Office of
The Governor

No. 40 FY 19/20
DATE April 16, 2020

AN ORDER REGARDING UNLAWFUL EVICTIONS, WRITS OF POSSESSION AND INITIATION OF EVICTION PROCEEDINGS

WHEREAS, I proclaimed a state of emergency on March 15, 2020 and a renewed state of emergency on April 14, 2020 to authorize the use of emergency powers in order to expand and expedite the State's response to the serious health and safety risks of the highly contagious COVID-19; and

WHEREAS, Executive Order 28 FY 19/20 dated March 31, 2020 directed people to stay healthy at home except for essential businesses operations and personal activities in order to further reduce the transmission of COVID-19; and

WHEREAS, the adverse economic impacts of COVID-19 in our State include loss of work and income for a growing number of Maine people, hindering their ability to stay in their residences and their places of business; and

WHEREAS, many Maine people, including those at high-risk and most vulnerable to COVID-19, are remaining in their homes in order to reduce their likelihood of contracting or transmitting the virus; and

WHEREAS, the adverse economic impacts of COVID-19 in our State include substantial financial losses for many businesses, especially small businesses which comprise the significant majority of Maine's businesses, hindering their ability to remain in their operating location; and

WHEREAS, the Maine Supreme Judicial Court, in an effort to reduce the opportunity for community spread of COVID-19 through courthouse activities, issued a Revised Emergency Order dated March 18, 2020, which, in pertinent part, permits filings in eviction or Forcible Entry and Detainer ("FED") Actions but prohibits until at least May 1st any actions, hearings and proceedings thereon (unless a case presents a severe threatening emergency). As a result, only evictions approved before March 18th are authorized by law to proceed; and

WHEREAS, a governor's emergency powers expressly include the authorities to:

a. Control the occupancy of premises within the state pursuant to 37-B M.R.S. §742(1)(C)(8);

b. Suspend the enforcement of statutes, orders or rules where strict compliance therewith would hinder or delay necessary action in coping with the emergency pursuant to 37-B M.R.S. §742(1)(C)(1) and §834;

c. Adjust time frames imposed by law reasonably necessary to mitigate an effect of the emergency pursuant to 37-B M.R.S. §742(1)(C)(13)(a); and

d. Take whatever action is necessary to mitigate a danger that may exist within the State pursuant to 37-B M.R.S. §742(1)(C)(12);

NOW, THEREFORE, I, Janet T. Mills, Governor of the State of Maine, pursuant to 37-B M.R.S. Ch. 13, including but not limited to the provisions cited above, do hereby Order as follows:

I. ORDERS

For the foregoing reasons, and consistent with the effect of the Court's Order of March 18, 2020 and the purposes of Executive Order 28 FY 19/20, I hereby Order that:

A. Evictions Not Authorized by Law

With the courts currently closed to most eviction actions, there is a much higher risk of landlord attempts to evict a tenant by a means not authorized by law. To mitigate this danger, no landlord or agent of a landlord or property owner may attempt during this state of emergency to evict a tenant by a means not authorized by law. Law enforcement, with guidance of the Attorney General as necessary, are authorized to enforce this provision through 37-B M.R.S. §786.

B. Writs of Possession

No Writ of Possession in a FED action authorized by a court before the Court's March 18th Order shall issue or be served upon a tenant except as provided below and after review by a judge. As applied to such tenants, all pertinent statutes, rules and regulations providing the issuance and service of a writ of possession are hereby suspended until further Order. Such laws include, but are not limited to, 14 M.R.S. §6005, §6203-F §6321; 10 M.R.S. §9097-B; and 33 M.R.S. §501-A.

The suspension provided by this section applies to those tenants whose writs of eviction were authorized solely for reason of nonpayment of rent and whose delinquency was no greater than two months duration; or pursuant to a 30-day without-cause notice under 14 M.R.S. §6002; or for expiration of a lease agreement. This suspension does not apply to writs for the evictions of tenants who:

1. Posed an imminent risk of harm by threatening or assaulting behavior towards the landlord, another tenant, neighbor or other person;

2. Posed an imminent risk of harm to the property of the landlord, other tenant, neighbor or other person;

3. Violated health, sanitation, fire, housing or safety laws;

4. Engaged in an illegal or prohibited trade or activity on the property;

5. Posed a significant nuisance to the landlord, another tenant or a neighbor; or

6. Caused substantial unrepaired damage to the premise.

A landlord or agent of the landlord may submit evidence in writing to the court that the tenant's eviction is for one of these six reasons and therefore does not qualify for the writ suspension provided by this section. This evidence shall be provided to the tenant by the quickest means possible and is subject to rebuttal by the tenant within 48 hours of receipt. No writ of possession shall be issued except by further Order of the Court.

C. Notice Periods for Certain Cases

As applied to a landlord whose only reason for evicting a tenant is nonpayment of rent and such late payment is due to loss of income caused by COVID-19:

1. The provision in the first paragraph of 14 M.R.S. §6002 requiring a landlord to give a 30-day notice to the tenant is extended to 60 days; and

2. The provision of 14 MRSA §6002(1)(C) requiring a landlord to give a 7-day notice to the tenant is extended to 30 days.

II. LIMITATIONS

No provision in this Executive Order shall be construed to:

A. relieve a tenant of the obligation to pay the amount of rent that was the subject of the writ;

B. relieve a tenant of the obligation to pay the amount of rent during which a tenant continues to occupy a tenancy; or

C. restrict an authorized state, county or municipal authority to remove a tenant from a property for a law enforcement, public health or other lawful reason.

III. JUDICIAL NOTICE

A copy of this Executive Order shall be provided to the Chief Justice of the Maine Supreme Judicial Court and to the Sheriff of each county.

IV. REVIEW

This Executive Order shall be reviewed at the time the courts reopen their hearings and proceedings to eviction or FED actions.

V. EFFECTIVE DATE

This Order shall take effect on April 16, 2020 and, unless sooner amended or rescinded, shall expire 30 days after the termination of the COVID-19 state of emergency.

Janet T. Mills
Governor