

1982 WL 189137 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 14, 1982

***1 SUBJECT: Magistrates, Jurisdiction—Landlord-Tenant**

(1) Magistrates have jurisdiction as to those landlord-tenant matters which may be brought pursuant to the provisions of Chapters 33 to 41 of Title 27 of the Code.

(2) As to any action brought in a magistrate's court for past due rent not brought as an action for distraint or ejectment, such action must be brought pursuant to one of the jurisdictional grants of authority, other than that as to landlord-tenant matters, provided by [Section 22-3-10 of the Code](#). As to such an action, the general one thousand dollar monetary limitation on a magistrate's jurisdiction would apply.

(3) As to any action brought in a magistrate's court to recover sums due under an acceleration clause in a lease, such action must be brought pursuant to one of the jurisdictional grants of authority, other than that as to landlord-tenant matters, provided by [Section 22-3-10 of the Code](#). As to such an action, the general one thousand dollar monetary limitation on a magistrate's jurisdiction would apply.

George A. Markert
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QUESTION:

1. Does [Section 22-3-10\(10\) of the Code of laws of South Carolina](#), 1976, (1980 Supplement) confer jurisdiction upon the magistrate's court in all matters between landlord and tenant, regardless of whether such matters or procedures are provided for in Chapters 33 to 41 of Title 27?

OPINION:

[Section 22-3-10, Code of Laws of South Carolina](#), 1976, as amended, states:

‘Magistrates shall have civil jurisdiction in the following cases: (10) In all matters between landlord and tenant and the possession of land as provided in Chapters 33 to 41 of Title 27; . . .’

Referencing your first question, in the opinion of this office, Section 22-3-10(10) confers jurisdiction upon a magistrate's court as to matters concerning landlords and tenants but only as to those matters which may be brought pursuant to the provisions of Chapters 33 to 41 of Title 27 of the Code. Furthermore, this office has determined in a previous opinion that pursuant to such provision, there is no dollar-amount jurisdictional limit as to such cases within a magistrate's jurisdiction. See: 1975 Op. Attorney General No. 4075, p. 151. Therefore, as to matters brought pursuant to the provisions of Chapters 33 to 41 of Title 27, the one thousand dollar amount, which is generally provided as the jurisdictional limit in civil actions brought in a magistrate's court, does not apply.

My research has not revealed any case law which would indicate that magistrates have jurisdiction in all matters between landlord and tenant regardless of whether such matters are provided for in Chapters 33 to 41 of Title 27 or that [Section 22-3-10\(10\)](#), *supra*, should be read as indicating that the clause concerning Chapters 33 to 41 of Title 27 applies only to matter regarding 'the possession of land.' In the case of [Metropolitan Life Insurance Co. v. Stuckey](#), 194 SC 469, 10 SE2d 3 (1940), an action was brought in a magistrate's court pursuant to Section 8813 of the 1932 Code of Laws, as amended, which involved the dispossession of a tenant holding over after the alleged expiration of a lease. In commenting on whether the case was properly within the jurisdiction of a magistrate, the Court referenced Section 257 of the 1932 Code of Laws which provided in part that magistrates had civil jurisdiction:

*2 '(10) In all matters between landlord and tenant, and the possession of land as provided in Article 2 of Chapter 171.'

The Court determined that the case was essentially a landlord-tenant matter and dismissed allegations involving fraud in procuring a lease which it was argued would have been beyond the jurisdiction of the trial magistrate. In making its determination, the Court made the statement that:

'Article 2, Chapter 171 of the Code of 1932, contains Section 8813, which is the section under which this proceeding was begun.'

Therefore in that instance, the Court stated that Section 257(10) of the 1932 Code provided magistrates with jurisdiction of landlord-tenant matters, such as the one before the Court, which were brought pursuant to a provision contained in Article 2 of Chapter 171 of the 1932 Code. Arguably, therefore, present-day [Section 22-3-10\(10\)](#) should also be read as granting magistrates jurisdiction in landlord-tenant matters but only as to such matters as may be brought pursuant to the provisions of Chapters 33 to 41 of Title 27 of the 1976 Code.

QUESTION:

2. Does the magistrate's court have jurisdiction over an action for recovery of past due rent not brought as an action for distraint or ejectment? Does the \$1,000 jurisdictional limitation apply?

OPINION:

In your second question you asked whether a magistrate's court would have jurisdiction over an action for past due rent not brought as an action for distraint or ejectment and whether the one thousand dollar jurisdictional limit applies. In the opinion of this office, inasmuch as there is no provision included in Chapters 33 to 41 of Title 27 of the Code authorizing such an action, for a magistrate to have jurisdiction, such an action would have to be brought pursuant to one of the other provisions of [Section 22-3-10](#), *supra*, which details a magistrate's jurisdiction and which generally have a one thousand dollar limitation. Presumably, such an action would be brought as an action arising on a contract. However, pursuant to subsection 1 of [Section 22-3-10](#), *supra*, such an action may be brought only if the sum claimed does not exceed one thousand dollars.

QUESTION:

3. May a lessor bring an action in magistrate's court to recover sums due under an acceleration clause in a lease, not part of any action for distraint or ejectment? Does the \$1,000 jurisdictional limitation apply?

OPINION:

As to your third question concerning an action being brought in a magistrate's court to recover sums due under an acceleration clause in a lease, the same determination as made in Question two must be made here. Also, generally the one thousand dollar limitation would apply.

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