

CAYUGA NATION REAL PROPERTY ACTIONS & PROCEEDINGS LAW
ARTICLE 7 - SUMMARY PROCEEDING TO
RECOVER POSSESSION OF REAL PROPERTY

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**CAYUGA NATION REAL PROPERTY ACTIONS AND PROCEEDINGS
LAW § SECTION 701 JURISDICTION**

A special proceeding to recover real property owned by the Cayuga Nation may be maintained in the Cayuga Nation Civil Court.

**CAYUGA NATION REAL PROPERTY ACTIONS AND PROCEEDINGS LAW § 711
GROUNDS WHERE LANDLORD-TENANT RELATIONSHIP EXISTS**

A special proceeding may be maintained under this article upon the following grounds:

1. The tenant continues in possession of any portion of the premises after the expiration of his term, without the permission of the landlord.
2. The tenant has defaulted in the payment of rent, pursuant to the agreement under which the premises are held, and a demand of the rent has been made, or at least three days' notice in writing requiring, in the alternative, the payment of the rent, or the possession of the premises, has been served upon him as prescribed in section 735. The landlord may waive his right to proceed upon this ground only by an express consent in writing to permit the tenant to continue in possession, which consent shall be revocable at will, in which event the landlord shall be deemed to have waived his right to summary dispossess for nonpayment of rent accruing during the time said consent remains unrevoked.
3. The tenant has been adjudicated a bankrupt.

**CAYUGA NATION REAL PROPERTY ACTIONS
AND PROCEEDINGS LAW § 713 GROUNDS
WHERE NO LANDLORD TENANT RELATIONSHIP EXISTS**

A special proceeding may be maintained under this article upon the following grounds:

1. The property has been sold by virtue of an execution against him or a person under whom respondent claims and a title under the sale has been perfected.
2. Respondent occupies or holds the property under an agreement with the owner to occupy and cultivate it upon shares or for a share of the crops and the time fixed in the agreement for such occupancy has expired.
3. Respondent or the person to whom respondent has succeeded has intruded into or squatted upon the property without the permission of the Nation and the occupancy has continued without permission or permission has been revoked and notice of the revocation given to the person to be removed.
4. The property has been sold for unpaid taxes and a tax deed has been executed and delivered to the purchaser and he/she or any subsequent grantee, distributee or devisee claiming title through such purchaser has complied with all provisions of law precedent to the right to possession and the time of redemption by the former owner or occupant has expired.
5. The property has been sold in foreclosure and either the deed delivered pursuant to such sale, or a copy of such deed, has been exhibited to him/her.
6. Respondent is the tenant of a life tenant of the property, holding over and continuing in possession of the property after the termination of the estate of such life tenant without the permission of the Nation upon termination of the life estate.
7. Respondent is a licensee of the Nation at the time of the license, and (a) such license has expired, or (b) such license has been revoked by the licensor, or (c) the licensor is no longer entitled to possession of the property; provided, however, that a mortgagee or vendee in possession shall not be deemed to be a licensee within the meaning of this subdivision.
8. The owner of real property, being in possession of all or a part thereof, and having voluntarily conveyed title to the same to a purchaser for value, remains in possession without permission of the purchaser.
9. A vendee under a contract of sale, the performance of which is to be completed within ninety days after its execution, being in possession of all or a part thereof, and having defaulted in the performance of the terms of the contract of sale, remains in possession without permission of the vendor.
10. The person in possession has entered the property or remains in possession by force or unlawful means and said person or their predecessor in interest was not in quiet possession for

three years before the time of the forcible or unlawful entry or detainer and the petitioner was peaceably in actual possession at the time of the forcible or unlawful entry or in constructive possession at the time of the forcible or unlawful detainer.

11. The person in possession entered into possession as an incident to employment by petitioner, and the time agreed upon for such possession has expired or, if no such time was agreed upon, the employment has been terminated.

**CAYUGA NATION REAL PROPERTY ACTIONS AND PROCEEDINGS LAW § 731
COMMENCEMENT; NOTICE OF PETITION**

1. The special proceeding prescribed by this article shall be commenced by the filing of a petition and notice of petition. A notice of petition may be issued only by an attorney, judge or the clerk of the Nation Court.

2. The notice of petition shall specify the time and place of the hearing on the petition and state that if respondent shall fail at such time to interpose and establish any defense that he may have, he may be precluded from asserting such defense or the claim on which it is based in any other proceeding or action.

**CAYUGA NATION REAL PROPERTY ACTIONS AND
PROCEEDINGS LAW § 733 TIME OF SERVICE**

The notice of petition and petition shall be served at least ten and not more than seventeen days before the time at which the petition is noticed to be heard.

**CAYUGA NATION REAL PROPERTY ACTIONS
AND PROCEEDINGS LAW § 735 MANNER OF SERVICE;
FILING; WHEN SERVICE IS COMPLETE**

Service of the notice of petition and petition shall be made by within thirty days of filing of same by personally delivering them to the respondent; or by delivering to and leaving personally with a person of suitable age and discretion who resides or is employed at the property sought to be recovered, a copy of the notice of petition and petition, if upon reasonable application admittance can be obtained and such person found who will receive it; or if admittance cannot be obtained and such person found, by affixing a copy of the notice and petition upon a conspicuous part of the property sought to be recovered or placing a copy under the entrance door of such premises; and in addition, within three days after such delivering to such suitable person or such affixing or placement, by mailing to the respondent both by registered or certified mail and by regular first class mail.

Service under any of the foregoing methods shall be complete five days after the filing of an affidavit of service.

**CAYUGA NATION REAL PROPERTY ACTIONS
AND PROCEEDINGS LAW § 741 CONTENTS OF PETITION**

The petition shall be verified by the person authorized by a legal representative, attorney or agent of the Nation person pursuant to section thirty hundred twenty of the Cayuga Nation Civil Practice Law and Rules. An attorney of such person may verify the petition on information and belief notwithstanding the fact that such person is in the county where the attorney has his office. Every petition shall:

1. State the interest of the petitioner in the premises from which removal is sought.
2. State the respondent's interest in the premises, if any, and his relationship to petitioner with regard thereto.
3. Describe the premises from which removal is sought.
4. State the facts upon which the special proceeding is based.
5. State the relief sought. The relief may include a judgment for rent due, and for a period of occupancy during which no rent is due, for the fair value of use and occupancy of the premises if the notice of petition contains a notice that a demand for such a judgment has been made.

**CAYUGA NATION REAL PROPERTY ACTIONS AND
PROCEEDINGS LAW § 743 ANSWER**

At the time when the petition is to be heard the respondent, or any person in possession or claiming possession of the premises, may answer, orally or in writing. If the answer is oral the substance thereof shall be recorded by the clerk or, if a particular court has no clerk, by the presiding judge or justice of such court, and maintained in the case record. The answer may contain any legal or equitable defense, or counterclaim. The court may render affirmative judgment for the amount found due on the counterclaim.

**CAYUGA NATION REAL PROPERTY ACTIONS
AND PROCEEDINGS LAW SECTION § 745 TRIAL**

Where triable issues of fact are raised, they shall be tried by the court.

**CAYUGA NATION REAL PROPERTY ACTIONS AND
PROCEEDINGS LAW § 746 STIPULATIONS**

In any proceeding under this article, if a stipulation is made, on the occasion of a court appearance in the proceeding, setting forth an agreement between the parties, other than a stipulation solely to adjourn or stay the proceeding, and either the petitioner or the respondent is not represented by counsel, the court shall fully describe the terms of the stipulation to that party.

**CAYUGA NATION REAL PROPERTY ACTIONS AND
PROCEEDINGS LAW § 747 JUDGMENT**

1. The Nation Court shall direct that a final judgment be entered determining the rights of the parties. The judgment shall award to the successful party the costs of the special proceeding.
2. The judgment shall not bar an action to recover the possession of real property.
3. If the proceeding is founded upon an allegation of forcible entry or forcible holding out the Nation court may award to the successful party a fixed sum as costs, not exceeding fifty dollars, in addition to his disbursements.
4. The judgment, including such money as it may award for rent or otherwise, may be docketed in such books as the court maintains for recording the steps in a summary proceeding; unless a rule of the court, or the court by order in a given case, otherwise provides, such judgment need not be recorded or docketed in the books, if separately maintained, in which are docketed money judgments in an action.

**CAYUGA NATION REAL PROPERTY ACTIONS AND
PROCEEDINGS LAW § 749 WARRANT**

1. Upon rendering a final judgment for petitioner, the court shall issue a warrant directed to the Nation Police describing the property, stating the earliest date upon which execution may occur pursuant to the order of the court, and commanding the officer to remove all persons named in the proceeding, provided upon a showing of good cause, the court may issue a stay of re-letting or renovation of the premises for a reasonable period of time.

2. The officer to whom the warrant is directed and delivered shall give at least fourteen days' notice, in writing and in the manner prescribed in this article for the service of a notice of petition, to the person or persons to be evicted or dispossessed and shall execute the warrant on a business day between the hours of sunrise and sunset.