



New Jersey Department of Community Affairs Division of Codes and Standards Landlord-Tenant Information Service



DISTRAINT LAW

N.J.S.A. 2A:33-1 through 2A:33-23

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2A:33-1. Authorized distraints; liability for wrongful distraint; prohibition on money owed on lease of residence

Distraints may be taken when authorized by law; but no unreasonable, excessive or wrongful distraint shall be taken, and for any such taking, the distraining party shall be liable in damages to the party aggrieved.

No distraint shall be permitted for money owed on a lease or other agreement for the occupation of any real property used solely as a residence of the tenant.

L.1951 (1st SS), c.344, amended by L.1971, c. 228, s. 1.

2A:33-2. Place of impounding chattels

Chattels distrained or taken by distress, at one time, for any cause whatsoever, shall be impounded together or the distraining party shall be liable in treble damages to the party aggrieved.

L.1951 (1st SS), c.344

2A:33-3. Exemptions

Property to the value of \$500, to be selected by the person distrained against or as provided in section 2A:33-12 of this title, and all wearing apparel shall be exempt from distraint. This section shall be inapplicable in the case of the impounding and distraint of straying domestic animals.

L.1951 (1st SS), c.344

2A:33-4. Impounding of strays

Cattle or other domestic animals found straying on the property of any person other than their owner, causing damage to such property, may be distrained and impounded to secure reimbursement for such damage.

L.1951 (1st SS), c.344

2A:33-5. Distraint for levying of penalty inflicted or money directed to be paid by law; warrant and sale by judge or magistrate

Where any judge or magistrate is required or authorized to issue a warrant of distress for the levying of a penalty inflicted, or sum of money directed to be paid by any law, and no mode is provided for the disposal of the distress, the judge or magistrate may order the chattels, to be so distrained, sold and disposed of within the time to be limited in the warrant, which time shall not be less than 4 nor more than 10 days, unless the penalty or sum of money, together with reasonable charges, to be taxed by the judge or magistrate, of taking and keeping the distress, be sooner paid.

Reasonable charges of taking, keeping and selling the distress, to be taxed as aforesaid, shall be deducted by the officer making the distress out of moneys arising from the sale, and the overplus, if any, after such charges, and also said penalty or sum of money shall be satisfied and paid, shall be returned on demand to the owner of the chattels so distrained. The officer executing the warrant shall show the same to the person whose chattels are distrained, and give him a copy thereof.

L.1951 (1st SS), c.344

2A:33-6. Property subject to distraint for rent

A landlord or his duly authorized agent may, for arrears of rent, distraint:

- a. The goods and chattels of his tenant, found upon the demised premises, except such as are by law exempt from distraint and except the goods and chattels of another in possession of the tenant;
- b. The live stock of his tenant, found upon the demised premises or upon premises appurtenant thereto, except the property of another in the tenant's possession; and
- c. All products of the soil severed from the soil and remaining upon any part of the land charged with such rent; and
- d. All fruits or products of the soil, growing or being upon the demised premises, which the landlord or his agent may sever and remove from such premises to a safe and proper place on the premises or, if there be no such place thereon, to some other place to be procured by the landlord, due notice of which place shall be given to the tenant or left at his place of abode.

The property so subject to distraint shall be appraised, sold and disposed of at the time and in the manner provided in this chapter.

L.1951 (1st SS), c.344

2A:33-7. Limitation of right to distrain for rent

No landlord shall at one time distrain for more than 1 year's arrears of rent, and such distraint shall be made within 6 months after the rent becomes due, or, if the rent is payable in installments, within 6 months after the entire year's rent has become due.

L.1951 (1st SS), c.344

2A:33-8. Distraint after term or estate ended

A person having rent in arrear and due upon a lease for term of life, years, or at will ended or determined, may distrain for the same after determination of the respective leases, in the same manner as he might have done if the lease had not been ended or determined.

The distress shall be made within 6 calendar months after the determination of the lease, and during the continuance of the landlord's title or interest, and during the possession of the tenant from whom the arrears became due, or if the landlord's title and interest shall have ceased, or the tenant has removed from the leasehold premises, then within 30 days after the end and determination of the term of tenancy, but not thereafter.

L.1951 (1st SS), c.344

2A:33-9. Time for owner of distrained property to take action; inventory and appraisal; aid of officers

If the tenant or owner of property distrained for rent shall not, within 10 days next after the distress taken and after notice thereof, and of the cause of the taking, has been left at the main dwelling house or other most conspicuous place on the premises charged with the rent distrained for, commence an action or otherwise lawfully proceed to recover possession of said property or set aside or end the distraint, the person distraining may, after the distress, notice and expiration of 10 days, on 2 days' notice to the tenant, cause the goods and chattels to be inventoried and appraised by 3 sworn appraisers.

The sheriff of the county, or a constable of the place wherein the distress shall be taken, shall aid and assist therein and shall summon 3 appraisers for such service and shall swear them well and truly to appraise the same, at the true and intrinsic value thereof, according to their best understanding

L.1951 (1st SS), c.344

2A:33-10. Sale of distrained property; notice

After the inventory and appraisal, the person distrained for rent shall sell at public vendue the property so distrained. He shall give 5 days' public notice by advertising the articles to be sold and the time and place of sale, in at least 3 of the most public places in the municipality where the distress shall be made, and sell the same for the best price that can be secured towards satisfaction of the rent and charges of the distress, appraisal and sale, leaving the overplus, if any, with the sheriff or constable for the owner's use.

L.1951 (1st SS), c.344

2A:33-11. Impounding and sale on premises

A person lawfully distraining for rent may impound or otherwise secure the articles distrained so made, on the part of the premises most convenient for the purpose, and may appraise, sell and dispose of the same thereon in like manner as a distress taken for rent off the premises. A person may go upon the place where the articles are impounded or secured, in order to view, appraise, buy or remove the same on account of the purchaser thereof.

L.1951 (1st SS), c.344

2A:33-12. Selection of articles to be exempted; when by appraisers

From the inventory of the property appraised, the tenant, or in his absence, his agent, attorney, or member of his family, may select articles, the value of which, according to the appraisement, shall not exceed \$500. If the tenant, or member of his family, his agent or attorney, cannot readily be found, the selection may be made by the appraisers to be reserved for the family's use.

L.1951 (1st SS), c.344

2A:33-13. Procedure if landlord fails to proceed with appraisement; selection

If the landlord, his attorney or agent shall not, within 2 days after being served with a written request from his tenant so to do, proceed and have the distrained property appraised, the tenant may, after 5 days' notice thereof to his landlord, his attorney or agent, apply to the sheriff or a constable of the county and have the property inventoried and appraised. The property reserved for the use of the family of the tenant may thereupon be selected as provided by section 2A:33-12 of this title.

L.1951 (1st SS), c.344

2A:33-14. Officers aiding in execution; fees

All sheriffs and constables shall aid in the execution of the provisions of this chapter, and for such services they, and the appraisers therein mentioned, shall be entitled to the fees provided for in Title 22, Fees and Costs, of the Revised Statutes.

L.1951 (1st SS), c.344

2A:33-15. Distress for residue

When the value of the property distrained shall not amount to the full value of the arrears further distraints may be made from time to time, for the residue of the arrears. Any such further distress shall be made within the time limited by this chapter.

L.1951 (1st SS), c.344

2A:33-16. Pound breach or rescue; remedy; damages

A person aggrieved by any pound breach or rescue of any property distrained for rent and impounded or otherwise secured by virtue of this chapter, shall in an action at law recover treble

damages and costs of any action against the offender or the owner of the property distrained, if it be afterwards found to have come into his use or possession.

L.1951 (1st SS), c.344

2A:33-17. Wrongful distress and sale for rent; remedy

If a distress and sale shall be made for rent not in fact due the person distraining or for whom the distress is taken, the owner of the property distrained, shall be entitled to recover double the value of the property so distrained and sold, together with full costs of any action.

L.1951 (1st SS), c.344

2A:33-18. Wrongful acts after distraint for rent; remedy; damages

When a distress is made for rent justly due and an irregularity or unlawful act shall afterwards be done by the party distraining, or his agent, the distress shall not therefore be deemed unlawful nor the party making it deemed a trespasser ab initio. The party aggrieved thereby shall be entitled to recover full satisfaction for the special damage sustained thereby, and no more. When the plaintiff shall recover such damages, he shall be entitled to his full costs, the same as in other cases of costs.

L.1951 (1st SS), c.344

2A:33-19. Actions against distrainor; double costs in certain cases

In any action brought to recover damages for an alleged wrongful distress or wrongful act after distraint, a defendant, in whose favor judgment is rendered, shall be entitled to recover double costs.

L.1951 (1st SS), c.344

2A:33-20. Distraint of property removed; bona fide purchasers

Where property of a tenant, subject to be distrained for accrued and unpaid rent, payable or to become payable, is removed from the demised premises, the landlord may, within thirty days next after such removal, distrain such property notwithstanding its removal, unless it shall have been sold to a purchaser for a valuable consideration without knowledge of the landlord's right to distrain.

L.1951 (1st SS), c.344

2A:33-21. Liability of tenant for removing or concealing property subject to distraint

Any tenant who removes or conceals any of his personal property subject to distraint by his landlord, with intent to delay, hinder, or defraud said landlord, shall be liable for the damages resulting therefrom, to his landlord; and in any action to recover such damages if it shall appear that the action of the tenant was willful, the landlord shall be entitled to recover double damages.

L.1951 (1st SS), c.344

2A:33-22. Seizure of property locked up; breaking and entering

When property is removed by a tenant and put in any place locked up, fastened or otherwise secured, to prevent the said property from being distrained for arrears of rent, the landlord, first calling to his assistance a constable or peace officer, who shall aid and assist therein, may, in the daytime, break open and enter the place, and distrain the said property for the arrears of rent as he might have done if the said property had been put in an open place.

If the place where the said property is secured is a dwelling house, oath shall first be made before some judge or magistrate, of a reasonable ground to suspect that the said property is therein.

L.1951 (1st SS), c.344

2A:33-23. Remedy where rent apportionable

Wherever rent is legally or equitably apportionable between successive owners or landlords or their representatives, any person entitled to a proportion of such rent shall be entitled to distrain therefor in the same manner as though such person was entitled to receive the full rent.

L.1951 (1st SS), c.344