

STATE OF RHODE ISLAND

DISTRICT COURT

ADMINISTRATIVE ORDER 2020-06

RE: DISTRICT COURT EVICTION PROTOCOL

EFFECTIVE SEPTEMBER 4, 2020 TO DECEMBER 31, 2020

The Center for Disease Control and Prevention (CDC) has filed an Order titled: The Temporary Halt of Evictions to Prevent the Further Spread of COVID 19. Unless otherwise extended, modified or rescinded, this order will be in effect September 4, 2020 through December 31, 2020.

The Federal Order (“Order”) provides, in part, that a Landlord or property owner, with a legal right to pursue eviction, “shall not evict a person or pursue an eviction or possessory action from a residential property”. The Order is limited to actions for non-payment of rent and sets forth the definition and requirements for said protection. The Order requires the Tenants to file a “Declaration”, as described in said Order and to provide said “Declaration” to the Landlord. No protection is afforded under the Order until a “Declaration”, is executed under penalty of perjury and is provided to the Landlord. Once given, however, protection is immediately invoked, and the Landlord is immediately prohibited from pursuing any eviction action.

The Tenant’s obligation to pay rent is continuing and not affected by the Federal Order.

Pending Evictions –

All cases pending will continue to be scheduled and heard until such time that a “Declaration” is provided to the Landlord or his agent. Thereupon, all further action will immediately cease. If a matter is scheduled for a hearing and the Landlord receives the

“Declaration” prior to the hearing, the Landlord shall immediately advise the Court that a “Declaration” has been received (and must submit a copy of the “Declaration” through the Courts Electronic Filing System). Upon court receipt, the case will be removed from the calendar, and will be placed in a separate queue awaiting reassignment, which will occur upon the expiration of the moratorium. These cases will **not** be dismissed.

New Eviction Filings –

The Order from The Center for Disease Control and Prevention (CDC) does not prohibit new filings for non-payment of rent, unless a “Declaration” has been provided by the Tenant. If no “Declaration” has been received, the case may be filed, however there are new forms that must be completed by the Landlord. See below – Forms.

Eviction Hearings –

Upon Plaintiff’s/Landlord’s receipt of a “Declaration”, it is the responsibility of the Plaintiff/Landlord or Plaintiff’s Attorney to notify the court to cancel the hearing, if one is scheduled. Once the “Declaration” has been provided to the Landlord or agent, all further legal process to evict will cease immediately. The Clerk’s Office will mail “Need Not Appear” notifications to all parties whose hearing is canceled pursuant to the Order.

Be advised that the “Declaration” may be provided at any time during the eviction process, including at the initial hearing, any Post-Judgment hearing related to issuance of Execution, or at any time prior to the completion of service of an Execution. Both parties are subject to potential significant penalties, civil and criminal, for wrongful acts and/or false declarations, and therefore all parties should read the Federal Order.

The District Court will not award attorneys’ fees or late fees until further notice.

Forms –

When filing a new Nine (9) Day Eviction for Non-Payment of Rent, the Landlord/Plaintiff or Plaintiff's Attorney must fill out all required forms including the Complaint for Eviction, Five (5) Day Demand and submit to the Court through the Electronic Filing System along with the following forms:

Cover Sheet

District Court Cover Sheet (DC-95 Revised September 2020) requires an indication that no "Declaration" has been received.

Affidavit

Plaintiff/Landlord Affidavit (DC-94 Revised September 2020) in accordance with the CDC Order of September 4, 2020 certifying that no "Declaration" has been received.

Answer Form

Defendant/Tenant Answer (DC-53 Revised September 2020) is to be included in the eviction package being served upon and mailed to the Defendant/Tenant. The form is hereby amended to add 2 boxes to possible affirmative defense; a defense indicating 1) that the Defendant/Tenant has provided the Plaintiff/Landlord with the "Declaration" under the CDC Order and moratorium or 2) the Defendant believes they will qualify and intends to file a declaration.

Entered as an Order of this Court on this 3rd day of September 2020.

Enter:

/s/

Jeanne E. LaFazia
Chief Judge

By Order:

/s/

Stephen Waluk
Administrator