

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: _____

Case Name: _____

Case Number: _____
(if known)

AGREEMENT TO STAY WRIT OF POSSESSION

For Use When: This form may be used by parties to a landlord/tenant action pursuant to RSA 540:13-c, II, who agree to a stay of the issuance of a writ of possession following a judgment in favor of the Plaintiff.

The parties agree as follows:

1. The parties agree that the Court shall award/has awarded judgment to the Plaintiff in this landlord/tenant matter brought pursuant to RSA 540. The basis for the Court's judgment is the failure of the Defendant to pay rent.
2. Pursuant to the provisions of RSA 540:13-c, II, the parties agree that a writ of possession shall **not** be issued if the defendant makes payment according to the following agreement for payment of past due rent, court costs and/or service fees (parties shall specify below the payments required by checking any and all that apply to their agreement):
 - a. The parties agree that the total amount of money currently due the plaintiff under the rental agreement between the parties to be paid by the defendant over the life of this agreement is \$ _____
 - b. The parties agree that the defendant shall continue to pay current rent of \$ _____ / month week
 - c. In addition to paying the current rent, the defendant agrees to make weekly biweekly monthly payments to the Plaintiff in the amount of \$ _____, toward payment of the amount stated in paragraph 2a above. These payments shall begin on _____ and thereafter shall be made no later than the _____ day of each week month, until the total amount set forth in 2a above, is fully paid.
 - d. The defendant agrees to make other lump sum payments as follows:

3. The parties agree that payment in full of any rental arrearage, court costs, and service fees listed above shall be completed by _____ (enter specific date).

I, TENANT/DEFENDANT IN THIS ACTION, UNDERSTAND THAT IF I FAIL TO MAKE ANY OF THE PAYMENTS CALLED FOR IN THIS AGREEMENT ON TIME, THE COURT MAY ORDER THE SHERIFF TO EVICT ME WITHOUT A HEARING. I ALSO UNDERSTAND THAT BY SIGNING THIS AGREEMENT I AM GIVING UP MY RIGHT TO FILE ANY APPEAL IN THIS CASE.

Date Signature of Plaintiff/Landlord Attorney for Plaintiff/Landlord

Date Signature of Defendant/Tenant Attorney for Defendant/Tenant

Case Name: _____

Case Number: _____

AGREEMENT TO STAY WRIT OF POSSESSION

FOR COURT USE ONLY

Agreement is: Approved/Ordered

Denied/Not Ordered

Date

Signature of Judge

Name of Judge

ORDER OF DISMISSAL

The Plaintiff has not filed an Affidavit of Non-Compliance within 14 days of the date of the final payment contained within the parties Agreement to Stay Writ of Possession. Pursuant to RSA 540:13-c (II)(b), the action is DISMISSED.

Date

Signature of Judge

Name of Judge

The parties should note the following provisions of RSA 540:13-c, II regarding the enforcement of the above agreement if it is approved by the Court:

RSA 540:13-c: II

(b) If the plaintiff has not filed an affidavit of non-compliance within 14 days of the date that the final payment under the agreement established under this paragraph is due, the court shall dismiss the action.

(c) The acceptance of any payment pursuant to such an agreement shall not establish a new tenancy.

(d) If payments are not made when due, as evidenced by an affidavit of non-compliance filed with the court by the plaintiff and served in hand or at the abode of the defendant before the affidavit is filed with the court, the court shall issue a writ of possession, within 5 business days of the filing of the affidavit with the court, and without further hearing or judicial review.

(e) (1) Notwithstanding the provisions of subparagraph (d), the court may hold a hearing to determine whether or not a writ of possession shall issue if the defendant files an objection or other pleading in court within 4 business days of the filing of the affidavit of non-compliance and certificate of service with the court, which alleges that:

(A) The defendant made a timely tender of the required payment; or

(B) The defendant had a specific compelling cause for not tendering the required payment or payments on time, and that the defendant is able to tender the past-due payment or payments at the time the defendant files his or her objection or other pleading.

(2) If the court finds that the defendant's motion or other pleading do not meet the requirements of subparagraph (1)(A) or (1)(B), it shall issue a writ of possession. If the court determines that the defendant's allegations meet the requirements, a hearing shall be scheduled to occur within 4 business days of the filing of the defendant's objection or other pleading.

(f) (1) At any hearing under subparagraph (e)(2), the defendant shall have the burden to prove that:

(A) The defendant has made timely payments, and therefore the writ of possession shall not issue; or

(B) The defendant has brought to court cash or a certified check sufficient to tender all past-due payments, and the defendant had a specific compelling cause for his or her failure to tender any past-due payments.

(2) If the defendant fails to meet his or her burden of proof under subparagraph (1)(A) or (1)(B), the court shall issue the writ of possession.

(3) If the defendant meets his or her burden of proof under subparagraph (1)(B), the court shall order the defendant to tender, by cash or certified check, all past-due payments to the plaintiff immediately. If all past due-payments are tendered immediately by cash or certified check, a writ of possession shall not issue, otherwise a writ of possession shall issue.