



July 16, 2020

UPDATE #23
CARES Act – Thirty Day Lease Termination Notice

Friends:

The CARES Act’s 120-day moratorium on evictions for nonpayment of rent is currently scheduled to end on July 24, 2020. “Covered” properties (those with federally-backed mortgages or subject to the Violence Against Women Act) may begin the eviction process against delinquent tenants on July 25th, and this process **MUST** be initiated with a 30-day notice to vacate.

Under the Act, a 30-day notice is required even if the lease agreement contains a provision by which the tenant waives notice of eviction for nonpayment of rent. The 30-day notice is also required even though Tennessee law would normally only prescribe a 14-day notification.

For this reason, and for your convenience, we have prepared a **Thirty Day Lease Termination Notice** which is attached to this email and is also available to you through the Landlord Portal of our website, www.painetarwater.com.

What if my property is under a forbearance agreement with my lender?

Your property may have entered a forbearance agreement with a mortgage lender because of a financial hardship due, directly or indirectly, to the COVID-19 emergency. If this is the case, you **may not** initiate the eviction of a tenant for nonpayment of rent or fees during the period of forbearance. Therefore, if your property continues to enjoy the reprieve of a mortgage loan forbearance even though the 120-day moratorium has ended, you cannot evict a tenant for nonpayment. Additionally, during the entirety of the forbearance period, you may not charge late fees to your tenants.

When your forbearance period ends, you may terminate the lease of a tenant that is in default for nonpayment by issuing a 30-day notice to vacate the property.

What if the tenant is under a forbearance agreement with my property?

You may have tenants who entered into a deferred repayment agreement with you because of a financial hardship related to COVID-19. If the tenant is making payments in accordance with the agreement, you may not evict them for nonpayment at this time. However, you may initiate eviction proceedings against a tenant who has failed to abide by the terms of a repayment agreement, or who fails to pay post-moratorium rent on time.

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What is the eviction process after I issue the Thirty Day Lease Termination Notice?

Generally, the eviction process will continue as normal. If the tenant fails to vacate in accordance with the notice, you may file for a detainer warrant. Use the Nationwide Eviction portal to initiate the process. NOTE: the first day a detainer warrant may be filed is August 24, 2020. Due to Covid-19, some courts are placing caps on the number of detainer warrants they will hear on a given day. In Knox County, attorneys are required to contact tenants in an attempt to reach an agreement prior to the court hearing. In most instances, the agreement involves the tenant vacating within a specific period of time and may include a plan to repay the judgment.

As always, if you have any questions, please do not hesitate to contact our office.

Very truly yours,

Mike

Michael J. King