

ADMINISTRATIVE ORDER 2020-03

RE: SUPPLEMENTAL DISTRICT COURT EVICTION PROTOCOL

COURT PHASE 1 - CASES FILED PRIOR TO MARCH 17, 2020

Requests for Executions –

Requests for Execution which were granted but not issued prior to March 17, 2020, may be issued as of June 2, 2020, *provided* that the Landlord files the Affidavit in Support of Plaintiff's Request for Execution (Form DC-89). By filing the affidavit, the Landlord is attesting that, since the Motion for Issuance of Execution was granted, the Landlord has not accepted any sums of money from the Defendant-Tenant. If any sums of money have been accepted by the landlord; the case must be scheduled for hearing before execution can issue.

Scheduling Hearings – Priority of Assignment –

- Cases filed prior to March 17, 2020 for Non-payment of Rent or for Termination of Tenancy based upon a public safety violation will be given priority for assignment. Public safety is defined as conduct which is considered dangerous and detrimental to the immediate health and safety of any parties associated with the property. Such examples include but are not limited to: manufacturing or dealing of narcotics, any disruptive behavior, or threats that could reasonably lead to physical altercations or harm towards another. While this list is not exhaustive, it will be the responsibility of the Landlord or the Attorney for the Landlord to properly describe the appropriate circumstances. Cases deemed not to meet this threshold WILL NOT be given priority. No matters other than the above-mentioned Non-payment and Termination cases will be assigned for hearing in Court Phase 1.

Notice and Defaults – Termination of Tenancy for Reasons Other than Non-Payment of Rent (Specifically Public Safety) –

- All previously filed requests for default based upon Public Safety must include an Eviction for Reasons Other than Non-Payment of Rent Cover Sheet (Form DC-90) and one of the following:
 1. A copy of the notice informing the Defendant-Tenant that their right to answer the complaint was extended by Supreme Court Executive Order to May 29, 2020. This notice must include certification it was mailed by May 19, 2020 to allow for a 10-day response period. Language in the notice must also have included “If you do not file your answer with the court, a default judgment for possession can be entered against you without a court hearing. If the landlord seeks back rent in addition to possession, you will receive notice of a new hearing for proof of claim on the monetary damages only. If you do not file your answer on or before May 29, 2020, you will be defaulted, and you will not be able to present any defense to the eviction.”
 2. A copy of the notice informing the Defendant-Tenant of their right to answer the complaint within 10 days of mailing if sent after May 19, 2020, which shall include certification language identifying the date of mailing. Language in the notice must include “If you do not file your answer with the court, a default judgment for possession can be entered against you without a court hearing. If the landlord seeks back rent in addition to possession, you will receive notice of a new hearing for proof of claim on the monetary damages only. If you do not file your answer on or before the (Appropriate date), you will be defaulted, and you will not be able to present any defense to the eviction.”
- If the applicable response period expires, with no answer having been received by the Court or Plaintiff, the matter will be ripe for default.

- In this instance, the matter will **not** be scheduled for hearing for Oral Proof of Claim unless requested by the Plaintiff. Instead, the Plaintiff may elect to submit an electronic affidavit for proof of claim for possession only.
- Any request for monetary damages must be scheduled for a hearing.
- All other Eviction matters filed prior to March 17, 2020 will be addressed at a later date.

All assignments for hearings, whether residential or commercial, will be made only by Court order. Dates of assignment will be subject to social distancing capacity and safety considerations. Matters are likely to be scheduled in sessions at specific times. These times will be indicated on the Hearing Notices.

As the above-referenced cases will be prioritized for hearing, we are asking attorneys, who previously filed said cases, to provide an updated status to the Court by May 31, 2020. (Address status to Lisa Williams at lwilliams@courts.ri.gov)

This status must provide:

- 1. Case number.**
- 2. Name of case.**
- 3. Whether a matter remains contested or has been otherwise resolved.**

If the Court does not receive an update by May 31, 2020, the case will not receive priority status. Upon receipt of updates, the Court will begin scheduling cases. Priority will be based on the type of case as well as the original date of filing.

Stipulations –

The Court strongly encourages the parties to enter into Stipulations, including agreements for payment plans, and indicate whether or not a hearing is waived. If a hearing is waived by all parties, stipulations will be entered online after Judicial Review. Electronic stipulations will be accepted in lieu of parties appearing in court. Under the new protocol the filings must contain: (1) new Stipulation of Judgment Form (Form DC- 86), and (2)

Affidavit of Defendant- Tenant's Rights (Form DC-85). Electronic submissions that do not contain these specific forms will be rejected. If a hearing is not waived by all parties, a stipulation will be assigned for an in-court review. All stipulations requiring a hearing will receive priority. Stipulations assigned for an in-court review will not be required to be submitted in the new stipulation format or accompanied by an Affidavit of Defendant-Tenant's Rights.

Until further notice, court costs, late fees, and attorney fees are strictly prohibited from being included in stipulations (electronic or in-court review) and will not be awarded by the court.

COURT PHASE 2 – CASES FILED ON OR AFTER JUNE 2, 2020

Scheduling Hearings –

Court Phase 2 will address the scheduling of new Evictions filed in accordance with Sections 4024 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") of 2020. Every residential eviction filed, must include either: Residential Eviction Cover Sheet for Non-Payment of Rent (Form DC-88) or Residential Eviction Cover Sheet for Reasons Other than Non-Payment of Rent (Form DC-90). Failure to file or properly complete a cover sheet will result in the filing being rejected.

- On June 2, 2020, new cases not subject to the prohibitions and restrictions covered by the CARES Act may be filed with the Court. Certification of compliance with the CARES Act 2020 must be included with the complaint. (Form DC-87) Cases which fall under the CARES Act cannot be filed and won't be accepted until after July 28, 2020. Premature filings will be rejected when filed.
- Assignments for all hearings, whether residential or commercial, will be made only by Court order. The Eviction Summons **will not** provide a date certain. Additional language will be added indicating that "if an agreement is not reached within 5 days,

the Court will assign this matter for an Eviction hearing and notice of said date will be provided by the Court”. The summons must be returned to the Court for a matter to be scheduled. Upon the Court’s receipt of a served summons and the expiration for five (5) days, the matter will be scheduled. Dates of assignment will be subject to social distancing capacity and safety considerations. Matters are likely to be scheduled in sessions at specific times. These times will be indicated on the Hearing Notices.

- Phase 2 cases will be assigned by the court based upon the length of arrearage. The Landlord/Attorney must indicate the length of arrearage within the 5 Day Demand Notice.
- Based on the length of arrearage indicated, the Court will schedule matters for hearing and send notice to both parties. If the length of arrearage is not indicated, or inaccurate, the case will receive lower priority.

Notice and Defaults – Termination of Tenancy for Reasons Other than Non-Payment of Rent (Specifically Public Safety) –

- A 20-Day Eviction for Reasons Other than Non-Payment of Rent Cover Sheet (Form DC-90) must be filed with every complaint.
- In addition to providing tenants with a date by which they must file an answer in the notice of service, it shall also state the following for default: “If you do not file your answer with the court, a default judgment for possession can be entered against you without a court hearing. If the landlord seeks back rent in addition to possession, you will receive notice of a new hearing for proof of claim on the monetary damages only. If you do not file your answer on or before the listed date, you will be defaulted and you will not be able to present any defense to the eviction.”
- If the applicable response period expires, with no answer having been received by the Court or Plaintiff, the matter will be ripe for default.

- The matter will **not** be scheduled for hearing for Oral Proof of Claim unless requested by the Plaintiff. Instead, the Plaintiff may elect to submit an electronic affidavit for proof of claim for possession only.
- Any request for monetary damages must be scheduled for a hearing.
- All other Evictions for other than non-payment of rent will be addressed at a later date.

Priority of Assignment –

On the mandatory Non-Payment of Rent Cover Sheet (Form DC-88), one of the arrearage boxes must be checked off. If partial payments have been made, the total arrearage in days must be calculated to correlate with the appropriate box.

- New claims involving arrearage of 90 days or more.
- New claims involving arrearage of 60 days or more.
- New claims involving arrearage of less than 60 days, and other Evictions filed prior to March 17, 2020, which were not heard in Phase 1. These cases will be scheduled when the calendars allow, based upon backlog and capacity. (Again cases, where the Court didn't receive updates will remain at low priority)
- New cases involving terminations for reasons of public safety will be given first priority along with Non-payment cases. Public safety is defined as conduct which is considered dangerous and detrimental to the immediate health and safety of any parties associated with the property. Such examples include but are not limited to: manufacturing or dealing of narcotics, any disruptive behavior, or threats that could reasonably lead to physical altercations or harm towards another. While this list is not exhaustive, it will be the responsibility of the attorney filing the case to properly describe the appropriate circumstances. Cases deemed not to meet this threshold **WILL NOT** be given priority. All assignments will be subject to capacity and safety considerations.

- Additional defaults will be updated at a later time.

Stipulations –

The Court strongly encourages the parties to enter into Stipulations, including agreements for payment plans, and indicate whether or not a hearing is waived. If a hearing is waived by all parties, stipulations will be entered online after Judicial Review. Electronic stipulations will be accepted in lieu of parties appearing in court. Under the new protocol the filings must contain: (1) new Stipulation of Judgment Form (Form DC- 86), and (2) Affidavit of Defendant- Tenant’s Rights (Form DC-85). Electronic submissions that do not contain these specific forms will be rejected. If a hearing is not waived by all parties, a hearing on the stipulation will be assigned for review in Court. All hearings on stipulations will receive priority. Stipulations assigned for review in Court do not need to be in the new protocol form or accompanied by an Affidavit of Defendant- Tenant’s Rights.

Until further notice, court costs, late fees, and attorney fees are strictly prohibited from being included in stipulations (electronic or in-court review) and will not be awarded by the court.

All Other Cases –

All other Eviction matters may be filed subject to limitations set by the Court but will be assigned only by Court Order with a showing of special circumstances.

Entered as an Order of this Court on this 22nd day of May 2020.

Enter:

/s/

Jeanne E. LaFazia
Chief Judge

By Order:

/s/

Stephen Waluk
Administrator

District Court Notice re New Forms for use on Eviction Matters

The below list of forms relating to Eviction matters are now posted online and on the Judiciary website. Please continue to check these sites regularly as new forms may continue to be added.

DISTRICT COURT FORMS

1. DC-85 Affidavit of Defendant's-Tenant's Acknowledgment of Rights COVID-19
2. DC-86 Stipulation of Judgment COVID-19
3. DC-87 Affidavit of Plaintiff/Landlord's Compliance with the CARES Act 2020
4. DC-88 Residential Eviction Cover Sheet COVID-19
5. DC-89 Affidavit in Support of Plaintiff's Request for Execution COVID-19
6. DC-90 Residential Eviction for Reason Other than Non-Payment of Rent COVID-19