

AKRON MUNICIPAL LOCAL RULES OF COURT

RULE NO. 29 – FORCIBLE ENTRY AND DETAINER

A. **Complaint.**

A complaint in Forcible Entry and Detainer shall be filed in accordance with AMCR No. 11 and shall contain a reason for the eviction, a copy of the notice given under .R.C. 1923.04, a copy of the written instrument upon which the claim is founded, proof of ownership of the property, and proof that the property is registered with the Summit County Fiscal Office Rental Registry, or evidence that the property is exempt from the Registry. A plaintiff/owner must file a complaint personally or through a licensed attorney. When the plaintiff/owner is a corporation, the complaint must be signed by a licensed attorney. Noncompliance with this rule shall result in the dismissal of the complaint.

B. **Trial.**

A defendant shall be served at least five (5) days prior to the date set for trial. Motions shall be heard at the trial, unless the assigned judge or magistrate directs otherwise.

A continuance shall be filed in accordance with AMCR No. 22. Unless otherwise granted, no continuance shall be extended for more than three (3) calendar days. No continuance in an action under this chapter shall be granted for a period longer than eight (8) days, unless the plaintiff applies for the continuance and defendant consents to it, or unless the defendant applies for the continuance and gives a bond to the plaintiff, with good and sufficient surety, that is approved by the court and conditioned for the payment of rent that may accrue, if judgment is rendered against the defendant. R.C. 1923.08.

C. **Jury trial.**

A demand for jury trial shall be made in accordance with AMCR No. 19(A), except that said demand shall not be made less than five (5) days prior to the trial date.

D. **Writs of Restitution.**

The Clerk shall not issue a writ of restitution or an alias writ of restitution after sixty (60) days has expired from the date a Court ordered restitution of the premises, unless authorized by the Presiding or signing Judge.

RULE NO. 39 –MOTION TO SEAL EVICTION RECORD

- A. The Court may order the Clerk of Court to seal an eviction record when the interests of justice in sealing the record outweigh the interests of the government and the public in maintaining a public record of the case, including, but not limited to, the following examples:
- (1) The Court dismissed or entered judgment for the tenant on the claim for eviction;
or
 - (2) The landlord dismissed the claim for eviction before the adjudication of the claim;
or
 - (3) The landlord stipulates, in writing, to sealing the record, except that the sealing of the record, solely on the basis of the stipulation by the landlord, shall be granted only once in any three year period for the tenant; or
 - (4) The landlord prevailed on the merits of the claim for eviction, and all of the following occurred:
 - (a) Extenuating circumstances led to the eviction;
 - (b) At least three years have passed since judgment was entered for the landlord;
 - (c) At least three years have passed since the tenant has had an adverse judgment granting an eviction in any jurisdiction.
- B. An eviction record may be ordered sealed by the Court on its own motion under Section A(1) and A(2) of this Rule. All other orders to seal an eviction record shall be made by application, and the following conditions must apply:
- (1) The party seeking to have the record sealed must file a written motion, even if the landlord agrees to the sealing in a settlement agreement or agreed judgment entry. The motion must be accompanied by an affidavit attesting to all relevant facts supporting sealing.
 - (2) The moving party must serve the motion upon the opposing party pursuant to Civ. R. 4.1.
 - (3) The opposing party may file a response within the time specified by Civ. R. 6(C).
 - (4) Either party may request a hearing on the motion. If a hearing is not requested by either party, the motion will be decided based on the filings with the Court.
- C. The Court may consider all relevant factors when examining a motion to seal an eviction record, which may include, but are not limited to:
- (1) The disposition of the eviction claim;
 - (2) Whether the sealing of the record is agreed to or disputed by the opposing party;
 - (3) If the landlord received judgment on the eviction, and the grounds upon which the judgment was granted;
 - (4) Whether the movant has satisfied any money judgment issued in favor of the opposing party in the eviction case; and
 - (5) Any other information relevant to the determination of whether justice requires the sealing of the record.

- D. If the Court grants a motion to seal eviction record, the Clerk of Court shall cause the tenant's name to be redacted from all public records it maintains, including the electronic case index system, to the same extent it would for a criminal sealing of records. The Clerk of Court shall retain both the electronic record of the action, and the physical file in accordance with its record retention policy. The Clerk of Court shall ensure that the record of the case can be retrieved and unsealed if ordered.
- E. Sealing the record of eviction does not authorize a tenant or former tenant to make a false statement regarding the filing or granting of the eviction.
- F. Sealing of the record restricts access to the case record, it does not remove the record from the Court's electronic or physical docket. Access to the sealed record shall be limited to the Clerk of Court, the Clerk's designee, and any Akron Municipal Court Judge or his/her designee. A party of the original action may file a motion requesting access to the record or case file. The Court may provide access to the record as required by law enforcement officials, or for other official government business.
- G. A party to the original action may file a motion seeking to unseal the eviction record, setting forth in the motion and attached affidavit, good cause as to why the record should be unsealed. For good cause, the Court may unseal a record on its own motion, after notice to the parties of the case.