

## Overview - Other Civil Cases

### **General Information:**

OTHER CIVIL is an assortment of cases unlike other case types (like small claims or civil complaints) which are very specific. Other civil cases encompasses a variety of cases which include things filed by the department of employment security, appeals of denials of pistol permits, cease and desist orders, orders to vacate and hazardous building violations. They also vary in terms of who may initiate them. Some are started by the aggrieved party and others by the town or official who wants something enforced. It is important to remember that, no matter what the specific type of "other civil" filing you are here for, there are important legal issues with each and we encourage you to look up the pertinent law or consult with an attorney if you are able. For your convenience, several statutes are linked for each case type listed below.

If you are here because your permit to carry a pistol was denied, suspended or revoked and you want to appeal that pursuant to RSA 159-6:c here are some things you should know.

- Within 30 days of receiving notice of the denial or suspension you must file a motion with the court asking to have a hearing on the permit denial. The court where the agency is that denied your request – which is probably your town police department – is where you must file.
- The court will schedule a hearing within 14 days of receiving your motion.
- At the hearing the agency that denied your permit will explain to the court why the denial was justified. (You should have received a letter from the agency stating the reason they denied your permit so you can be prepared for the hearing although the burden is on the agency and not on you.)
- The court will issue a decision within 14 day of the hearing.

Most of the wage garnishment process does not involve the court. If you are here because of wage garnishment then that means you either work for the Department of Employment Security or have had your wages garnished and you filed for suspension of the garnishment and the Department has filed a motion for periodic payments with the Concord Circuit Court.

- If you work for the Department of Employment Security, you may be seeking a motion for periodic payments. There is an available court form -- see link below.
- The court will schedule a hearing once it receives either this form or the department's motion.

Remember, if your wages have been garnished you may continue to work with the department to reach resolution rather than going to court.

There are several other types of cases that may be filed by town officials or people working in some capacity such as zoning or health code enforcement. These types of cases include:

- cease and desist orders
- hazardous and dilapidated building violations
- orders to vacate

There are no court forms that are specific to these types of cases. These are not necessarily court processes until the request hasn't been complied with by the member of the public and the town/city official asks the court to get involved.

If you are the official tasked with filing these, be sure to familiarize yourself with the statute which contains specific language and time frames. These apply prior to any court involvement. When you file the case in the court, you will have to show that you are the person authorized to begin the action. That form is called District Division Rule 1.3D Statement, see link below.

If you are the person or business who has received one of these notices, it is important that you read what you have received carefully as there are timelines for responses which will apply to you. If you do not, the consequences can be very serious, including losing your home.

In general, these types of filings do not become court filings unless someone is disputing the order they received from a town official or there is some reason why they cannot comply or they are the wrong person to fix the issue that has been raised.

If court involvement is necessary, usually because the town official is seeking summary enforcement, meaning the person hasn't fixed the issue, vacated the building, etc. there are important notice and timeline requirements. Please make sure you consult the applicable statute. You may also wish to consult an attorney.

Below you will find a little bit about how these three types of cases move through the court.

#### Cease and Desist:

- These cases are started by code or zoning officials or another authorized person, by motion for summary enforcement stating which code was violated and giving the property owner, 20 days to correct it;
- If summary enforcement is requested because the property owner did not comply, a copy of the cease and desist order with proof of service shall be filed not fewer than 5 days prior to the filing of a motion to enforce;
- Within 20 days after the date of service, any person upon whom the order is served may serve an answer in the manner provided for the service of an answer in a civil action specifically denying such facts in the order as are in dispute.
- The court will schedule a hearing on the motion/petition and will issue an order.

#### Dilapidated Buildings:

- These cases are started by city officials because they have ordered the owner of a hazardous building to correct the hazard or raze the building;
- It will be filed where the building is and will state the necessary repairs and time for compliance;
- If summary enforcement is requested because the owner did not comply, a copy of the order with proof of service shall be filed not fewer than 5 days prior to the filing of a motion to enforce;
- Within 20 days after the date of service, any person upon whom the order is served may serve an answer in the manner provided for the service of an answer in a civil action specifically denying such facts in the order as are in dispute. A hearing will be scheduled.
- If no answer is filed, the case may be defaulted.
- The court will issue an order on either a defaulted case or contested case.

### Order to Vacate:

- A Health Officer or other official may order occupants to vacate a building. To comply with RSA 147:16-a, the notice to vacate and a list of names of people who were sent such a notice must be filed with the court where the property is located.
- If you are aggrieved by the order to vacate, you may file a written request to contest the order or to have the court consider whether to direct the responsible party to remove or abate the source of danger;
- The hearing shall be held no later than 7 days after the request is received by the court. The court shall send a hearing notice to the aggrieved party, the municipality, and any other person whose name appears on the list referenced above;
- The hearing will be about whether the order to vacate is justified and/or whether the court shall order the responsible party to prospectively remove or abate the source of danger.
- The court will issue an order.

As you have read above, in cease and desist cases and dilapidated building cases, the defendant will file an "Answer" and the court will set the date for a hearing at which time the applicable issue will be heard. The process differs for orders to vacate which is why it is so important to read the notice. Also, please remember that if you ignore the notice, and don't file an answer, in some instances you could be defaulted meaning you've lost your right to have a hearing. The court will issue an order, although probably not the day of the hearing. Make sure you check your email to be sure you receive both the notice of the hearing and the order later on.

Some of these cases are complicated and they are all a little bit different so please get help if you have any questions by either consulting an attorney or calling the Information Center at 1-855-212-1234.

### Other Helpful Resources:

RSA:

RSA 282-A:152-a

Form(s):

Motion for Periodic Payment (**NHJB-2634-DPe**)

District Division Rule 1.3D Statement (**NHJB-2804-De**)

### For Further Information:

If you have questions, please contact the Information Center at 1-855-212-1234.