

NOTICE TO THE BAR

LANDLORD/TENANT – AMENDMENTS TO COURT RULES APPENDIX XI-S (THE “*HARRIS* ANNOUNCEMENT”) TO ADDRESS L. 2019, c. 316

The Supreme Court has adopted amendments to Court Rules Appendix XI-S (“Landlord/Tenant Pre-Calendar Call Instructions”) (the “Harris Announcement”) as recommended by the Supreme Court Special Civil Part Practice Committee. The updates to the Harris Announcement are based on legislative amendments effective March 1, 2020 (L. 2019, c. 316), which provide that in an action for nonpayment of rent, a residential tenant can have the judgment for possession dismissed with prejudice by paying the landlord all rent due and owing, plus proper court costs, up to three business days after the execution of the warrant of removal (eviction). The Court’s February 24, 2020 Order with the English-language version of Appendix XI-S is published with this notice. (The Spanish-language version of Appendix XI-S is in process and will be posted on the Judiciary’s public website (njcourts.gov) along with the English-language version.) The amendments to the Harris Announcement are also effective March 1, 2020.

Background

The Court in Community Realty Management v. Harris, 155 N.J. 212 (1988), held that courts must explain landlord tenant procedures to tenants, especially those without the benefit of legal counsel. To that end, the Court adopted a uniform notice, incorporated in the Rules of Court as Appendix XI-S, that has been used statewide since 2001. That mandatory notice is served on all tenants with the complaint and summons, and the substance of the Harris Announcement also is read orally by judges presiding over landlord/tenant proceedings and also shared via video recordings in English and in Spanish.

New Law

L. 2019, c. 316, enacted January 13, 2020 to be effective March 1, 2020, provides that in an action for nonpayment of rent pursuant to N.J.S.A. 2A:18-61.1(a), a residential tenant has three business days after a warrant of removal is executed (eviction) to submit all rent due and owing, plus proper court costs, directly to the landlord to have a judgment for possession dismissed with prejudice. The landlord cannot refuse to accept this timely payment and must cooperate with charitable organizations or rental assistance programs that have committed to pay the tenant’s rent.

Within two days after such payment of all the rent due and owing, the landlord must provide to the court, with a copy to the tenant, a written notice that the rent due and owing was paid. Upon receipt of this written notice from the landlord, the court must dismiss with prejudice the action for nonpayment of rent. If the tenant makes the timely rental payments within this three-business-day period and the landlord fails to provide the court with written notice that the rent due and owing was paid (and to dismiss the judgment for possession with prejudice), the tenant may file a motion to dismiss with prejudice the action for nonpayment of rent upon notice to the landlord.

Questions

Questions on this notice should be directive to Assistant Director for Civil Practice Taironda Phoenix at (609) 815-2900 x54900 or Taironda.Phoenix@njcourts.gov.

/s/ Glenn A. Grant

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: February 25, 2020

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to Appendix XI-S (“Landlord/Tenant Pre-Calendar Call Instructions”) of the Rules Governing the Courts of the State of New Jersey are adopted to be effective March 1, 2020.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: February 24, 2020



**New Jersey Judiciary
Superior Court of New Jersey
Law Division, Special Civil Part**

Landlord/Tenant Pre-Calendar Call Instructions

Preamble

The judge presiding at the call of the landlord/tenant trial list on the day of the trial will provide instructions to the tenants and landlords who have come to court for a trial. The instructions are set forth below. A written copy of the instructions provided by the judge will be made available to you at the calendar call. These instructions need not be recited verbatim. However, what is said must contain and explain in plain language all of the points set forth in these instructions and may be supplemented by local information. A Spanish version of these instructions will be given via a videotape recording and in writing in those counties with a significant Spanish speaking population.

Instructions

Si usted necesita un interprete porque usted habla solamente Espanol, por favor, ponga se de pie.

We are about to call a list of cases where the landlord is suing to evict, that is, lock out, a tenant. After the list has been called, you will have a chance to ask questions. Written copies of the instructions I am about to give are available.

1. The Calendar Call

- A. When we call each case, please identify yourself. We will mark a case "**READY**" when both the landlord and the tenant are here. We will mark a case "**DEFAULT**" when the landlord is here but the tenant isn't. If a default is entered, then the landlord must file an affidavit or certification, which must include the facts necessary to get a judgment for possession and a statement that all charges and fees are permitted by law and the lease. The landlord's attorney, if there is one, must also file a certification that the charges and fees, including attorney fees, are permitted by law and the lease. The judgment for possession allows a landlord to have a tenant evicted by a Special Civil Part Officer. We will mark a case "**DISMISSED**" if the landlord is not here. Tenants should identify themselves even if the landlord is not here.
- B. Everyone must stay here until you get additional instructions and permission to leave.

2. Settlements

Now I want to talk to you about settlements. After we have called the list of cases, we suggest that landlords and tenants talk to each other to try to settle your cases. Here are some important points. You do not have to settle your case, and you have the right to a trial. You should settle only if the terms are agreeable to you. A settlement must be voluntary to both parties. If you are able to agree on a settlement, please let the staff in this courtroom know and you will be given a settlement agreement form, the landlord's certification and the certification for the landlord's attorney. I advise the parties that they are not limited to the contents of the settlement forms. You may change them as desired. Complete the forms, date and sign them, and give them back to court staff. You will receive a copy for your own records. Make sure that you understand the words in the settlement because if you agreed to entry of a judgment for possession and don't comply with the terms of the settlement, you will be evicted. Any agreement that says a judgment for possession will or may be entered must be approved by me or another judge.

3. Waiting for Trial

If you are not able to settle your case, you will have to wait until a judge is available to hear your case. We expect to reach all cases today. However, if your case cannot be completed today, then the tenant may have to

deposit with the clerk of the court the amount of rent to be determined by the court, no later than 4:30 p.m. today, in cash or money order or bank cashier's check made payable to the Treasurer, State of New Jersey, rather than to the landlord. If it is deposited, the Clerk will reschedule the case with a new trial date. If the rent is not deposited today, a Judgment for Possession will be entered in favor of the landlord. That means that a landlord will be able to have a tenant evicted by a Special Civil Part Officer. A landlord cannot lock out a tenant by himself or herself; a Special Civil Part Officer must be used to evict a tenant.

4. Non-Payment Cases

Introduction. The following points relate to a landlord's claim that a tenant owes rent:

- A. **Dismissal Upon Payment or Deposit.** First, if the landlord claims that the tenant owes rent, it is still not too late to pay the rent that is due and have the case dismissed. If the tenant pays the rent that is due plus costs of court by 4:30 p.m. today, the case will be dismissed. The tenant may pay the rent plus costs to the landlord, or to the clerk of the court by cash, money order, or bank cashier's check. If a tenant disagrees with the landlord on the amount of the rent that is owed, a tenant has the right to a trial so that a judge can decide how much rent is owed. After the judge decides how much rent is owed, the tenant can pay the rent and the case will be dismissed.
- B. **Items Constituting Rent.** A tenant does not have to pay for attorney's fees, late fees or other charges to avoid eviction unless there is a written lease that calls these items "additional rent." Even if the lease does say that, the **amount** really due as rent may be limited by rent control, or if there is public assistance, the rent may be limited by federal law. For example, if the tenant gets Section 8 assistance, the landlord cannot include a late charge to determine the amount that the tenant owes.
- C. **Limitation on Court's Powers.** If the only issue is that a tenant who owes rent wants more time to pay it, or to pay it in installments but the landlord does not agree, then I will have to enter a judgment for possession; I have no right to make a landlord wait for the rent or to take it in installments. A judgment for possession is the court order giving the landlord the right to possession of the premises. However, the landlord cannot actually evict the tenant until the warrant of removal is issued.

5. Eviction Procedures

- A. **Issuance of Warrant.** A judgment for possession gives a landlord the right to request a warrant to have a tenant evicted by a Special Civil Part Officer. That warrant may be issued no sooner than three business days after entry of the judgment for possession.
- B. **Service of the Warrant.** The warrant will have to be served by the Officer on the tenant, and a residential tenant may be evicted no sooner than three business days after it has been served, but not on a weekend or holiday. To put it very simply, a residential tenant may not be evicted any earlier than 8 days plus holidays, after a judgment for possession has been entered. After service or execution of the warrant (eviction), a residential tenant may still be able to remain in their rental property if they pay the landlord all rent due and owing plus proper costs within three business days of the eviction.

6. [Stopping an Eviction] Options After a Judgment for Possession

- A. **[By] Agreement.** After a judgment for possession has been entered, a tenant may still try to make an agreement with a landlord to stop an eviction. If the landlord does agree, make sure that the agreement is in writing and that a copy is filed with the court.
- B. **Paying All Rent Due and Owing.** The tenant may pay all rent due and owing plus proper costs up until the third business day following the eviction. The landlord must accept this payment and/or cooperate with a rental assistance program or charitable organization that has committed to pay the rent. (See L. 2019, c. 316.)

C. [B.] [By] Going to the Court. If the landlord does not agree, then, even after a warrant of removal has been served on a tenant or after the tenant has been removed, the tenant may apply to the court, as soon as possible, for relief to stop the eviction or put the tenant back, including:

- (1) An Order to Show Cause [(based on Court Rule 4:50-1)] requesting that the judgment for possession be reversed and the complaint dismissed, if the tenant can show good reasons. (See Court Rule 4:50-1.)
- (2) A motion requesting dismissal with prejudice of the nonpayment of rent action because the tenant paid all rent due and owing plus proper costs, or because the landlord refused to accept the tenant's payment, within three business days of the eviction; or an order to show cause because the landlord refused to accept the tenant's payment or cooperate with a rental assistance program or charitable organization that has committed to pay the rent. (See L. 2019, c. 316.)
- (3) [(2)] A delay (stay) of the eviction based on the unavailability of other dwelling accommodations [(based on New Jersey Statute 2A:42-10.1 or 2A:42-10.6)]. That delay cannot be for more than 6 months and must be applied for no later than 10 days after the eviction, but the tenant will have to pay all rent and proper costs. (See N.J.S.A. 2A:42-10.1 or 2A:42-10.6.)
- (4) [(3)] An application for orderly removal requesting more time to move out if there is a good reason.

A court may grant or deny these applications, and if one of these applications is granted, the court may also establish certain conditions.

7. Jurisdictional Instruction

Landlords who want to evict a tenant when they either got title from the tenant or gave the tenant an option to purchase, must stay here to testify in court even if the tenant isn't here. This does not apply to most eviction cases.

8. Services/Facilities Available

We have a list of agencies that may assist you with rent, temporary shelter or legal services. A list of these agencies or legal services programs, and a copy of this announcement, is available, and you should get a copy if you do not have one.

Please wait until the list of cases has been completed and additional instructions have been given.