

RCW 7.64.035 Order awarding possession of property to plaintiff—Bond by plaintiff—Final judgment. (1) At the hearing on the order to show cause, the judge or court commissioner may issue an order awarding possession of the property to the plaintiff and directing the sheriff to put the plaintiff in possession of the property:

(a) (i) If the plaintiff establishes the right to obtain possession of the property pending final disposition, or (ii) if the defendant, after being served with the order to show cause, fails to appear at the hearing; and

(b) If the plaintiff executes to the defendant and files in the court a bond in such sum as the court may order, with sufficient surety to be approved by the clerk, conditioned that the plaintiff will prosecute the action without delay and that if the order is wrongfully sued out, the plaintiff will pay all costs that may be adjudged to the defendant and all damages, court costs, reasonable attorneys' fees, and costs of recovery that the defendant may incur by reason of the order having been issued. However, the court may waive the bond if the plaintiff has properly served the defendant in accordance with RCW 7.64.020(4) and the defendant either fails to attend the hearing on the order to show cause or appears at the hearing on the order to show cause but does not object to entry of the order awarding possession. If the court waives the bond, the court shall establish the amount of bond that would have been required and that amount shall be considered the amount filed by the plaintiff for the purpose of determining the value of the redelivery bond under RCW 7.64.050(3).

(2) An order awarding possession shall: (a) State that a show cause hearing was held; (b) describe the property and its location; (c) direct the sheriff to take possession of the property and put the plaintiff in possession as provided in this chapter; (d) contain a notice to the defendant that failure to turn over possession of the property to the sheriff may subject the defendant to being held in contempt of court upon application to the court by the plaintiff without further notice; (e) if deemed necessary, direct the sheriff to break and enter a building or enclosure to obtain possession of the property if it is concealed in the building or enclosure; and (f) be signed by the judge or commissioner.

(3) If at the time of the hearing more than twenty days have elapsed since service of the summons and complaint and the defendant does not raise an issue of fact prior to or at the hearing that requires a trial on the issue of possession or damages, the judge or court commissioner may also, in addition to entering an order awarding possession, enter a final judgment awarding plaintiff possession of the property or its value if possession cannot be obtained, damages, court costs, reasonable attorneys' fees, and costs of recovery.

(4) When any of the property is located in a county other than the county in which the action was commenced, the sheriff directed to take possession of the property by the order awarding possession, or the sheriff of the county where the property is found, may execute the order awarding possession and take possession of the property in any county of the state where the property is found. For the purpose of following the property, duplicate orders awarding possession may be issued, if necessary, and served as the original. [2004 c 74 § 2; 1990 c 227 § 3; 1979 ex.s. c 132 § 5.]