WEST VIRGINIA CODE: §37-6-17

§37-6-17. Attachment for rent.

On complaint by any landlord or person entitled to rent, or his agent, to a justice, that any person liable to him for rent intends to remove, or is removing, or has within thirty days removed his effects from the leased premises, if such landlord or person entitled to rent, or his agent, make oath to the truth of such complaint to the best of his belief, and to the rent which is reserved (whether in money or other thing) and will be payable within one year, and the time or times when it will be payable, and also make oath either that there is not, or he believes, unless an attachment issues, there will not be, left on such premises, property liable to distress sufficient to satisfy the rent so to become payable, such justice shall, if the landlord or person entitled to rent, or his agent, shall execute before such justice a bond in the penalty and with the conditions prescribed in section eight, article seven, chapter thirty-eight of this code, issue an order of attachment for such rent against the personal estate of the person so liable therefor. If the amount of rent claimed by the landlord or person entitled to the rent, or his agent, exclusive of interest, is $50 or less than that amount, the order of attachment shall be returnable before the justice issuing the order, or another justice; if the amount of rent so claimed, exclusive of interest, is more than $50 and not more than $300, the order of attachment may be returnable before the justice issuing the order, or another justice, or to the next term of the circuit court thereafter; and if the amount of rent so claimed, exclusive of interest, exceeds $300, the order of attachment shall be returnable to the next term of the circuit court thereafter.

If the order of attachment is returnable to the circuit court, it shall be in form or effect as follows:

"District of ....., ... County, to-wit:

A..... B....., Plaintiff) Order

vs.) of

C..... D....., Defendant) Attachment.

The above-named plaintiff having filed with me the affidavit and bond required by law, the sheriff of the County of ....., or any constable therein to whom this order may come, is hereby required, in the name of the State of West Virginia, to attach and take into his possession the personal estate of the defendant, C..... D....., sufficient to pay the sum of ..... dollars (the sum affiant states will be due), and the costs of this attachment, and to make return of his proceedings under this order to the next term of the circuit court of the said county.

Given under my hand this ..... day of ....., 19.....

WV Legislature

E..... F....., Justice."

The defendant, in an attachment issued under the next preceding paragraph, may make defense thereto in the same manner and to the same extent as in other cases of attachment; and the same, as to the rent claimed, shall be proceeded in, tried and determined, as if it were an original action brought in said circuit court, and the affidavit and attachment shall take the place of a declaration in the case. The affidavit in such case shall be returned to the clerk of the circuit court by the justice. The provisions of sections seven to forty-six, both inclusive, except sections thirty-seven, thirty-eight, and thirty- nine, article seven, chapter thirty-eight of this code, shall be applicable to attachments issued hereunder and returnable to the circuit court.

If the order of attachment is returnable before a justice, it shall be in form or effect as follows:

"District of ....., ..., County, to-wit:

"A..... B....., Plaintiff,) Order

vs.) of

C..... D....., Defendant.) Attachment

The above-named plaintiff having filed with me the affidavit and bond required by law, any constable in the County of ....., to whom this order may come, is hereby required, in the name of the State of West Virginia, to attach and take into his possession the personal estate of the defendant, C..... D....., sufficient to pay the sum of ..... dollars (the sum affiant states will be due), and the costs of this attachment, and to make return of his proceedings under this order to me (or, if the order is made returnable before another justice, to G..... H.....), a justice of the peace in ..... County.

Given under my hand this ..... day of ....., 19....

E..... F....., Justice."

The provisions of sections seven to twenty-four, both inclusive, article nine, chapter fifty of this code shall be applicable to attachments issued hereunder and returnable before a justice.

WV Legislature