District Court of Maryland
Office of the Chief Judge
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September 4, 2020

COMMUNICATION REGARDING LANDLORD/TENANT ACTIONS DURING PHASE IV OF THE MARYLAND JUDICIARY'S REOPENING PLAN

Please be advised that the District Court's procedures for handling landlord/tenant case types are set forth in two (2) of the amended administrative orders issued by Maryland Court of Appeals Chief Judge Mary Ellen Barbera on June 3, 2020.

Please reference the following orders:

- *Amended Administrative Order on the Progressive Resumption of Full Function of Judiciary Operations Previously Restricted Due to the COVID-19 Emergency* (**the Resumption Order**)
- *Amended Administrative Order on Lifting the Suspension During the COVID-19 Emergency on Foreclosures, Evictions and Other Ejectments Involving Residences* (**the Evictions Order**)

In Phase IV, which began on Monday, August 31, 2020, the District Court will hear all landlord tenant case types, including failure to pay rent cases. The information provided below is offered to explain the business process that will be employed in Phase IV by the court while the pandemic is ongoing.

a) All visitors to the District Court must wear a face mask or covering at all times while inside the courthouse. Screening questions will be asked, a temperature reading will be taken, and physical distancing will be required. If an individual is denied entrance because they cannot pass the screening, they will be given instructions as to how to participate remotely or reschedule the case.

b) In order to ensure physical distancing, many courts are employing staggered docket start times and reduced caseloads on each docket. Staggered docket start time means that a hearing may start on the hour, half-hour or on fifteen-minute increments. For example, a court may schedule 10 cases at 9:00 a.m., 10 cases at 10:00 a.m. and 10 cases at 11:00 a.m. Please check your hearing notice carefully and arrive no more than 15 minutes before your case is scheduled.

c) Most District Court locations will conduct landlord tenant hearings in person. However, an individual may request to participate remotely either by video or telephone. Please use the following form if you want to request to participate remotely: https://mdcourts.gov/sites/default/files/court-forms/ccdc110.pdf. In addition, certain courts may pilot landlord tenant dockets that are conducted remotely. Where such pilot programs are being conducted, the hearing notice will indicate that the hearing is being conducted remotely. However, an individual can still appear in person. After looking at their notice, if an individual is still unclear as to whether they should appear in person or remotely, they should contact the clerk's office.

d) Maryland Governor Larry Hogan's Executive Order on evictions issued April 3, 2020 provides:

> "Until the state of emergency is terminated […] No court shall give any judgment for possession or repossession, or warrant for restitution of possession or repossession of residential, commercial, or industrial real property, if the tenant can demonstrate to the court, through documentation or other objectively verifiable means, that the tenant suffered a Substantial Loss of Income."

This applies to both failure to pay rent actions as well as breach of lease actions. If this defense is raised, it will be treated as an affirmative defense in both failure to pay rent cases and breach of lease actions until the governor's state of emergency is lifted, or the executive order is amended. Each judge will determine the sufficiency of the evidence provided.

If a tenant is successful in asserting this defense, the court will determine the merits of the case and/or the amount that is due for possession but will **reserve entry of judgment** until such time as the judgment is not prohibited by the governor's executive order. Upon termination of the state of emergency and rescission of the health emergency or other applicable action by the governor, the court, without request from any party, will enter each judgment for possession that was reserved by the court. The landlord has a continuing duty to inform the court of any payments made by the tenant while the case is pending or is reserved.

The Governor's Order can be found here:
https://governor.maryland.gov/wp-content/uploads/2020/04/Evictions-Repossessions-Foreclosure-AMENDED-4.3.20.pdf

e) The Centers for Disease Control and Prevention (CDC) of the United States Department of Health and Human Services issued an Order regarding evictions that will become effective on September 4, 2020. In pertinent part, the Order provides that a landlord may not evict any tenant, lessee or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that:

1) The individual has used best efforts to obtain all available government assistance for rent or housing;
2) The individual either (i) expects to earn no more than $99,000 in annual income for Calendar Year 2020 (or no more than $198,000 if filing a joint tax return), (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;
3) the individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary out-of-pocket medical expenses;
4) the individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and
5) eviction would likely render the individual homeless— or force the individual to move into and live in close quarters in a new congregate or shared living setting— because the individual has no other available housing options.

The CDC Order can be found here: https://federalregister.gov/d/2020-19654. A sample affidavit is included.

If this defense is raised, it will be treated as an affirmative defense in failure to pay rent cases until December 31, 2020, unless extended by the CDC. Each judge will determine the sufficiency of the evidence provided.

If a tenant is successful in asserting this defense, the court will determine the amount that is due for possession but will **reserve entry of judgment** until such time as the judgment is not prohibited by the CDC's Order. Upon termination of the CDC Order, the court, without request from any party, will enter each judgment for possession that was reserved by the court. The landlord has a continuing duty to inform he court of any payments made by the tenant while the case is pending or is reserved.

f) If either the landlord or the tenant is interested in mediation of their case prior to the hearing date, they should contact the District Court Alternative Dispute Resolution Office at RemoteADR@mdcourts.gov, telephone number 410-260-1971, or submit a request via the online form, available at https://mdcourts.gov/district/adr/home. Mediation is currently being conducted remotely.

g) The District Court of Maryland has revised its webpages regarding landlord tenant actions in light of the COVID-19 pandemic. These webpages provide information for both landlords and tenants and can be found here: https://mdcourts.gov/district/directories/courtmap.

h) A new failure to pay rent complaint form will become effective October 1, 2020. The new DC-CV-082 form can be found online at https://mdcourts.gov/district/forms or can be requested from the clerk office beginning September 14, 2020. If you are requesting a large quantity of forms, please use https://mdcourts.gov/sites/default/files/court-forms/district/forms/acct/dca040.pdf/dca040.pdf.

REQUEST TO LANDLORDS:

Landlords are requested to review failure to pay rent complaints that were previously filed to determine if the case is still viable and if the case will proceed to a hearing. If the case is no longer viable, landlords are requested to file a line of dismissal for the action. Landlords can file a single dismissal sheet containing the case numbers of all cases to be dismissed. These can be filed with the court by email/virtual drop box as the local jurisdiction permits. For all cases that may proceed to a hearing, landlords are requested to provide the court with a list of these cases.

The District Court of Maryland continues to explore and coordinate with other state and local government agencies that are providing COVID-19 relief to tenants and/or landlords. The Maryland Judiciary's Self-Help Centers have compiled a list by county of COVID-19 resources available to both landlords and tenants. For more information, please contact the Maryland Courts Self-Help Center at 410-260-1392 or https://mdcourts.gov/selfhelp. In addition, both landlords and tenants are encouraged to contact their state and local governments to determine what resources may be available.