

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:

- Landlord applied for rental assistance with the Delaware State Housing Authority (DSHA) (if they qualify)
- Landlord complied with Federal CARES Act
- Emergency issues consistent with forthwith summons standards,
 - see 25 Del. C. § 5702
- Substantial economic injury affecting the ability to provide housing
- 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
 - 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
- 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

Credible Evidence must support any position.

Evidence must be:

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

All evidence **must** meet this standard.

- If not the judge will not consider it

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