

Rule 3-I. Properties Subject to Court-Ordered Receiverships

(a) OWNER OR OWNER'S AGENT.

(1) *In General.* No owner or owner's agent may file a complaint for possession of real property based, in whole or in part, on nonpayment of rent if the property is subject to a court-ordered receivership under D.C. Code §§ 34-2301 to -2306, 42-3301 to -3307, or 42-3651.01 to -.08 (2012 Repl., 2019 Repl., and 2019 Supp.), unless authorized by court order in the receivership action. A copy of any order authorizing the filing of a complaint for possession of real property based, in whole or in part, on nonpayment of rent must be attached as an exhibit to the complaint.

(2) *Pending Actions.* If a complaint for possession of real property based, in whole or in part, on nonpayment of rent is pending when a receiver is appointed, the owner or owner's agent must file a motion:

(A) requesting a status hearing;

(B) indicating that a receiver was appointed; and

(C) stating whether a court order in the receivership action authorizes the owner or owner's agent to proceed with the action.

(b) RECEIVERS.

(1) *Receiverships Under D.C. Code §§ 34-2301 to -2306 or 42-3301 to -3307.*

(A) *Commencing an Action.* A receiver may file a complaint seeking to recover possession of real property that is the subject of a court-ordered receivership under D.C. Code §§ 34-2301 to -2306 or 42-3301 to -3307 (2012 Repl. & 2019 Repl.). The receiver as plaintiff must file, together with the complaint, a copy of the receivership order and either:

(i) a sworn statement signed by the owner reflecting the owner's consent to be joined as a party plaintiff; or

(ii) a motion for leave to join the owner as a party defendant under Civil Rule 19.

(B) *Service on Owner; Proof.* Notwithstanding Rule 13(c), the receiver must serve the complaint and any motion for joinder on the owner in any manner permitted by Civil Rule 4 at least 7 days, not counting Sundays and legal holidays, before the initial hearing. Proof of service must be by affidavit and must specifically state the person served and the manner and date of service. Proof of service must be filed at least 6 days before the date set for the initial hearing.

(C) *Court Determination.* If the court determines at the initial hearing that the owner may be joined under Civil Rule 19 and that the receiver has served the owner, the owner must be realigned as a party plaintiff. The complaint must be dismissed without prejudice at the initial hearing if the court determines that the owner may not properly be joined under Civil Rule 19 or that the receiver has not served the owner, unless the court, for good cause, extends the time for service.

(2) *All other Receiverships.*

(A) *Commencing an Action.* In any other case brought by a receiver, the plaintiff must file, together with the complaint, a copy of the order permitting the plaintiff to proceed with the action and a statement specifying the reason that joinder of the owner is not required.

(B) *Court Approval.* If the court determines at the initial hearing that joinder of the owner is required, the court must continue the hearing to permit the plaintiff to serve and join the owner in accordance Rule 3-I(b)(1)(B)-(C).

(c) COMPLAINTS NOT INVOLVING A CLAIM FOR NONPAYMENT OF RENT.

(1) *Commencement of Action.* Unless prohibited by the receivership order, an owner or owner's agent may file a complaint for possession of property subject to a court-ordered receivership, under D.C. Code §§ 34-2301 to -2306, 42-3301 to -3307, or 42-3651.01 to -.08 (2012 Repl., 2019 Repl., and 2019 Supp.), that is not based, in whole or in part, on nonpayment of rent. The owner or owner's agent must attach a copy of the receivership order as an exhibit to the complaint.

(2) *Service.* At least 14 days before the initial hearing, the owner or owner's agent must file a certificate of service certifying that a file-stamped copy of the complaint has been sent by first-class mail to the receiver at the most recent address on file with the clerk in the receivership action.

(3) *Protective Orders.* In an action brought by an owner or owner's agent in which the complaint is not based, in whole or in part, on nonpayment of rent, the court may not enter a protective order unless the receiver has been joined as a party under Civil Rule 19 and served with process as required by Rule 3-l(b). No money paid into the court registry pursuant to a protective order may be released, except in a manner consistent with the court's orders in the receivership action.

(d) SERVICE OF PROCESS ON TENANT OR OCCUPANT. Nothing in this rule relieves a plaintiff's obligation to serve a tenant or occupant with process in accordance with Rule 4.

(e) SANCTIONS. Any party who files a complaint in violation of this rule is subject to reasonable sanctions, including, among others, reimbursement of the other parties' expenses, payment of reasonable attorney's fees, and dismissal of the complaint. Instead of or in addition to these sanctions, a violation of a court order issued pursuant to this rule or in connection with the receivership may result in an order treating the violation as a contempt of court.

COMMENT TO 2019 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The rule has also been amended to address receiverships not specifically covered by subsection (b)(1) and to update statutory references.

COMMENT

Generally, when a property is subject to a court-ordered receivership under one of the statutory provisions cited in the rule, neither the owner nor the owner's agent is permitted to collect rent from a tenant or to maintain an action for possession of the property based upon a tenant's alleged nonpayment of rent. The owner is a necessary party, however, in the event that the receiver brings a complaint for possession of the property. *Shannon & Luchs Co. v. Jeter*, 469 A.2d 812 (D.C. 1983). To join an owner who will not join voluntarily, the federal counterpart of SCR-Civ. 19 requires that the owner be served with process, joined as a defendant, and realigned as a plaintiff. *JTG of Nashville, Inc. v. Rhythm Band, Inc.*, 693 F. Supp. 623, 628 (M.D. Tenn. 1988). See also *Raskauskas v. Temple Realty Co.*, 589 A.2d 17, 20 n.2, 21-22 (D.C. 1991).

Tenant receiverships are not included in section (b) because the reasoning in *Jeter* is inapplicable in tenant receiverships in which the receiver has the right to demand possession of the property. D.C. Code § 42-3651.06(a)(1) (2001).