

NOTICE OF MOTION WRIT FOR POSSESSION OF LAND

COURT DETAILS

Court

#Division

#List

Registry

Case number

TITLE OF PROCEEDINGS

[First] plaintiff **[name]**

#Second plaintiff #Number of
plaintiffs (if more than two)

[First] defendant **[name]**

#Second defendant #Number of
defendants (if more than two)

JUDGMENT DETAILS

Date of judgment to be enforced

FILING DETAILS

Person seeking orders **[name]** [role of party eg plaintiff]

#Filed in relation to [eg plaintiff's claim, (number) cross-claim]
[include only if form to be eFiled]

#Legal representative [solicitor on record] [firm]

#Legal representative reference [reference number]

Contact name and telephone [name] [telephone]

Contact email [email address]

PERSON AFFECTED BY ORDERS SOUGHT

[name] [role of party eg defendant]

HEARING DETAILS

This motion is to be dealt with in the absence of the parties.

[on separate page]

ORDERS SOUGHT

1. #Leave for the issue of a writ of possession.
2. The issue of a writ for the possession of the land comprised in [title/folio numbers] being the land situated at and known as [address].

SIGNATURE

#Signature of legal representative

#Signature of or on behalf of party
if not legally represented

Capacity [eg solicitor, authorised officer, role of party]

Date of signature

[on separate page]

AFFIDAVIT

Name

Address

Occupation

Date

I [#say on oath #affirm]:

- 1 #I am the [role of party].
 #I am [give details of the capacity of the person making the affidavit and the facts that qualify the person to make the affidavit].
- 2 The [role of party] is the registered proprietor of the land comprised in [Title/Folio numbers] being the land situated at and known as [address].
- 3 #No persons (other than parties to the proceedings) were in occupation of the whole or part of the land when the statement of claim that sought possession of the land was filed.

 #There were (or may have been) person(s) other than the parties to the proceedings in occupation of the whole or part of the land when the statement of claim that sought possession of the land was filed, namely: [provide names if known, or describe eg "no more than 3 unidentified occupiers", "4 squatters who refused to name themselves and who could not otherwise be identified" etc] (occupier(s)).
- 4 #The occupier(s) referred to in the preceding paragraph is/are/were in occupation pursuant to a right of occupation under a residential tenancy agreement within the meaning of the Residential Tenancies Act 2010.
- 5 [This paragraph is mandatory if the second option is selected in paragraph 3. Select the appropriate option. Modify and add further paragraph if, for example, some occupiers are not to be disturbed and others have vacated the land.]
 #In respect of the occupier(s) referred to in the preceding paragraph, his/her/their occupation is not to be disturbed.

 #The occupier(s) referred to in the preceding paragraph is/are no longer in occupation of any part of the land because: [give reasons eg the land is now vacant, the (role of party) evicted them].

 #The occupier(s) referred to in the preceding paragraph has/have been served with the statement of claim and a notice to occupier under UCPR 6.8. The time allowed for the occupier(s) to respond to the notice has now passed.

#In respect of the occupier(s) referred to in the preceding paragraph [other – set out any other circumstances if the other alternatives do not apply].

6 The source of my knowledge of the matters stated in this affidavit concerning the occupation of land is [specify].

7 #The claim for possession of land arises from a default in the payment of money.

#The claim for possession is not based on a default in the payment of money.

8 #[This paragraph is required if the claim for possession of land arises from a default in the payment of money and judgment has been entered for the payment of money in addition to possession of the land.]

Particulars of the current amount owing are:

| | |
|--|--|
| Amount of judgment debt | \$[amount] |
| Amount of interest accruing on the judgment debt to date at the rate prescribed by UCPR 36.7 | \$[amount] (and continuing to increase daily by \$[amount]/day) |
| Payments made by or on behalf of the judgment debtor after the judgment was entered | \$[amount] |
| Current amount owing | \$[amount] |

9 #[This paragraph is required if the claim for possession of land arises from a default in the payment of money and judgment has been entered only for possession of the land.]

Particulars of the current amount owing are:

| | |
|--|------------|
| Amount owing following the default | \$[amount] |
| Payments made to date to reduce the amount owing | \$[amount] |
| Current amount owing | \$[amount] |

#Interest has continued to accrue on the amounts owing from time to time, the total amount of which is not here particularised as the plaintiff's judgment is for possession of land only.

10 #The source of my knowledge of the matters stated in this affidavit concerning the default in the payment of money is [specify].

11 #Leave to issue a writ of possession was granted by the court on [date].

#Leave to issue a writ of possession is being sought in this motion.

12 The amounts claimed for costs in respect of this writ are:

| | |
|-----------------|----|
| Execution fees | \$ |
| Solicitors fees | \$ |
| TOTAL | \$ |

#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness [#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.*
2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

Identification document relied on (may be original or certified copy) †

Signature of witness

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

[* The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[†"Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011.]

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

[Include the following additional information, if known, which will assist the Sheriff when executing the writ.]

ADDITIONAL INFORMATION TO ASSIST SHERIFF'S OFFICE

Short description of claim [eg failure to pay mortgage]

Persons in occupation

Telephone number of occupier(s) (if known)

Is any person in occupation of the land pursuant to a right of occupation under a residential tenancy agreement, within the meaning of the Residential Tenancies Act 2010? [] Yes [] No

Are there any animals or anything else at the premises that might pose a threat to the health and safety of Sheriff's officers?