District Court of Maryland
Office of the Chief Judge
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November 13, 2020

COMMUNICATION REGARDING DISTRICT COURT RESTRICTED OPERATIONS AND LANDLORD/TENANT ACTIONS DURING PHASE III

Please be advised that in accordance with Administrative Orders issued by Maryland Court of Appeals Chief Judge Mary Ellen Barbera on November 12, 2020, District Court operations are restricted to Phase III operations effective November 16, 2020.

Please reference the following orders:

- *Fifth Administrative Order Restricting Statewide Judiciary Operations Due To The COVID-19 Emergency*
- *Fourth Amended Administrative Order Lifting the Suspension During the COVID-19 Emergency of Foreclosures, Evictions, and Other Ejectments Involving Residences*

In Phase III, which begins on Monday, November 16, 2020 and runs until December 31, 2020, the District Court will hear only limited actions including criminal cases, other civil proceedings and certain landlord tenant case types.

The landlord tenant actions that will be heard by the District Court during Phase III are as follows:

a) rent escrow actions, provided local inspection practices are capable of being conducted;

b) tenant holding over actions and any associated warrants of restitution;

c) breach of lease actions and any associated warrants of restitution;

d) wrongful detainer actions and any associated warrants of restitution;

e) processing of warrants of restitution for failure to pay rent actions;

Subject to any Executive or Agency Order, failure to pay rent filings will be accepted by the District Court but will not be set for a hearing during Phase III. Any failure to pay rent hearing currently set on or after November 16, 2020 through December 31, 2020 is postponed and will be reset for a hearing when restrictions to court operations are lifted or modified.

The information provided below is offered to explain the business process that will be employed during Phase III by the court while the pandemic is ongoing.

a) All visitors to the District Court must always wear a face mask 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. In addition, due to space limitations, individuals may be denied entry to the courthouse if they are not a party or witness to a case. Please check your hearing notice carefully and arrive no more than 15 minutes before your case is scheduled.

c) District Court locations may conduct Phase III authorized hearings in person or may conduct the hearings remotely. 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, courts may specify that during Phase III dockets will be conducted remotely. Where such dockets are being conducted, the hearing notice will indicate that the hearing is being conducted remotely. 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. Although failure to pay rent cases will not be heard during Phase III, this defense may be raised during any breach of lease hearing. It will be treated as an affirmative defense until the governor's state of emergency is lifted, or the executive order is amended. In addition, the courts will continue to accept and rule on motions asserting such a defense in any failure to pay rent case or breach of lease case that was heard prior to November 16, 2020 provided that an eviction had not yet occurred. Each judge will determine the sufficiency of the evidence provided.

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

Although failure to pay rent hearings will not occur during Phase III, this defense may be raised by motion in any failure to pay rent case that was heard prior to November 16, 2020 provided that an eviction had not yet occurred. Each judge will determine the sufficiency of the evidence provided.

f) If any party 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 as well as money issues in light of the COVID-19 pandemic. These webpages can be found here:
   - https://www.courts.state.md.us/legalhelp/housing
   - https://www.courts.state.md.us/legalhelp/moneyissues/covid19.

h) A new failure to pay rent complaint form became effective October 1, 2020. The new DC-CV082 form can be requested from the clerk's office. 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 a hearing is still needed. 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 or drop box drop as the local jurisdiction permits.

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.