



August 17, 2020

**UPDATE #24
PROCESSING EVICTIONS FOR CARES ACT PROPERTIES**

Friends:

I have received a number of questions regarding the processing of evictions for properties covered by the CARES Act. The eviction moratorium for rent cases ended on July 24, 2020. Properties should have issued thirty day notices to tenants beginning on July 25, 2020. This Update will answer additional questions regarding rent evictions.

For tenants who are in default for March, April, May June or July, When can I file my detainer warrant?

You may file the detainer warrant after the thirty day notice period expires. For example, if the notice was issued on July 25th, the thirty days runs on August 24th. You can file the detainer on August 25th.

May I file a detainer warrant on tenants who agreed to a payment plan for the rent during the moratorium (between March and July)?

If the tenant entered into a repayment plan with you during the moratorium, you may not file for an eviction if the tenant is complying with the plan. You may file for an eviction if the tenant is in default under the repayment plan or defaults on August rent.

My lease waives notice for nonpayment of rent. I had a tenant in default for nonpayment during the period between March and July. Because of the CARES Act, I sent a thirty day notice to the tenant after the moratorium ended and the tenant paid everything that was owed. What should I do if the tenant failed to pay August rent?

Since you previously gave a thirty day notice to the tenant, you need to make sure that you do not file an eviction prior to the date of the initial notice.

Example - You issued a thirty day notice on July 30th. The last day for the tenant to vacate is August 29th. The tenant paid all the back rent on August 2nd, but then defaults on the August rent. Even though your lease waives notice for nonpayment, please wait until August 30th before proceeding with eviction. The judges are very sympathetic to the plight of tenants in light of COVID-19. They will take issue with you filing an eviction before the previous notice period expired.

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My lease requires a 14 day notice. I already gave a thirty day CARES Act notice and the tenant paid. The tenant is now in default for August. What should I do?

The type of notice you will issue the tenant depends upon the amount of time remaining on the thirty day CARES Act notice you gave the tenant. Assume you issued a thirty day CARES Act notice in July. On or before August 5th, the tenant pays all the back rent set forth in the CARES Act notice. The tenant then defaults on the August rent and you now want to issue a notice for the August rent. If there are 14 days or more remaining on the CARES Act notice you issued in July, issue a supplemental notice (Attachment 1) using the same termination date that was in the July CARES Act notice. If there are less than 14 days remaining on the CARES Act notice, issue a 14 day notice (Attachment 2) for the August rent.

PLEASE REMEMBER VARIOUS STATE AND PRIVATE AGENCIES HAVE GRANTS AVAILABLE TO ASSIST TENANTS IMPACTED BY COVID. IN KNOX COUNTY, ENCOURAGE YOUR TENANTS TO CALL 211. IN ALL OTHER COUNTIES, TENANTS SHOULD BE ENCOURAGED TO CHECK WITH THEIR LOCAL CITY AND COUNTY GOVERNMENTS TO DETERMINE WHETHER ASSISTANCE IS AVAILABLE.

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

Very truly yours,

Mike

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Attachments