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Administrative Office of the Courts

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TO: **Assignment Judges**
Civil Presiding Judges
Supervising Special Civil Part Judges
Trial Court Administrators

DIRECTIVE #20-20
[Questions or comments may be directed to (609) 815-2900, ext. 54900]

FROM: **Glenn A. Grant, J.A.D.**

SUBJ: **Special Civil Part - Landlord/Tenant Matters During COVID-19**

DATE: **July 28, 2020**

As a result of the COVID-19 pandemic, many efforts have been and continue to be made to assist landlords and tenants affected by the public health crisis and remove barriers to justice. The Judiciary is implementing a multifaceted plan for improving the handling of Landlord/Tenant (LT) cases from the outset, including by providing litigants with information and resources. Our primary goal is to assist litigants in resolving their matters, not dispose of cases through trial or default. No party will be pressured into settling their case.

The Judiciary has engaged with tenant advocates as well as landlord representatives to create the attached informational materials that will be distributed to all parties in LT cases. In addition, every vicinage, in coordination with their Diversity, Inclusion and Community Engagement Committees and Ombudsmen, is organizing virtual LT outreach events to provide litigants and others with up to date information on current court operations. Those outreach events, conducted in partnership with key stakeholders, will highlight local community resources that provide legal, financial, and other forms of assistance relating to rental housing and mortgage payments.

This Directive sets forth the requirements of newly implemented LT case management steps, procedures, and forms for (1) service of complaints and conferences; (2) CARES Act certification of compliance; and (3) Order to Show Cause process for LT trials in limited circumstances.

(1) Service of Complaints; Intake Conferences; Communications with Parties; Pretrial/Settlement Conferences

The Supreme Court in the July 24, 2020 Seventh Omnibus Order continued the suspension of LT trials until further notice and reinforced its direction that conferences,

including pretrial/settlement conferences, be scheduled in LT matters. Separate from the Court's action, residential evictions continue to be suspended pursuant to Executive Order 106 (issued March 19, 2020). The following procedures and standardized forms have been promulgated for service of LT complaints and scheduling of remote intake and pretrial/settlement conferences in residential and commercial cases while trials and evictions are suspended.

The forms are **not** to be altered or modified other than by court staff including case-specific or county-specific information, phone numbers, email addresses, and instructions for attending remote events in each case. As the handling of LT matters evolves, these forms may be amended.

LT Complaints Not Yet Served

For LT cases where the complaint has not yet been served, court staff should make contact with the parties and communicate as much information as possible at the outset of the process. For this reason, court staff will include standardized documents when serving summonses and complaints on tenants by ordinary mail and when providing them to Special Civil Part Officers for personal service. Landlords also will receive the Landlord/Tenant Information Sheet (Attachment 2) via email.

Tenant Notice (Attachment 1) – directs tenants to contact the appropriate Special Civil Part Office for information regarding their case; and

Landlord/Tenant Information Sheet (Attachment 2) - provides relevant information and potential resources regarding LT matters.

LT Complaints Already Served

For those cases that have already been served, court staff will conduct an intake conference to collect information; determine whether the matter has been resolved; and, if the matter has not been resolved, advise of the scheduling of a pretrial/settlement conference. The court must also directly communicate relevant information to the parties by providing these documents to parties who have already been served:

Initial Contact Notice (Attachment 3) – if court staff contact the parties via mail, this notice will be used. It directs the parties to email or call the appropriate Special Civil Part Office to provide certain information; and

Landlord/Tenant Information Sheet (Attachment 2) - provides relevant information and potential resources regarding LT matters.

Pretrial/Settlement Conferences - All LT Cases

Pretrial/settlement conferences will be conducted remotely by specially trained court staff. No party will be penalized if they do not reach an agreement. If a settlement is not reached, the matter will be scheduled for trial once the Supreme Court permits the resumption of LT trials. These documents will be provided once a pretrial/settlement conference is scheduled:

Scheduling Notice for Remote Pretrial/Settlement Conferences (Attachment 4) – provides details and instructions for the conference; and

Pretrial/Settlement Conference Information Sheet (Attachment 5) – provides the parties with information regarding settlement.

(2) Federal CARES Act Compliance Certification

On March 27, 2020, the Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, instituted a temporary moratorium on eviction filings for certain rental properties that participate in a federal assistance program or are subject to a federally backed mortgage loan. See 15 U.S.C.S. §§ 9057, 9058. For rental properties that fall within the Act's definition of a "covered dwelling," landlords were prohibited under the CARES Act from initiating eviction proceedings against a tenant for the nonpayment of rent until the CARES Act expired (July 25, 2020 unless extended retroactively).

In order to ensure that complaints against residential tenants for nonpayment of rent comply with the CARES Act, the Supreme Court in its July 14, 2020 Order temporarily relaxed Rule 6:2-2(a) to require that plaintiffs/landlords submit a Federal CARES Act Compliance Certification.

Federal CARES Act Compliance Certification (Attachment 6) – as promulgated by the Acting Administrative Director of the Courts, plaintiffs/landlords must file this certification in all nonpayment of rent cases filed during the CARES Act filing moratorium (March 27, 2020 through and including July 24, 2020, unless otherwise extended). The certification must be filed before any pretrial/settlement conferences or trials are scheduled.

(3) Orders to Show Cause in Emergencies; Sample Order to Show Cause Form for Use by Landlords

By Order dated July 14, 2020, the Supreme Court amended LT processes during COVID-19 by allowing plaintiffs/landlords to seek an LT trial based on emergent

circumstances. In addition to allowing for LT trials in those narrow circumstances, the Court's Order acknowledges that the court can order an eviction in the "interest of justice" as provided by Executive Order 106. As provided by the Court's Order, nonpayment of rent, alone, does not warrant a trial, unless the case involves the death of the tenant.

The court will review all applications for an Order to Show Cause with the case proceeding to trial only if the court determines that an emergency exists. The Anti-Eviction Act, *N.J.S.A.* 2A:18-61.1, and the Summary Dispossession Act, *N.J.S.A.* 2A:18-53, provide the following grounds for the removal of tenants that **may** constitute emergent circumstances justifying an LT trial:

- Disorderly tenant (*N.J.S.A.* 2A:18-53(c) or 2A:18-61.1(b));
- Willful or gross negligent damage to premises (*N.J.S.A.* 2A:18-53(c) or 2A:18-61.1(c));
- Abating housing or health code violations (landlord seeks to permanently board up or demolish premises because cited by authorities/inspectors for substantial health and safety of tenants) (*N.J.S.A.* 2A:18-61.1(g));
- Occupancy as consideration of employment (*N.J.S.A.* 2A:18-61.1(m));
- Offenses under comprehensive drug act (*N.J.S.A.* 2A:18-61.1(n));
- Assaults or threats against landlord or certain other persons ((*N.J.S.A.* 2A:18-61.1(o));
- Eviction for civil violations (tenant found by preponderance of evidence that theft of property, assault, terroristic threats against landlord or member of their family, employee of landlord's, etc.) (*N.J.S.A.* 2A:18-61.1(p));
- Eviction for theft (*N.J.S.A.* 2A:18-61.1(q)); and
- Human trafficking (*N.J.S.A.* 2A:18-61.1(r)).

The above list is not meant to be exclusive. The court will take into consideration the circumstances of each case in determining whether a trial is warranted.

Absent the lack of consent to proceed remotely, or significant technological barriers on the part of either party, any LT trials that proceed due to a finding that doing so would be in the interest of justice should be conducted remotely. In the very limited circumstances that a remote trial cannot be accomplished, the case should be scheduled for an in-person trial in accordance with the Judiciary's Post-Pandemic Plan.

Sample Order to Show Cause form (Attachment 7) – this sample form may be used when seeking to have a LT trial based on emergent circumstances.

Questions should be directed to the Civil Practice Division by phone at (609) 815-2900 x54900 or by email at civilwebsites.mbx@njcourts.gov.

Attachments: (1) Tenant Notice
(2) Landlord/Tenant Information Sheet
(3) Initial Contact Notice
(4) Scheduling Notice for Remote Pretrial/Settlement Conferences
(5) Pretrial/Settlement Conference Information Sheet
(6) CARES Act Compliance Certification
(7) Sample Order to Show Cause form

cc: Chief Justice Stuart Rabner
Steven D. Bonville, Chief of Staff
Jennifer M. Perez, Director
Taironda E. Phoenix, Assistant Director
Special Assistants to the Administrative Director
Civil Division Managers
Lloyd Garner, Chief
Assistant Civil Division Managers

Attachment 1

Tenant Notice

SUPERIOR COURT OF NEW JERSEY – [COUNTY] COUNTY
SPECIAL CIVIL PART – LANDLORD/TENANT

TENANT NOTICE

In light of the current COVID-19 public health emergency, the Judiciary is handling many court proceedings remotely in order to limit in-person court appearances at this time. In your landlord/tenant case, a remote pretrial/settlement conference will be scheduled.

It is important for you to contact the court so staff can provide you with important information regarding your case and determine your ability to participate in a remote pretrial/settlement conference. Please contact the Special Civil Part Office of the Civil Division of Superior Court via email at [EMAIL ADDRESS] or by phone at [PHONE NUMBER], extension [EXT] as soon as possible.

Please note that trial of this matter has not been scheduled. By participating in the remote pretrial/settlement conference, you will have an opportunity to resolve your matter without having to come to the courthouse or have a trial.

Additionally, attached is a Landlord/Tenant Information Sheet with relevant information and potential resources. Please review this sheet immediately so that you can take any necessary action as soon as possible.

Please visit njcourts.gov for general information on Landlord/Tenant actions. You will find frequently asked questions as well as information about common defenses and links to legal resources.

Thank you for your cooperation.

Attachment

Attachment 2

Landlord/Tenant Information Sheet

LANDLORD/TENANT INFORMATION SHEET

The following contains information and resources for cases where a landlord is trying to evict a tenant. Please take the time to read this information and refer to the Judiciary website at www.njcourts.gov for further assistance on landlord/tenant rules and procedures.

COVID-19 Temporary Relief

- **Tenants may use their security deposit for rent.** The Governor's Executive Order 128 permits tenants to use their security deposit to pay rent that is due, or will become due, provided that they notify the landlord in writing. Tenants do not need to submit an additional security deposit unless they extend or renew their lease. If the tenant and landlord extend or renew their lease, the security deposit must be replenished in full no later than six (6) months following the end of the Public Health Emergency established by Executive Order 103, or upon renewal of the lease, whichever is later.

- **Landlords with federally backed mortgages on multifamily properties may be eligible for a forbearance.** Under the federal CARES Act, if a landlord has a federally backed mortgage on a multifamily property, the landlord may apply for a forbearance for up to 90 days on their mortgage payments. Additionally, multifamily properties financed with Fannie Mae or Freddie Mac have additional forbearance options and tenant protections.

- **Multifamily landlords cannot file eviction complaints based upon nonpayment of rent if they are receiving federal forbearance.** Under the federal CARES Act, a landlord of a residential building designed principally for the occupancy of five or more families (has five or more dwelling units) who receives forbearance on a federally backed mortgage cannot file a landlord/tenant eviction action based upon nonpayment of rent against any tenants in that property during the period when the landlord is not making mortgage payments.

Such landlords also cannot charge late fees in connection with a tenant's nonpayment of rent during this period.

- **Landlords who have federally backed mortgages and/or participate in federally subsidized housing must meet certain requirements of the CARES Act prior to filing complaints based upon nonpayment of rent.** Under the federal CARES Act, if a landlord has a federally backed mortgage, or if the landlord participates in federally subsidized housing, the landlord cannot file an eviction action based upon nonpayment of rent against any tenants in that property until July 25, 2020. The landlord must provide tenants at least 30 days' notice before they must vacate the property. Such landlords also cannot charge late fees or other fees in connection with a tenant's nonpayment of rent between March 27, 2020 and July 24, 2020.

- **Executive Order 106 (Eviction Moratorium).** The Governor has suspended residential evictions until two months after the end of the COVID-19 Public Health Emergency or State of Emergency, unless the Governor ends it sooner. The Supreme Court has suspended LT trials until further notice. However, consistent with Executive Order 106, the court may permit an eviction to proceed in the interest of justice for reasons other than non-payment of rent.

Legal and Other Resources

- **Legal Assistance**. The court system can be confusing. It is a good idea to get a lawyer if you can. If you cannot afford an attorney, you may contact the Legal Services office in the county where you live: **https://www.lsnj.org/LegalServicesOffices.aspx** or the Legal Services of New Jersey (LSNJ) Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529) or apply online at https://lsnjlawhotline.org. If you are not eligible for free legal assistance, you may obtain a lawyer referral from a lawyer referral program in your county at: **https://tcms.njsba.com/PersonifyEbusiness/Default.aspx?TabID=2011**.

  LSNJ's Tenants' Rights Manual may be of assistance and is available at: **https://www.lsnjlaw.org/Pages/default.aspx**.

  Legal help may also be available from other statewide organizations. Some examples are Volunteer Lawyers for Justice and Community Health Law Project.

Contact the Ombudsman in your county for more information regarding these organizations and other resources that may be available in your county: **https://www.njcourts.gov/public/ombudsdir.html?lang=eng**.

- **DCAid**. DCA has a variety of assistance programs that may help you with rental and heating costs, prevention of eviction, reduction of utility bills and removal of lead hazards from your home. The screening process for these programs is available at: **https://njdca-housing.dynamics365portals.us/en-US/**.

- **New Jersey Housing and Mortgage Finance Agency**. To get free financial counseling on meeting your rental obligations, go to **https://www.nj.gov/dca/hmfa**.

- **County and Municipal Welfare Agencies**. County and municipal welfare agencies have programs to help with rent and other expenses. You can find more information about these programs and where to apply at: **www.NJHELPS.org**.

- **U.S. Department of Housing and Urban Development (HUD).** HUD has a variety of New Jersey specific rental assistance resources for both landlords and tenants available at: **https://www.hud.gov/states/new_jersey/renting**.

Attachment 3

Initial Contact Notice

SUPERIOR COURT OF NEW JERSEY – [COUNTY] COUNTY
SPECIAL CIVIL PART – LANDLORD/TENANT

INITIAL CONTACT NOTICE

Re: [CASE NAME]

[DOCKET NUMBER]

You are receiving this notice because you have a pending Landlord/Tenant case in the [COUNTY] County Superior Court referenced above. Our records show the tenant was served with a Landlord/Tenant summons and complaint on [SERVICE DATE]. In light of the current COVID-19 public health emergency, the Judiciary is handling many court proceedings remotely in order to limit in-person court appearances at this time. In your landlord/tenant case, a remote pretrial/settlement conference will be scheduled.

It is important for you to contact the court so staff can provide you with important information regarding your case and determine your ability to participate in a remote pretrial/settlement conference. Please contact the Special Civil Part Office of the Civil Division of Superior Court via email at [EMAIL ADDRESS] or by phone at [PHONE NUMBER], extension [EXT] as soon as possible.

Please note that trial of this matter has not been scheduled. By participating in the remote pretrial/settlement conference, you will have an opportunity to resolve your matter without having to come to the courthouse or have a trial.

Additionally, attached is a Landlord/Tenant Information Sheet with relevant information and potential resources. Please review this sheet immediately so that you can take any necessary action as soon as possible.

Please visit njcourts.gov for general information on Landlord/Tenant actions. You will find frequently asked questions as well as information about common defenses and links to legal resources.

Thank you for your cooperation.

Attachment

Attachment 4

Pretrial/Settlement Conference Scheduling Notice

SUPERIOR COURT OF NEW JERSEY – [COUNTY] COUNTY
SPECIAL CIVIL PART – LANDLORD/TENANT

PRETRIAL/SETTLEMENT CONFERENCE SCHEDULING NOTICE

Re: [CASE NAME]

[DOCKET NUMBER]

You are receiving this notice because the court has scheduled a pretrial/settlement conference in your pending landlord/tenant case referenced above.

DO NOT REPORT TO THE COURTHOUSE!

A remote pretrial/settlement conference has been scheduled for **[CONFERENCE DATE]** at **[CONFERENCE TIME]** via **[PLATFORM: TEAMS/ZOOM/ PHONE]**.

[INSTRUCTIONS ON HOW TO JOIN DEPENDING ON PLATFORM USED]

Please note, you will not be required to settle your case.

Attached is a Pretrial/Settlement Conference Information Sheet with helpful information. If you have any questions or issues prior to your remote pretrial/settlement conference, please send an email to [EMAIL ADDRESS] or call the Special Civil Part Office at [PHONE NUMBER], extension [EXT].

Please visit njcourts.gov for general information on Landlord/Tenant actions.

Thank you for your cooperation.

Attachment

Attachment 5

Pretrial/Settlement Conference Information Sheet

PRETRIAL/SETTLEMENT CONFERENCE INFORMATION SHEET

You have received a notice from the court scheduling a pretrial/settlement conference in your landlord/tenant matter. Here are some things you should know before the pretrial/settlement conference.

- **You do not have to settle your case**. You have the right to a trial.
    - If you do not settle, your case will be scheduled for trial on a future date.
    - You **cannot** be evicted from your home until the eviction moratorium established under Executive Order 106 expires or is rescinded.
- **If you do settle your case, please note**:
    - You should settle only if you agree with the terms. Both parties must agree to a settlement.
    - If you agree to a settlement, please let the court staff know. Court staff can provide the parties with an agreement form and forms for any certification from the landlord and/or the landlord's attorney.
    - The terms of the settlement forms can be modified as appropriate.
    - Make sure that you understand the words in the settlement because if you agree to entry of a judgment for possession and do not comply with the terms of the settlement, you will be evicted. Any agreement that says a judgment for possession will or can be entered must be approved by a judge if the residential tenant does not have an attorney.

Attachment 6

Federal CARES Act Compliance Certification Form

Name: _____
NJ Attorney ID Number: _____
Address: _____
Telephone Number: _____
Email:_____

_____, Plaintiff, v. _____, Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION, SPECIAL CIVIL PART _____COUNTY LANDLORD-TENANT DIVISION DOCKET NUMBER: LT CIVIL ACTION **FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT) COMPLIANCE CERTIFICATION**

I am the (check one): ☐ landlord, ☐ general partner of the partnership, or ☐ authorized officer or agent of a corporation or limited liability company that owns the premises in which tenant(s) resides in this matter, and I hereby certify and say:

1. On [*insert date*], an eviction action was filed in the Special Civil Part of the Law Division.

2. The rental property that is the subject of this lawsuit is **not** a "covered dwelling" as defined by the Federal CARES Act (15 U.S.C.S. § 9058(a)).

3. The rental property that is the subject of this lawsuit does **not** have a "federally backed mortgage loan" or a "federally backed multifamily mortgage loan," as defined by the Federal CARES Act which include, **but are not limited to**, mortgages issued or guaranteed by the following entities: Federal Housing Administration (FHA), Veterans Administration (VA), United States Department of Agriculture (USDA) direct loan, USDA guaranteed loan, Fannie Mae and Freddie Mac.

4. The rental property that is the subject of this lawsuit does **not** participate in a covered housing program or the rural housing voucher program as set forth in the Federal CARES Act (15 U.S.C.S. § 9058). Such programs include, **but are not limited to**: The Section 8 Housing Choice Voucher program, Section 8 project-based housing, Public Housing, Section 202 elderly housing, Section 811 housing for people with disabilities, Section 236 multifamily rental housing, Section 221

Below Market Rate (BMR) housing, HOME Investment Partnership Program, Housing Opportunities for Persons with AIDS (HOPWA) Program, McKinney-Vento Act housing, Section 515 United States Department of Agriculture (USDA) rural housing, Section 514/516 USDA farm labor housing, Section 533 USDA housing preservation, Section 538 USDA multifamily housing, Low-Income Housing Tax Credit (LIHTC) Program and Rural Housing Voucher Program.

5. I am aware that I have a continuing obligation under Rule 1:4-8 to amend this certification if a reasonable opportunity for further investigation or discovery indicates that any of the above may be incorrect.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: _____ _____

(Printed Name of Landlord, Partner, Agent or Officer)

_____

(Signature of Landlord, Partner, Agent or Officer)

Attachment 7

Form Order to Show Cause to Schedule a Trial

Plaintiff's Name: _____

Plaintiff's Address: _____

_____

_____

Phone#_____

Email: _____

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION, _____COUNTY
SPECIAL CIVIL PART

DOCKET NUMBER: LT-_____

CIVIL ACTION

ORDER TO SHOW CAUSE
TO SCHEDULE A TRIAL

SUMMARY ACTION

Plaintiff/Landlord

v

Defendant/Tenant

THIS MATTER having been brought before the court by _____, plaintiff/landlord, pursuant to the Supreme Court's Order dated July 14, 2020, permitting plaintiff/landlords in "emergent circumstances" to apply for an order to show cause to schedule a landlord/tenant trial in actions other than for nonpayment of rent (except in the case of death of the tenant);

and plaintiff/landlord having filed a summary dispossess complaint seeking relief pursuant to the Court's July 14, 2020 Order based upon the facts set forth in the certification filed herewith and the Court having determined that this application seeking permission to have a landlord/tenant trial scheduled may be applied by order to show cause and for other good cause shown:

IT IS on this _____ day of _____, 20___, ORDERED that the defendant/tenant(s) appear and show cause before the undersigned Judge on the _____ day of _____, 20____ before the Superior Court of New Jersey, _____ County, _____ am/pm, via _____ (*video or telephone*), or as soon thereafter as the parties can be heard, why a trial should not be scheduled and granting such other relief as the Court deems equitable and just.

IT IS FURTHER ORDERED that:

1. A copy of this order to show cause and all supporting affidavits or certifications submitted in support of this application, if any, be served by the plaintiff/landlord upon the defendant/tenant(s) personally within ____ days of the date hereof; or if such service cannot be personally made, plaintiff/landlord shall either serve the defendant/tenant(s) by regular and certified mail or by regular mail upon the defendant/tenant's attorney, if known, within ___ days of the date hereof in accordance with *R.* 4:4-4 and *R.* 6:2-3(a).

2. The plaintiff/landlord must file with the Court his/her proof of service of the order to show cause pleadings upon the defendant/tenant(s) no later than _____ days before the scheduled hearing or return date scheduled by this Court.

3. The defendant/tenant may file and serve the plaintiff/landlord with a response on or before the hearing date scheduled by this court and shall appear in response to this order to show cause. Any documents filed by the defendant/tenant must be filed with the Office of the Special Civil Part in the county listed above and a copy must be sent to the plaintiff/landlord, if the plaintiff/landlord has no attorney, or plaintiff/landlord's attorney named above. A telephone call will not protect the defendant/tenant's rights, as the defendant/tenant(s) must appear at the designated date and time scheduled by this court and in the manner directed.

4. Defendant/tenant(s) take notice that the plaintiff/landlord has filed a lawsuit against you in the Superior Court of New Jersey, Special Civil Part. The verified complaint previously served upon you states the basis of the lawsuit and relief sought. The certification in support of the order to show cause explains the basis of emergent circumstances in support of proceeding to trial. If you dispute this complaint or the certification, then you may submit before the scheduled hearing date to this order to show cause, a response on or before the hearing date and proof of its service. You must also appear on the hearing date as set forth above.

5. If you wish to hire an attorney and cannot afford one, you may call the Legal Services offices in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJLAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Case Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

_____

J.S.C.