

**CIVIL COURT OF THE CITY OF NEW YORK**

**Civil Court Directive**

Subject: Timeliness of Jury Demands in  
Summary Proceedings to Recover Real  
Property

Class: DRP-103  
Category: LT-10  
Eff. Date: June 8, 1998

=====

This is an amendment of DRP-103 dated June 30, 1989, which required a Tenant/Respondent and Petitioner/Landlord to demand a jury trial in a summary holdover proceeding no later than the date the case initially was called on the calendar, even where the proceeding was adjourned. This amendment reflects case law and an interpretation of NYCCA § 1303, and RPAPL §§ 743 and 745, which allows a Tenant/Respondent to interpose a jury demand on an adjourned date when issue has not yet been joined. Where a proceeding is adjourned at the time the petition is noticed to be heard, nothing else being stated, it is deemed an adjournment for all purposes, including filing a jury demand. This amendment also permits a Petitioner/Landlord to file a jury demand up until the trial of the proceeding is commenced.

In a summary holdover proceeding to recover real property the Clerk is to accept a jury demand and the required filing fee as having been timely filed in the following instances:

- a) By the Tenant/Respondent: At the time of answering. "The time of answering" is to mean the time when the case is first noticed to be heard or any subsequent adjourned date prior to the commencement of the trial.
- b) By the Landlord/Petitioner: At any time before the day of trial. "The day of trial" is to mean the day on which the trial of the proceeding is commenced.

In a summary non-payment proceeding to recover real property the Clerk is to accept a jury demand and the required filing fee as having been timely filed in the following instances:

- a) By the Tenant/Respondent: At the time of answering: "The time of answering" is to mean the time when the Tenant/Respondent answers before the Clerk.
- b) By the Landlord/Petitioner: At any time before the day of trial. "The day of trial" is to mean the day on which the trial of the proceeding is commenced.

6/8/98  
Date

  
Administrative Judge

**CIVIL COURT OF THE CITY OF NEW YORK**

**Civil Court Directive**

Subject: Timeliness of Jury Demands in  
Summary Proceedings to Recover  
Real Property

Class:           DRP-103  
Category:       LT-10  
Eff. Date:       June 8, 1998

=====

**PROCEDURE**

It is the determination of the Chief Clerk of the Civil Court that this Directive be implemented as follows:

**1. Filing of a Jury Demand**

**A. By Tenant/Respondent**

Holdover In a summary proceeding to recover real property a jury demand is timely filed by the Tenant/Respondent if it is brought to the Clerk and the fee is paid at the time when the case is first noticed to be heard or any subsequent adjourned date prior to the commencement of the trial.

Non-payment. In a summary proceeding to recover property brought on the ground that the Tenant/Respondent has defaulted in the payment of rent, a jury demand is timely filed by the Tenant/Respondent if it is brought to the Clerk and the fee is paid at the time when the Respondent first answers before the Clerk.

**B. By Landlord/Petitioner**

In either Holdover or Nonpayment proceedings, a jury demand is timely filed by the Landlord/Petitioner if it is brought to the Clerk and the fee is paid any time before the day the trial of the proceeding is commenced.

**2. Rejection of Jury Demand by Clerk**

A jury demand not filed timely in accordance with the above rules is to be rejected by the Clerk, and no fee may be accepted. A Tenant/Respondent seeking to file a jury demand and pay the fee after having answered is to be directed to make an application to the Judge for relief.

**3. Late Filing Permitted by Judge**

A Judge may relieve a party from the effect of a late filing. Such relief may be communicated to the Clerk in the form of brief notation permitting the late filing of the jury demand. In such instance, the Clerk is to accept the demand and the fee, and place the case on the jury calendar.

Jack Baer  
Chief Clerk  
June 8, 1998