

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
DISPOSITION OF RESIDENTIAL) Administrative Order
EVICITION CASES RELATED TO THE) No. 2020 - 151
PUBLIC HEALTH EMERGENCY) (Replacing Administrative
) Order No. 2020-147)
)

Due to concern for the spread of COVID-19 in the general population, the Governor of the State of Arizona declared a statewide public health emergency on March 11, 2020. Governor Ducey also signed Executive Order 2020-14, titled “Postponement of Eviction Actions,” which permitted a tenant to delay eviction enforcement by the constable or a law enforcement officer, beginning March 24, 2020, by providing the landlord written notice of a qualifying circumstance. Executive Order 2020-49 extends the effect of all provisions of Executive Order 2020-14 through August 21, 2020 and then requires a tenant to provide additional written notice and documents to qualify for additional delay of eviction enforcement through the October 31, 2020 expiration date of that order.

On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) into law. The CARES Act required a temporary moratorium on evictions from public housing, federally subsidized rental housing, and rental housing with federally-backed mortgages, as well as a ban on accrual during the moratorium of fees, penalties, and interest related to nonpayment of rent. The CARES Act expired on July 25, 2020.

The Centers for Disease Control and Prevention (CDC) issued an order entitled “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19” effective September 4, 2020 through December 31, 2020. (CDC No. 2020-19654, 85 Fed. Reg. 55292 (Sept. 4, 2020)) This order prohibits a landlord from taking any action to evict for nonpayment of rent a residential tenant who provides the landlord a declaration under the order.

Arizona courts remain open to serve the public. Nevertheless, given the ongoing threat to public safety, certain limitations and changes in court operations remain necessary including the effective management of residential eviction filings for nonpayment of rent. This administrative order provides direction to facilitate the orderly and safe disposition of eviction cases in Arizona courts in the context of the COVID-19 pandemic.

Therefore, pursuant to Article VI, Sections 3 and 5, of the Arizona Constitution,

IT IS ORDERED that the following are applicable to eviction actions filed into justice courts:

I. PLEADINGS

The plaintiff in a residential eviction action for non-payment of rent shall attest in the initial pleading or by other writing provided to the court and the defendant with the initial pleading whether:

1. Rent is claimed for or any part of the period of time from March 27, 2020 through July 25, 2020 and, if so, whether the property in which the defendant resided was covered under the CARES Act; and
2. From September 4, 2020 through December 31, 2020, the plaintiff received from a tenant, lessee, or resident of the residential property a declaration under the CDC order entitled “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19.”

The plaintiff in a civil or small claims action that requests a judgment for rent for a residential property shall attest in the initial pleading or by other writing provided to the court and the defendant with the initial pleading whether, rent is claimed for any part of the period of time from March 27, 2020 through July 25, 2020 and, if so, whether the property in which the defendant resided was covered under the CARES Act.

II. CASE CALENDARING

1. A court should not schedule more than 25 eviction cases in an hour on the court’s calendar and shall allocate sufficient time for all parties appearing telephonically or in person to present their evidence.
2. Each case shall be scheduled to be heard during a specific one-hour time slot, e.g., 9:00 A.M. – 10:00 AM.
3. When feasible, courts should schedule residential eviction actions within the timeframes established by the Rules of Procedure for Eviction Actions and by applicable Arizona statutes.

III. HEARINGS

1. Parties, attorneys, and witnesses in an eviction proceeding shall be permitted to participate remotely by telephone or video conference, at their discretion.

2. Judges shall liberally grant continuances and make accommodations, if necessary and possible, for attorneys, parties, victims, witnesses, jurors, and others with business before the courts who are unable to participate in a proceeding due to the COVID-19 pandemic.
3. At the initial hearing, the plaintiff or the plaintiff's attorney shall attest on the record to their compliance with all requirements of applicable state and federal statutes and executive orders, including whether a declaration under the CDC order has been received.
4. With the agreement of the parties, the judge may continue a proceeding to afford the parties the opportunity to reach a consent agreement to resolve the case. Upon presentation of a consent agreement, the judge may enter a consent order for conditional dismissal of the case. A sample consent order is included with this administrative order as Attachment A_[MA1]. The Administrative Director is authorized to approve amendments to this form.

IV. AMENDMENT OF JUDGMENTS AND ENFORCEMENT OF WRITS OF RESTITUTION

1. On motion of the plaintiff, for good cause, the court may order amendment of an eviction judgment in a case in which enforcement of the writ of restitution was delayed due to Executive Order 2020-14 or Executive Order 2020-49 and the tenant remained in possession of the residence. If the judgment is amended, the existing writ shall be quashed, and a new writ of restitution shall not be issued until five calendar days after the amended judgment is signed.
2. Enforcement of a writ of restitution that has been delayed by Executive Order 2020-14 or Executive Order 2020-49 shall not proceed until the court grants a motion to compel enforcement of the writ filed by the plaintiff. The court shall determine whether to grant the motion using the procedure provided in Rule 14(b)(2) of the Rules of Procedure for Eviction Actions. An order granting the motion shall not permit enforcement of the writ until five days after the order is issued.
3. After December 31, 2020 or any extension of the CDC order, on motion of the plaintiff in a case halted by the CDC order, for good cause, the court may order amendment of an eviction judgment or issue a writ of restitution using the procedure provided in Rule 14(b)(2) of the Rules of Procedure for Eviction Actions. An order granting the motion shall not permit enforcement of a writ until five days after the order is issued.

V. EXCLUDED TIME CALCULATION

The period of March 18, 2020 through February 15, 2021 is excluded from calculation of time under rule provisions and statutory procedures that require court proceedings to be

held within a specific period of time, including the Rules of Procedure for Eviction Actions. This exclusion of time does not apply to issuance of the writ of restitution.

VI. JUDICIAL OFFICER TRAINING

The Administrative Office of the Courts (AOC) shall provide judicial officer training on scheduling, diversion, adjudication and disposition of eviction cases in the context of the COVID-19 public health emergency, addressing Executive Order 2020-49, the CARES Act, the CDC order, and best practices. All judicial officers, including judges pro tempore, who hear eviction cases shall complete such training offered to them by the AOC.

IT IS FURTHER ORDERED that the provisions of Administrative Order No. 2020-143 and any successor orders concerning matters not addressed in this order also apply to the processing of eviction cases.

Dated this 23rd day of September, 2020.

ROBERT BRUTINEL
Chief Justice

() _____

Attorney for Plaintiff / Address / Phone /
Email / Fax / Bar Number

For Clerk's Use Only

JUSTICE COURTS, ARIZONA

Case Number: _____

() _____

Plaintiff(s) Name / Address / Phone

() _____

Defendant(s) Name / Address / Phone

CONSENT ORDER FOR CONDITIONAL DISMISSAL (*Eviction Action*)

THE COURT FINDS:

1. The parties agree to the conditional dismissal of the case under the terms below.
2. Defendant must pay the following to Plaintiff on or before _____.

- | | | | |
|------|----------|-------------------------------------------------------------------------|------------------------------------------------|
| a.1. | \$ _____ | Unpaid rent (non-subsidized rent) | due through the
time period ending
_____ |
| | - OR - | | |
| a.2. | \$ _____ | Unpaid rent (subsidized rent- tenant's portion only) | |
| b. | \$ _____ | Late fees | |
| c. | \$ _____ | Utilities | |
| d. | \$ _____ | Other fees or charges (Add more lines for specific
fees and charges) | |
| e. | \$ _____ | Rental concessions | |
| f. | \$ _____ | Court cost | |
| g. | \$ _____ | Other damages | |
| h. | \$ _____ | Attorney fees | |
| i. | \$ _____ | TOTAL | |

3. If Defendant fails to pay the rent and other costs as set forth above, this action will be reinstated upon the Plaintiff's submission of an Affidavit of Default, a Judgment for money (if eligible and requested in the complaint), and a Writ of Restitution, which will enter simultaneously without notice or further process.*

** For a defendant on active military duty, default judgment will not be entered except as provided by the Servicemembers Civil Relief Act.*

4. Defendant remains responsible for paying the entire amount as stated in the order below that is not paid by any other third party within the time period provided by this order.

5. The Defendant may be liable for money damages if additional rent is owed or if there is damage to the property.

6. Partial payment by Defendant of the amount due in item 2i above will not prevent issuance of a Writ of Restitution should a Judgment enter after default on this conditional dismissal.

7. A Writ of Restitution may not be submitted for entry more than _____ days after the last payment is due under this conditional dismissal.

8. Further conditions: _____

IT IS ORDERED:

1. The case is dismissed without prejudice subject to the conditions below.

2. Defendant must pay the following to Plaintiff on or before _____.

<p>a.1. \$ _____ Unpaid rent (non-subsidized rent)</p> <p>- OR -</p> <p>a.2. \$ _____ Unpaid rent (subsidized rent- tenant's portion only)</p> <p>b. \$ _____ Late fees</p> <p>c. \$ _____ Utilities</p> <p>d. \$ _____ Other fees or charges (Add more lines for specific fees and charges)</p> <p>e. \$ _____ Rental concessions</p> <p>f. \$ _____ Court cost</p> <p>g. \$ _____ Other damages</p> <p>h. \$ _____ Attorney fees</p> <p>i. \$ _____ TOTAL</p>	<p>due through the</p> <p>time period ending</p> <p>_____</p>
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3. In the event Defendant fails to pay the rent and other costs as set forth above, then Plaintiff will submit an affidavit of default, a Judgment for money (if eligible and requested in the complaint), and a Writ of Restitution, which will enter simultaneously without notice or further process.
4. Defendant remains responsible for paying the entire amount as stated in the order below that is not paid by any other third party within the time period provided by this order.
5. The Defendant may be liable for money damages if additional rent is owed or if there is damage to the property.
6. Partial payment by Defendant of the amount due in item 2i above will not prevent issuance of a Writ of Restitution should a Judgment enter after default on this conditional dismissal.
7. A Writ of Restitution may not be submitted for entry more than _____ days after the last payment is due under this order.
8. Further conditions: _____

Date

Judge's Signature

Approved as to form and content.

Plaintiff Signature and Date

Defendant Signature and Date

Plaintiff's Attorney Signature and Date

Defendant's Attorney Signature and Date