

No. 3 – Summons (in which is included an automatic rent interdict)

*** For use in the District Court**

IN THE MAGISTRATE’S COURT FOR THE DISTRICT OF

Held atCase No.....

In the matter between:

.....Plaintiff

and

..... Defendant

To:..... of..... (state residence or place of business and if known, gender, occupation and place of employment).....(hereinafter called the defendant).

You are hereby summoned that you do within days of the service of this summons deliver or cause to be delivered to the clerk of the aforesaid court and also the plaintiff or plaintiff’s attorney, at the address specified herein, a notice in writing of your intention to defend this action and answer the claim of (state gender and occupation), of.....(residence or place of business)..... (hereinafter called the plaintiff), particulars whereof are endorsed hereunder.

Thereafter, within 20 days after delivering a notice of intention to defend as aforesaid, file with the clerk of the court and serve upon the plaintiff or plaintiff’s attorney a plea (with or without a counter-claim), or an exception or application to strike out in the manner and within the timeframes provided for in rule 19.

And take notice that—

(a) in default of your paying the amount of the claim and costs within the said period or of your delivering a notice of intention to defend you will be held to have admitted the said claim and the plaintiff may proceed therein and judgment may be given against you in your absence;

(b) if you pay the said claim and costs within the said period judgment will not be given against you herein and you will save judgment charges. You will also save

judgment charges if, within the said period, you lodge with the clerk of the aforesaid court a consent to judgment;

(c) if you admit the claim and wish to consent to judgment or wish to undertake to pay the claim in instalments or otherwise, you may approach the plaintiff or plaintiff's attorney.

And further take notice that you, the defendant, and all other persons are hereby interdicted from removing or causing or suffering to be removed any of the furniture or effects in or on the premises described in the particulars of claim endorsed hereon which are subject to the plaintiff's hypothec for rent until an order relative thereto shall have been made by the court.

Costs, if the action is undefended, will be as follows:

Summons.....	R
Judgment.....	R
Attorney's charges.....	R
Sheriff's fees.....	R
Sheriff's fees on re-issue.....	R
Totals R	R
Total:.....	R

Notice:

(i) Any person against whom a court has, in a civil case, given judgment or made any order who has not, within 10 days, satisfied in full such judgment or order may be called upon by notice in terms of section 65A(1) of the Act to appear on a specified date before the court in chambers to enable the court to enquire into the financial position of the judgment debtor and to make such order as the court may deem just and equitable.

(ii) If the court is satisfied that—

(aa) the judgment debtor or, if the judgment debtor is a juristic person, a director or officer of the juristic person has knowledge of the abovementioned notice and that he or she has failed to appear before the court on the date and at the time specified in the notice; or

(bb) the judgment debtor, director or officer, where the proceedings were postponed in his or her presence to a date and time determined by the court, has failed to appear before the court on that date and at that time; or

(cc) the judgment debtor, director or officer has failed to remain in attendance at the proceedings or at the proceedings so postponed,

the court may, at the request of the judgment creditor or his or her attorney, authorise the issue of a warrant directing a sheriff to arrest the judgment debtor, director or officer and to bring him or her before a competent court to enable that court to conduct a financial inquiry. [Section 65A(6) of the Act]

(iii) Any person who —

(aa) is called upon to appear before a court under a notice in terms of section 65A(1) or (8)(b) of the Act (where the sheriff, *in lieu* of arresting a person, hands to that person a notice to appear in court) and who wilfully fails to appear before the court on the date and at the time specified in the notice; or

(bb) where the proceedings were postponed in his or her presence to a date and time determined by the court, wilfully fails to appear before the court on that date and at that time; or

(cc) wilfully fails to remain in attendance at the relevant proceedings or at the proceedings so postponed,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months. [Section 65A(9) of the Act]

(iv) On appearing before the court on the date determined in the notice in terms of section 65A(1) or (8)(b) of the Act in pursuance of the arrest of the judgment debtor, director or officer under a warrant referred to in section 65A(6) of the Act or on any date to which the proceedings have been postponed, such judgment debtor, director or officer shall be called upon to give evidence on his or her financial position or that of the juristic person and his or her or its ability to pay the judgment debt. [Section 65D of the Act]

(v) Any person against whom a court has, in a civil case, given any judgment or made any order who has not satisfied in full such judgment or order and paid all costs for which he or she is liable in connection therewith shall, if he or she has changed his or her place of residence, business or employment, within 14 days from the date of every such change notify the clerk of the court who gave such judgment or made such order and the judgment creditor or his or her attorney fully and correctly in writing of his or her new place of residence, business or employment, and by his or her failure to do so such judgment debtor shall be guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding three months. [Section 109 of the Act.]

(1) Particulars of claim.

Plaintiff's claim is—

(i) for arrears of rent due in respect of the defendant's tenancy of.....
.....and for
confirmation of the interdict appearing in this summons.

Particulars:

.....
.....
.....

Date.....

Period.....

Amount

R

.....
.....

and

(ii) for ejection.

Particulars:

.....
.....

(2) Consent to judgment.

I admit that I am liable to the plaintiff as claimed in this summons (or in the amount of R.....and costs to date) and I consent to judgment accordingly.

Dated at.....this.....day of....., 20.....
.....

Defendant

WITNESSES 1:

• (Full names).....

- (signature).....
 - (address).....
-

WITNESSES 2:

- (Full names).....,
 - (signature).....
 - (address).....
-

ALTERNATIVE TO (2)

* (3) Notice of intention to defend.

To the Clerk of the Court.

Kindly take notice that the defendant hereby gives notice of defendant's intention to defend this action.

Dated at.....this.....day of....., 20.....,

Defendant/Defendant's Attorney.

Physical address where service of process or documents will be accepted (within 15 kilometres from the Court-house)

Postal address

* The original notice must be filed with the clerk of the court and a copy thereof served on the plaintiff or plaintiff's attorney."

No. 3 – Summons (in which is included an automatic rent interdict)

*** For use in the Regional Court**

IN THE REGIONAL COURT FOR THE REGIONAL DIVISION OF.....

HELD ATCase No.....

In the matter between:

.....Plaintiff

and

.....Defendant

To:..... of.....

(state residence or place of business and if known, gender, occupation and place of employment).....(hereinafter called the defendant).

You are hereby summoned that you do within days of the service of this summons deliver or cause to be delivered to the registrar of the aforesaid court and also the plaintiff or plaintiff's attorney, at the address specified herein, a notice in writing of your intention to defend this action and answer the claim of (state gender and occupation), of(residence or place of business)..... (hereinafter called the plaintiff), particulars whereof are endorsed hereunder.

Thereafter, within 20 days after delivering a notice of intention to defend as aforesaid, file with the registrar of the court and serve upon the plaintiff or plaintiff's attorney a plea (with or without a counter-claim), or an exception or application to strike out in the manner and within the timeframes provided for in rule 19.

Notice to Defendant:

And take notice that—

(a) in default of your paying the amount of the claim and costs within the said period or of your delivering a notice of intention to defend you will be held to have admitted the said claim and the plaintiff may proceed therein and judgment may be given against you in your absence;

(b) if you pay the said claim and costs within the said period judgment will not be given against you herein and you will save judgment charges. You will also save judgment charges if, within the said period, you lodge with the registrar of the aforesaid court a consent to judgment;

(c) if you admit the claim and wish to consent to judgment or wish to undertake to pay the claim in instalments or otherwise, you may approach the plaintiff or plaintiff's attorney.

And further take notice that you, the defendant, and all other persons are hereby interdicted from removing or causing or suffering to be removed any of the furniture or effects in or on the premises described in the particulars of claim endorsed hereon which

are subject to the plaintiff's hypothec for rent until an order relative thereto shall have been made by the court.

Costs, if the action is undefended, will be as follows:

Summons.....	R
Judgment.....	R
Attorney's charges.....	R
Sheriff's fees.....	R
Sheriff's fees on re-issue.....	R
Totals R	R
Total:.....	R

Notice:

(i) Any person against whom a court has, in a civil case, given judgment or made any order who has not, within 10 days, satisfied in full such judgment or order may be called upon by notice in terms of section 65A(1) of the Act to appear on a specified date before the court in chambers to enable the court to enquire into the financial position of the judgment debtor and to make such order as the court may deem just and equitable.

(ii) If the court is satisfied that—

(aa) the judgment debtor or, if the judgment debtor is a juristic person, a director or officer of the juristic person has knowledge of the abovementioned notice and that he or she has failed to appear before the court on the date and at the time specified in the notice; or

(bb) the judgment debtor, director or officer, where the proceedings were postponed in his or her presence to a date and time determined by the court, has failed to appear before the court on that date and at that time; or

(cc) the judgment debtor, director or officer has failed to remain in attendance at the proceedings or at the proceedings so postponed,

the court may, at the request of the judgment creditor or his or her attorney, authorise the issue of a warrant directing a sheriff to arrest the judgment debtor, director or officer and to bring him or her before a competent court to enable that court to conduct a financial inquiry. [Section 65A(6) of the Act]

(iii) Any person who—

(aa) is called upon to appear before a court under a notice in terms of section 65A(1) or (8)(b) of the Act (where the sheriff, in lieu of arresting a person, hands to that person a notice to appear in court) and who wilfully fails to appear before the court on the date and at the time specified in the notice; or

(bb) where the proceedings were postponed in his or her presence to a date and time determined by the court, wilfully fails to appear before the court on that date and at that time; or

(cc) wilfully fails to remain in attendance at the relevant proceedings or at the proceedings so postponed,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months. [Section 65A(9) of the Act]

(iv) On appearing before the court on the date determined in the notice in terms of section 65A(1) or (8)(b) of the Act in pursuance of the arrest of the judgment debtor, director or officer under a warrant referred to in section 65A(6) of the Act or on any date to which the proceedings have been postponed, such judgment debtor, director or officer shall be called upon to give evidence on his or her financial position or that of the juristic person and his or her or its ability to pay the judgment debt. [Section 65D of the Act]

(v) Any person against whom a court has, in a civil case, given any judgment or made any order who has not satisfied in full such judgment or order and paid all costs for which he or she is liable in connection therewith shall, if he or she has changed his or her place of residence, business or employment, within 14 days from the date of every such change notify the registrar of the court who gave such judgment or made such order and the judgment creditor or his or her attorney fully and correctly in writing of his or her new place of residence, business or employment, and by his or her failure to do so such judgment debtor shall be guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding three months. [Section 109 of the Act.]

(1) Particulars of claim.

Plaintiff's claim is—

(i) for arrears of rent due in respect of the defendant's tenancy ofand for confirmation of the interdict appearing in this summons.

Particulars:

.....
.....

Date.....

Period.....

Amount

R
.....
.....

and

(ii) for ejection.

Particulars:

.....
.....
.....

(2) Consent to judgment.

I admit that I am liable to the plaintiff as claimed in this summons (or in the amount of R.....and costs to date) and I consent to judgment accordingly.

Dated at.....this.....day of....., 20.....,
.....

Defendant

WITNESSES 1:

- (Full names).....,
- (signature).....
- (address).....
.....

WITNESSES 2:

- (Full names).....,
 - (signature).....
 - (address).....
-

ALTERNATIVE TO (2)

* (3) Notice of intention to defend.

To the Registrar of the Court.

Kindly take notice that the defendant hereby gives notice of defendant's intention to defend this action.

Dated at.....this.....day of....., 20.....,

Defendant/Defendant's Attorney.

Physical address where service of process or documents will be accepted (within 15 kilometres from the Court-house)

.....

Postal address

.....

* The original notice must be filed with the registrar of the court and a copy thereof served on the plaintiff or plaintiff's attorney.