

Guidance for Processing Eviction Matters During the COVID-19 Pandemic

Introduction

The global pandemic has impacted all aspects of everyday life and threatened the health and safety of millions of Americans. In Arizona, executive and judicial leadership has responded to this emergency by issuing orders providing direction to the people of the state and to the judicial officers and employees of the Judiciary. At the federal level, Congress passed, and the President signed into law the CARES Act also impacting evictions.

These orders and new federal law have raised issues regarding the processing of eviction actions in Arizona's Courts. This guidance is provided to assist tenants, landlords, attorneys, judges, and court personnel in understanding how the COVID-19 orders have affected eviction case processing under the Arizona Residential Landlord and Tenant Act and the Arizona Mobile Home Parks Residential Landlord and Tenant Act.

Governor's Executive Order 2020-14

Governor Ducey signed [Executive Order 2020-14](#), titled "Postponement of Eviction Actions," which permits tenants to delay removal from their residence by the constable or a law enforcement officer beginning March 24, 2020 if the tenant provides the landlord written notice of a qualifying circumstance that exists at the time of the notice.

Qualifying circumstances include:

1. The individual is required to be quarantined based on their diagnosis of COVID-19.
2. The individual is ordered by a licensed medical professional to self-quarantine based on their demonstration of symptoms as defined by the CDC.
3. The individual is required to be quarantined based on someone in the home being diagnosed with COVID-19.
4. The individual demonstrates that they have a health condition, as defined by the CDC, that makes them more at risk for COVID-19 than the average person.
5. The individual suffered a substantial loss of income resulting from COVID-19 including:
 - Job loss;
 - Reduction in pay;
 - Closure of place of employment;
 - Required to be absent from work to care for a home-bound school-aged child;
 - Other pertinent circumstances.

Guidance: *Tenants who notify their landlord of a qualifying COVID-19-related circumstance may remain in the residence even though the landlord has received an eviction judgment until a court orders enforcement of the eviction or the Governor's Executive Order has expired (July 22, 2020 unless extended), whichever occurs sooner.*

Tenants may delay removal from their residence by the constable or a law enforcement officer by:

- *Notifying the landlord or property owner of their temporary financial hardship or other qualifying COVID-19 circumstance in writing;*
- *Providing any available supporting documentation; and*
- *Acknowledging that contract terms of the lease or rental agreement remain in effect.*

As soon as a qualifying circumstance occurs the tenant should send notice of the circumstance to the landlord by email, regular mail, or other electronic written means and ask for confirmation of receipt. Also, the tenant should provide the notice to the court as early as possible in the eviction proceeding. This will not be considered by the court or delay the proceedings except upon agreement of the parties. The tenant should keep a copy/photo of the dated notice to provide to the constable or law enforcement officer, if needed, or for a court hearing. A sample landlord notice form is available on the [Judicial Branch Website](#). A constable may alert the tenant of the opportunity to provide notice to the landlord under the Governor's Executive Order.

Under the Executive Order the constable or a law enforcement officer may not remove from the residence a tenant who has provided the required notice of a qualifying circumstance.

The Executive Order permits the landlord to obtain a court order for removal of the tenant in the interests of justice or when an eviction judgment is based on [A.R.S. 33-1368\(A\)](#). Generally, these are:

- Violation of health and safety requirements not related to COVID-19;
- Property damage;
- Criminal activity; or
- False statements made in the application process.

A landlord may not consider a COVID-19-related circumstance to be a violation of a health and safety provision of a contract; nor may the landlord terminate a lease or rental agreement based solely on information provided by the tenant claiming a qualifying circumstance.

Guidance: *Eviction complaints and judgments involving breach for a reason provided in [A.R.S. 33-1368\(A\)](#) and motions to compel enforcement of writs in these cases should be processed as timely as possible. Litigants and others who are required to appear should be required to participate telephonically or through use of technology, whenever possible.*

Tenants who are ill and unable to participate may request a continuance before any scheduled hearing. Court staff will provide you with information on how to request a continuance.

The Executive Order directs that:

1. The constable or other law enforcement officer shall temporarily delay enforcement of eviction orders for residential premises when a qualifying circumstance exists and is documented to the landlord or property owner in writing with any available supporting documentation.

Guidance: *If an eviction judgment and a writ of restitution are issued against a tenant who has a qualifying circumstance of which the tenant has given written notice to the landlord, the Governor's Executive Order requires that enforcement of the writ by removal of the tenant from the residence be delayed. The tenant should provide the constable or law enforcement officer with the notice provided to the landlord. Removal of the tenant from the residence will be delayed until either the court orders it or July 22, 2020 (unless extended), whichever occurs first.*

Supreme Court Administrative Order No. [2020-79](#)

Beginning in March 2020, Chief Justice Brutinel signed a series of Administrative Orders related to the pandemic health emergency, the latest of which is Supreme Court Administrative Order No. [2020-79](#), "Authorizing Limitation of Court Operations During A Public Health Emergency and Transition to Resumption of Certain Operations."

This order requires:

1. All in-person proceedings be avoided to the greatest extent possible by using available technologies, including alternative means of filing, teleconferencing, video conferencing, and use of email and text messages.

Guidance: *Tenants and landlords summoned to appear in court for an eviction-related case will be given an opportunity to appear telephonically or by use of other technology that does not require in-person court appearance.*

It's not necessary for the court, during eviction proceedings prior to judgment, to consider the content of the notice describing the tenant's COVID-19-related circumstances. That is a matter that the court should consider later, if a judgment is entered and when the landlord applies for a writ of restitution.

2. Following CDC social distancing recommendations. In particular, courts shall not schedule in-person multiple, simultaneous hearings in a number that prevents appropriate social distancing considering the size of the courtroom, and in no event shall the court schedule more than 10 persons in a courtroom at one time unless a larger in-person group is authorized by Judicial leadership.

Guidance: *Courts are required to comply with CDC social distancing recommendations. A court may not schedule eviction cases for initial hearings that knowingly will not allow*

social distancing or will cause more than 10 people, including the judge, litigants, witnesses, attorneys, and court staff to assemble at one time unless authorized by Judicial leadership.

3. Liberally granting continuances to parties and, as necessary, provide additional accommodations to parties, witnesses, attorneys and others who are at high risk of illness from COVID-19. The time in which eviction proceedings must be held is extended by the period excluded as provided by administrative order of the Chief Justice.

Guidance: *Continuances for in-person proceedings should be liberally granted in eviction cases especially when requested by persons who are at high risk of illness from the COVID-19 virus who have provided a notice of this circumstance.*

Federal CARES Act

On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) into law. The CARES Act imposes a temporary moratorium on evictions from public housing, federally subsidized rental housing, and rental housing with federally backed mortgages as well as a moratorium on fees and penalties related to nonpayment of rent. The eviction moratorium is in effect for a 120-day period beginning on March 27, 2020, the date the CARES Act was enacted.

Guidance: *Tenants who believe they are eligible for protections under this Act should inform the landlord or property manager and the court if an eviction case is filed.*