

## PROPERTY RENTAL PROCEDURE

### A. Competent Court.

Without regard to the amount of the Claim the Magistrate will take cognizance of all disputes regarding the rental of immovable property<sup>1</sup>. The Magistrate also has exclusive jurisdiction for claims initiated from lease contracts for a property intended for main residence of the tenant.

In order to decide which Magistrate is authorised to decide claims initiated from property lease contracts, the exact location of the immovable property should be verified.

The Magistrate of the district in which the immovable property is located, has the exclusive jurisdiction to take cognizance thereof<sup>2</sup>.

### B. Abolition of Compulsory Summons for Conciliation.

As Programme Law of 24.12.2002, only for the rental of dwellings an attempt for amicable settlement was set (Art. 1344, septies, Judicial Code)<sup>3</sup>.

However, not all disputes regarding the above-mentioned lease agreements had to be presented to the Magistrate first for conciliation. It were only disputes on application of the rent, claim of due rents or eviction.

A negative consequence of this compulsory summons for conciliation for the landlord was that a property rental procedure lasted longer than before.

Namely, only in case the counterparty did not appear at this conciliation hearing or no conciliation was possible, the procedure could be initiated on the merits.

This compulsory prior summons for conciliation has been abolished by Law of 18 June 2008.<sup>4</sup>

<sup>1</sup> Art. 591, 1°, Judicial Code

<sup>2</sup> Art. 629, 1°, Judicial Code

<sup>3</sup> Introduced with Art. 375 of the Law of 24 December 2002 (Belgian Official Journal, 31 December 2002 (first issue))

<sup>4</sup> Belgian Official Journal, 14 July 2008, err., Belgian Official Journal, 11 August 2008

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The new Article 1344, septies, Judicial Code now provides that with every main claim instituted by application, call of summons or voluntary appearance regarding rental of dwellings, the Judge shall try to conciliate the parties, at the introductory hearing.

If the parties cannot settle the dispute or in case of absence, the procedure shall be treated on the merits.

### C. Introduction of Procedure on the merits.

In accordance with Art. 1344, bis, Judicial Code the claim regarding rental of goods must be instituted by application lodged at the Registry of the Small Claims Court.

With this application a certificate of the respondent's residence is attached, this may not be issued earlier than 15 days before the application is lodged.

Who, however, opts to institute by writ of summons shall in principle be responsible for the useless costs.

### D. Eviction.

At the moment the tenant manifestly fails to observe his or her rental obligations and the Magistrate has issued an eviction order for the tenant, Art. 1344, quater, Judicial Code, must be considered.

After all, this article implies that the eviction, subject to specific circumstances, can only be enforced after a term of one month after serving the judgement.

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