to provide housing; or
- o Other influencing factors. Examples are:
 - tenant vacated the property or is deceased;
 - tenant failed to communicate;
 - tenant did not pay rent although financially unaffected by COVID;
 - tenant refused to discuss payment plan options or seek rental assistance;
 - **tenant failed to engage in the ODR/mediation program; or**
 - other grounds for a summary possession action exist against this tenant.

Tenants seeking to stay eviction must:

- Demonstrate that a stay satisfies the interest of justice standard.
 - o Factors related to that standard are likely to include:
 - COVID19 financial factors;
 - COVID19 quarantine requirements;
 - COVID19-related employment difficulties, including childcare challenges;
 - COVID 19-related health factors; or
 - **landlord failed to engage in ODR/mediation program.**

Credible Evidence must support any position.

Evidence must be:

- In the form of a written motion, if not presented during a hearing; or
- Sworn/Under the Penalty of Perjury.

All evidence **must** meet this standard for it to be considered by the judge.

“In the interest of justice” requires judges to balance all factors to determine if eviction should be allowed to proceed.