NOTICE TO THE BAR

COVID-19 – LANDLORD/TENANT – APPLICATION FOR A COMMERCIAL LANDLORD/TENANT TRIAL IN CERTAIN CIRCUMSTANCES

The Supreme Court has clarified and expanded the circumstances in which a landlord may apply by Order to Show Cause for a trial in a commercial landlord/tenant (LT) matter. The Court's February 5, 2021 Order is attached.

The Court's February 5, 2021 Order establishes a multistep process, consistent with the existing process for residential tenancies. The Order provides that (1) a commercial landlord can file an Order to Show Cause alleging emergent circumstances, either (a) involving something other than nonpayment of rent or (b) based on nonpayment of rent that threatens the landlord's capacity to continue their business (in the case of a pending foreclosure or tax lien); (2) the court will evaluate the application and determine whether emergent circumstances exist and a hearing should be held; and (3) if the court finds that emergent circumstances exist, the commercial tenant will be notified and a trial will be scheduled. After that trial, if the commercial landlord prevails, judgment will be entered, and a warrant of removal can be issued.

Questions on this notice may be directed to the Civil Practice Division at (609) 815-2900 x54900.

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: February 5, 2021

SUPREME COURT OF NEW JERSEY

In response to the ongoing COVID-19 public health emergency, the Supreme Court since March 16, 2020 has authorized the temporary suspension of landlord/tenant trials, subject to narrow exceptions as set forth in the Court's July 14, 2020 Order.

Separate from that action by the Court, the Governor's Executive Order 106 (issued March 19, 2020) suspended residential evictions during the COVID-19 public health emergency or state of emergency, and for two months after the conclusion of the emergency, subject to narrow exceptions "in the interest of justice." The Governor's Executive Order 215 (issued January 19, 2021) most recently further extended the public health emergency. With limited exceptions, evictions of residential tenants thus cannot proceed until spring 2021 or later.

This Order clarifies and expands certain provisions of the Court's July 14, 2020 Order as related to applications for commercial landlord/tenant trials.

Accordingly, it is ORDERED that, effective immediately and until further order:

1. The July 14, 2020 Order that provides that landlords/plaintiffs may in emergent circumstances apply for an Order to Show Cause for eviction applies to both residential matters and commercial matters.

2. In determining whether to issue the Order to Show Cause, the court in both residential matters and commercial matters will review the complaint and determine whether an emergency exists (e.g., violence against other tenants; criminal activity; extreme damage to residence; death of tenant or permanent closure of the business resulting in vacancy of the property).
3. In residential matters, the basis of that landlord/tenant action cannot be nonpayment of rent, except in the case of the death of the tenant.
4. In commercial matters, the basis of that landlord/tenant action cannot be nonpayment of rent, except where the tenant has vacated the property; the tenant's business is not operating and will not resume operations; or the commercial landlord is facing foreclosure or a tax lien.
5. The court, based on its determination as to whether an emergency exists, may schedule a landlord/tenant trial. As permitted by Executive Order 106, following any such trial an eviction may proceed in the "interest of justice."

For the Court,

Chief Justice

Dated: February 5, 2021