

**IN THE CIRCUIT COURT OF CLAY COUNTY, MISSOURI
7TH JUDICIAL CIRCUIT, STATE OF MISSOURI**

In re: Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 in Response to Centers for Disease Control and Prevention Order Published on September 4, 2020

ADMINISTRATIVE ORDER

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) has declared the spread of COVID-19 as a worldwide pandemic; and

WHEREAS, the CDC seeks to mitigate the spread of COVID-19 within congregate or shared living settings, or through unsheltered homelessness; and

WHEREAS, 42 U.S.C. § 264(a) authorizes the Surgeon General—with approval of the Secretary of Health and Human Services—to make and enforce such regulations necessary to prevent the introduction, transmission, or spread of communicable diseases from one State or United States Possession into any other State or United States Possession; and

WHEREAS, 42 C.F.R. § 70.2 authorizes the Director of the CDC to implement necessary measures in the event of inadequate local control; and

WHEREAS, the CDC and the Department of Health and Human Services (“HHS”) issued an order titled “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19” (“CDC Order”) for publication in the Federal Register on September 4, 2020; and

WHEREAS, the CDC Order is effective from September 4, 2020 through December 31, 2020; and

WHEREAS, the CDC Order further provides that it is a “temporary eviction moratorium to prevent the further spread of COVID-19;” and

WHEREAS, the CDC Order defines “Covered Persons” who are entitled to protections under the Order; and

WHEREAS, the CDC Order contains an Attachment A, which is a Declaration Form (“Declaration” or “Declaration Form”) for use by tenants, lessees, or residents of residential properties according to the provisions of the CDC Order; and

WHEREAS, the CDC Order further provides that to invoke the protections of that Order, Covered Persons must provide an executed copy of the Declaration Form (or a similar declaration) under penalty of perjury to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live; and

WHEREAS the CDC Order further provides that it “does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease or similar contract” and that “nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract;” and

WHEREAS, the CDC Order further provides that “a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any State or U.S. territory in which there are documented cases of COVID-19;” and

WHEREAS, the CDC Order defines “Evict” and “Eviction” as meaning “any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action, to remove or cause the removal of a covered person from a residential property. This does not include foreclosure on a home mortgage”; and

WHEREAS, the CDC Order further provides that “[n]othing in this Order precludes evictions based on a tenant, lessee, or resident:

- (1) engaging in criminal activity while on the premises;
- (2) threatening the health or safety of other residents;
- (3) damaging or posing an immediate and significant risk of damage to property;
- (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or
- (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties or interest); and

WHEREAS, the CDC Order does not contain specific language preventing the filing of or processing of legal actions in the Missouri State Courts or in any other jurisdiction.

IT IS THEREFORE ORDERED THAT:

1. Effective immediately and continuing until December 31, 2020, unless modified by any subsequent Administrative Order, prior to the issuance and/or service of any existing, pending, previously filed or newly filed writ of execution seeking to remove or cause the removal of a person from a residential property, or seeking to recover possession of any residential property for the nonpayment of rent, the party seeking the writ of execution shall file a “Verification” with the Court in substantially the same form/format as Exhibit A attached hereto and incorporated herein, under penalty of perjury, which verifies that the party seeking the writ of execution has not been provided with an executed copy of a Declaration Form from the persons against whom the eviction is sought, or that the party seeking the writ of execution is evicting the persons on grounds not precluded by the CDC Order.

2. Any Verification filed with the Court as described in paragraph 1 above, shall contain a certification, under penalty of perjury, that the party filing the Verification and who is

seeking the writ of execution has provided an executed copy of the Verification to the persons against whom the eviction is sought. The Verification shall include a notification to the persons against whom the eviction is sought, that if he/she/they contest or challenge the accuracy or veracity of the statements in the Verification, the persons against whom eviction is sought shall file with the Court, in the case number in which the writ of execution is being sought, within seven (7) days of receiving the Verification, a notice or request for a hearing on the accuracy or veracity of the statements in the Verification.

3. No writ of execution to remove or cause the removal of a person from a residential property or to recover possession of any residential property for the nonpayment of rent will be served and/or executed unless and until a properly completed Verification is filed as set forth in paragraph 1 above. If the persons against whom eviction is being sought challenge the accuracy or veracity of the statements in the Verification *and* file a notice or request with the Court seeking a hearing on the accuracy or veracity of the statements in the Verification as set forth in paragraph 2 above, a hearing shall occur and a finding/Order/Judgment by the Court will be entered and, under said circumstances, no writ of execution to remove or cause the removal of a person from a residential property or to recover possession of any residential property for the nonpayment of rent will be served and/or executed unless and until a finding/Order/Judgment is entered by the Court determining if the writ may be served and/or executed.

4. This Administrative Order does not preclude a landlord, owner of a residential property, or other person or entity with a legal right to pursue eviction or a possessory action from filing a rent and possession action and pursuing that action to judgment.

5. The Declaration in the CDC Order is required to be provided to the landlord, owner of residential property or other person or entity with a legal right to pursue eviction or a possessory action and may be provided at any time - this Administrative Order does not prevent or preclude the Declaration from being provided at any time.


6. In any judgment entered in a rent and possession action during the pendency of this Administrative Order, the Judge entering said judgment shall state in the judgment the grounds for the judgment and whether those grounds are subject to the provisions of the Order or are outside the parameters of the Order.

7. If a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action has been provided with an executed Declaration Form from person(s) against whom an eviction is sought, and wishes to challenge the accuracy or veracity of any statements in the Declaration Form, said landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action may request an evidentiary hearing before the Court. If a judgment in the case has not been entered or the Court retains jurisdiction over the case, judgment and/or writ being sought, then the request for evidentiary hearing may be filed in the pending case and heard by the judge assigned to the case. If pursuant to Supreme Court Rule 75.01 or any other applicable rule or statute, the judge who entered the judgment no longer retains jurisdiction or control over the case, judgment or writ being sought, then the party entitled to enforcement of the judgment may seek other legal remedies as deemed appropriate.

8. This Administrative Order shall be effective as of 8:00 am on September 4, 2020.

IT IS SO ORDERED.

September 4, 2020
Date



Shane T. Alexander, Presiding Judge