



Ohio Revised Code

Section 2737.19 Issuing order of possession without notice or hearing.

Effective: March 13, 1986

Legislation: House Bill 442 - 116th General Assembly

(A) Upon the filing of a motion for an order of possession, the court may issue an order of possession without issuing notice to the respondent and without conducting a hearing if the court finds that there is probable cause to support the motion and that the movant will suffer irreparable injury if the order is delayed until the respondent has been given the opportunity for a hearing. The court's findings shall be based upon the motion and affidavit filed pursuant to section 2737.03 of the Revised Code and any other relevant evidence that it may wish to consider.

(B) A finding by the court that the movant will suffer irreparable injury may be made only if the court finds the existence of either of the following circumstances:

(1) There is present danger that the property will be immediately disposed of, concealed, or placed beyond the jurisdiction of the court;

(2) The value of the property will be impaired substantially if the issuance of an order of possession is delayed.

(C)(1) Upon the issuance by a court of an order of possession without notice and hearing pursuant to this section, the movant shall file the order with the clerk of the court, together with a praecipe instructing the clerk to issue to the respondent a copy of the motion, affidavit, and order of possession, and a notice that an order of possession was issued and that the respondent has a right to a hearing on the matter. The clerk then immediately shall serve upon the respondent, in the manner provided by the Rules of Civil Procedure for service of process, a copy of the complaint and summons, if not previously served, a copy of the motion, affidavit, and order of replevin, and the following notice:

“(Name and Address of the Court)

(Case Caption) _____ Case No. _____



NOTICE

You are hereby notified that this court has issued an order in the above case in favor of (name and address of movant), the movant in this proceeding, directing that (describe property), now in your possession, be taken from you. This order was issued on the basis of the movant's claim against you as indicated in the documents that are enclosed with this notice.

If you dispute the movant's claim and believe that you are entitled to possession of the property, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court, no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the claim in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the claim, you are not prohibited from stating any other reasons at the hearing, and if you do not state your reasons, it will not be held against you by the court and you can state your reasons at the hearing. If you request a hearing, it will be held within three business days after delivery of your request for hearing and notice of the date, time, and place of the hearing will be sent to you.

You may avoid a hearing but recover and retain possession of the property until the entry of final judgment in the action by filing with the court, at the office of the clerk of this court, not later than the end of the fifth business day after you receive this notice, a bond executed by an acceptable surety in the amount of \$_____.

If you do not request a hearing or file a bond before the end of the fifth business day after you receive this notice, possession of the property will be withheld from you during the pendency of the action. Notice of the dates, times, places, and purposes of any subsequent hearings and of the date, time, and place of the trial of the action will be sent to you.

Clerk of Court



Date"

(2) Along with the notice required by division (C)(1) of this section, the clerk of the court also shall deliver to the respondent a request for hearing form together with a postage-paid, self-addressed envelope or a request for hearing form on a postage-paid, self-addressed postcard in substantially the following form:

"(Name and Address of Court)

Case Number _____ Date _____

REQUEST FOR HEARING

I dispute the claim for possession of property in the above case and request that a hearing in this matter be held within three business days after delivery of this request to the court.

I dispute the claim for the following reasons:

(Optional)

_____ - (Name of Respondent)

(Signature) - _____



(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE () CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AND POSSESSION OF THE PROPERTY WILL BE WITHHELD FROM YOU DURING THE PENDENCY OF THE ACTION."

(D) The respondent may receive a hearing in accordance with section 2737.07 of the Revised Code by delivering a written request for hearing to the court within five business days after receipt of the notice provided pursuant to division (C) of this section. The request may set forth the respondent's reasons for disputing the movant's claim for possession of property. However, neither the respondent's inclusion of nor his failure to include such reasons upon the request constitutes a waiver of any defense or affects the respondent's right to produce any evidence at any hearing or at the trial of the action. If the request is made by the respondent, the court shall schedule a hearing within three business days after the request is made, send notice to the parties of the date, time, and place of the hearing, and hold the hearing accordingly.

(E) If, after hearing, the court finds that there is not probable cause to support the motion, it shall order that the property be redelivered to the respondent without the condition of bond.