

## RESIDENTIAL EVICTIONS: WHAT TENANTS NEED TO KNOW IN LIGHT OF EXECUTIVE ORDER NO. 106

As of April 24, 2020

This document is for informational purposes only, is not intended as legal advice, and does not substitute for consulting with a lawyer about specific facts and circumstances.

### EVICCTIONS

#### Can I be evicted from my home during the COVID-19 emergency?

**No, except in rare circumstances when permitted by a court.**

On March 19, 2020, New Jersey Governor Philip Murphy issued Executive Order 106, which immediately suspends evictions throughout the state. This is called an “eviction moratorium,” and it means that, except in rare circumstances as determined by a court, ***no tenant may be removed from his or her home*** as a result of an eviction proceeding while the Executive Order remains in effect.

The eviction moratorium does not affect court proceedings; instead, it prevents lockouts and removals. The New Jersey Supreme Court controls court proceedings related to eviction and the court has issued an Order suspending ***the landlord/tenant calendar through at least April 26, 2020***. This means that, while your landlord can file eviction papers, the court will not hear the case while its Order is in effect.

#### What if a lockout notice or warrant of removal has already been issued?

The moratorium applies to all pre-existing orders for removal. ***Any previously issued order for removal is suspended, except as noted above in rare circumstances as determined by a court, and you cannot be removed from your home*** during the moratorium.

#### What if my landlord locks me out illegally?

It is a crime for your landlord to lock you out. Under New Jersey law, only the courts can order evictions, and only government officials can remove you from your home. ***If your landlord locks you out, call the local police right away.***

#### How long will the eviction moratorium last?

The eviction moratorium began on March 19, 2020, and it will last until two months after Governor Murphy declares an end to the COVID-19 health crisis, unless the Governor issues another Executive Order to end it sooner.

#### What happens when the eviction moratorium ends?

Local officials can resume removing tenants who are subject to final court orders of eviction.

### **Do I still need to pay my rent right now?**

**Yes.**

Rent is still due. If you do not pay, your landlord can still demand the rent and file an action against you in court. The court will schedule the case once the suspension of court hearings is lifted. If you need guidance on how to address your rent situation with your landlord during this time, you can call the *New Jersey Housing and Mortgage Finance Agency* for free counseling over the phone. Visit <https://njhousing.gov/foreclosure> for a list of counselors by county.

### **If I can't afford to pay my rent and fall behind, will I still owe the money?**

**Yes.**

Any payments you miss now will become back-rent that you owe. One way or another, you will probably have to pay later whatever you cannot pay now, or you will ultimately face possible eviction. If you fall behind on your rent payments, you can try speaking with your landlord to work out a payment plan to avoid having an eviction action filed against you. Additional help may become available for tenants who miss rent payments because of COVID-19-related financial hardship. Check the state's COVID-19 website [www.covid19.nj.gov](http://www.covid19.nj.gov) and visit DCA at [www.nj.gov/dca/dcaid](http://www.nj.gov/dca/dcaid) to see if you are eligible for any of the state's housing assistance programs - these include temporary assistance to households who are being evicted due to a short-term loss of income and temporary financial assistance to help pay for housing and case management and services to maintain housing. There are also programs available to help veterans, low-income families, the elderly, single-parents, and more. You can also receive guidance on how to address your rent situation with your landlord during this time through the *New Jersey Housing and Mortgage Finance Agency* that is providing free counseling over the phone. Visit <https://njhousing.gov/foreclosure> for a list of counselors by county or dial toll free.

### **What if I live in a hotel/motel? Can I be evicted while the Executive Order is in place?**

**Maybe.**

Under Executive Order 106, "residential property" means any property rented or owned for residential purposes, including, but not limited to, any house, building, mobile home or land in a mobile home park, or tenement leased for residential purposes, but shall not include any hotel, motel, or other guest house, or part thereof, rented to a transient guest or seasonal tenant, or a residential health care facility. While the Anti-Eviction Law typically does not apply to hotel and motel guests, if hotel and motel guests have no other home and live at the hotel and motel on a continual basis, they might be covered by the Anti-Eviction Law. Since Executive Order 106 and A-3859 were meant to prevent evictions, unless the court deems it necessary in the interest of justice, those who would be homeless if removed from the hotel or motel would be protected. If you have any questions about your rights as a resident of a hotel or motel, contact a legal services organization such as *Legal Services of New Jersey* <http://www.lsnj.org> (1-888-576-5529), *Volunteer Lawyers for Justice New Jersey*, <http://www.vljinj.org/get-help>

(973-645-1955) or *Community Health Law Project* <http://www.chlp.org/> (973-275-1175) to discuss your individual circumstances – this advice is being provided for free.

Under Administrative Order No. 2020-9, municipalities and counties do not have the ability to prevent hotels and motels from accepting individuals that do not have permanent housing to which they may safely return.

## COURT HEARINGS

**What about court? Will I have to go to court if my landlord has filed eviction proceedings against me?**

**No, not right now.**

On March 27, the New Jersey Supreme Court ordered that landlord-tenant court be suspended until April 26. This means there will be no eviction hearings anywhere in the state until April 26 at the earliest, and the Supreme Court may announce further postponements. Check the New Jersey Courts website for updates.

**Does federal law prevent my landlord from filing an eviction case against me?**

**In some situations.**

Under the recently adopted federal CARES Act, *if your landlord has a federally backed mortgage*, the landlord may not file an eviction action against you for nonpayment of rent, or charge you fees (such as late fees or attorney's fees) related to your nonpayment of rent, for 120 days from March 27, 2020 (or through July 25, 2020). **After July 25**, a landlord with a federally backed mortgage *must give tenants a 30-day notice before filing an eviction action*.

The 120-day federal eviction ban (also referred to as the federal moratorium) extends to tenants participating in federally-subsidized housing programs.

Additionally, if the owner of a building with five or more units receives a forbearance in making mortgage payments on a federally backed mortgage, the owner cannot file for eviction during the period of mortgage forbearance, which may extend beyond July 25, and the owner must give 30 days' notice to evict after the forbearance period ends.

**You must still pay rent**, and you will owe later what you don't pay now. Like the state moratorium, the federal law protects you from being removed from your home during the emergency, but you still owe the rent.

### **Can my landlord still file a complaint against me in court for not paying my rent?**

**Yes.**

Pursuant to Executive Order 106, eviction and foreclosure proceedings may be initiated or continued during the time this Order is in effect. However, enforcement of all judgments for possession, warrants of removal, and writs of possession are stayed while this Order is in effect, unless a court determines that enforcement is necessary in the interest of justice.

### **What should I do if I receive court papers?**

You can contact a legal services organization right away: *Legal Services of New Jersey* <http://www.lsnj.org> (1-888-576-5529), *Volunteer Lawyers for Justice New Jersey*, <http://www.vljnj.org/get-help> (973-645-1955) or *Community Health Law Project* <http://www.chlp.org/> (973-275-1175) are all providing free legal assistance to tenants.

### **What if my landlord has already started an eviction proceeding against me in landlord/tenant court and I have an upcoming court date?**

If your court date is scheduled during the suspension, the court will provide you with notice with your new court date. While landlord-tenant court is suspended, you should not go to court, no cases will move forward, and you will not be penalized for not going to court.

### **Can I still get emergency repairs in my apartment?**

**YES.**

You always have a right to safe and decent housing. If you have concerns about issues such as inadequate heat, infestations, leaks, crumbling walls and ceilings, or other hazardous conditions, you should ask your landlord in writing to make repairs (keep a copy). If repairs are not made quickly, you can call 2-1-1, contact the state Bureau of Housing Inspection, or call your municipality to report the problem. Or, if you are unsuccessful with your landlord and you can manage the repairs on your own, you can make the repairs or pay someone to make them. You might be able to withhold the money you spent on repairs from your rent and keep that money aside in case of legal proceedings regarding the rent withholding (save all receipts for the repairs!). You can contact a legal services organization for information on this topic: *Legal Services of New Jersey* <http://www.lsnj.org> (1-888-576-5529), *Volunteer Lawyers for Justice New Jersey*, <http://www.vljnj.org/get-help> (973-645-1955) or *Community Health Law Project* <http://www.chlp.org/> (973-275-1175) are all providing free legal assistance to tenants.

Due to closures, enforcement agencies may be working with limited staff and it may take longer to get repairs or inspections.

### **What if I already have a court date scheduled for a hearing about emergency repairs?**

All landlord/tenant court proceedings, including those for emergency repairs, have been suspended for the time being. You can find updates on the dates of the suspensions at

the New Jersey Courts website. You should not go to housing court during the suspension. Instead, you should wait for notice of a rescheduled court date.

## **SUBSIDIZED TENANTS**

**Can my landlord file an eviction action against me if I live in public housing or have a Section 8 Voucher?**

**No.**

The federal CARES Act prevents landlords from filing eviction actions for nonpayment of rent for 120 days from March 27, 2020 (or through July 25, 2020) against tenants who:

- live in federally-subsidized housing,
- have a Section 8 Housing Choice voucher,
- live in Section 8 project-based housing, or
- live in other types of federally funded housing, including, among others, certain housing programs for seniors, people with disabilities, people with HIV/AIDS, and people at risk of homelessness.

During this period, the landlord also ***cannot charge fees (such as late fees or attorney's fees)*** associated with nonpayment of rent, and the landlord ***must give tenants a 30 day-notice after July 25 before filing eviction actions.***

**Is the Department of Community Affairs (DCA) still open for business?**

**Yes.**

The Department of Community Affairs (DCA) housing assistance programs continue to operate and do all their basic work, including paying rents to landlords and setting the amount of rent subsidized tenants must pay. DCA encourages subsidized tenants to use the online portal at [assistancecheck.com](https://assistancecheck.com) to submit documents, or to send documents through the mail (keep copies!). Subsidized tenants who have questions can contact the field offices or use the main customer service line: 609-292-4080 or [customer.service@dca.nj.gov](mailto:customer.service@dca.nj.gov).

DCA has taken a number of actions to meet the ongoing needs of its clients and to curb evictions and homelessness during the state of emergency. For example:

- DCA has ***suspended termination of subsidies*** in the Section 8 Housing Choice Voucher and State Rental Assistance Programs, unless the tenant has engaged in violence or threats against others.
- DCA is also accepting through its online portal interim income re-certifications for tenants who have lost income because of the pandemic.

To find out if you are eligible to apply for any of DCA's housing assistance programs, visit DCA's online anonymous screening tool: [www.nj.gov/dca/dcaid](https://www.nj.gov/dca/dcaid).

## **EMERGENCY ASSISTANCE**

**What can I do if I need emergency housing assistance?**

Call 2-1-1 for resources.

## ELECTRICITY, GAS, WATER

### Can my utilities be shut off during the COVID-19 crisis?

**No.**

New Jersey's electric, gas and water utilities have voluntarily suspended utility shut-offs during the crisis.

### Do I still have to pay for utilities and water?

**Yes.**

You still have to pay whatever electric, gas, or water bills you normally pay. If you cannot pay now, you will have to pay later. The utilities and water companies are not cancelling debts; ***they are just postponing shutoffs for the time being.***

DCA offers low-income tenants assistance with utility bills through its popular Low Income Home Energy Assistance Program (**LIHEAP**) – to find out if you're eligible, receive further information and to apply go to

[https://www.nj.gov/dca/divisions/dhcr/offices/docs/usfhea\\_fact\\_sheet.pdf](https://www.nj.gov/dca/divisions/dhcr/offices/docs/usfhea_fact_sheet.pdf)