

IN THE DISTRICT COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT

In the Matter of:)
)
District Court Eviction Protocol) PJ ORDER # 866
)
)
_____)

Effective October 15, 2020 to December 31, 2020

The Center for Disease Control and Prevention (CDC) has filed an Order entitled: The Temporary Halt of Evictions to Prevent the Further Spread of COVID 19.¹ Unless extended, modified, or rescinded, this order will be in effect through December 31, 2020.

The Order provides, in part, that a Landlord or property owner, with a legal right to pursue eviction, “shall not evict a person or pursue an eviction or possessory action from a residential property”. The Order is limited to actions for non-payment of rent and sets forth the definition and requirements for said protection. In order to gain the protections of the Order, the Tenant must provide the Landlord with a truthful Declaration, as described in the Order.² Once the Tenant gives the Landlord a Declaration, the Order’s protection is triggered. The Landlord is immediately prohibited from pursuing any eviction action.

The Tenant’s obligation to pay rent is continuing and not affected by the Federal Order.

¹ See the CDC Order at <http://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-furtjer-spread-of-covid-19>.

² The CDC has provided a Declaration form at <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>

Pending Evictions –

All pending Forcible Entry and Detainer (Eviction) cases will continue to be scheduled and heard until such time that the Tenant provides a Declaration to the Landlord or its agent. Once the Tenant provides a Declaration to the Landlord all further action in the case will immediately cease. If a matter is scheduled for a hearing and the Landlord receives a Declaration prior to the hearing, then the Landlord shall immediately advise the Court that a Declaration has been received and must submit a copy of the Declaration to the Court. When the Court receives the Declaration the case will be removed from the calendar. The case will be stayed until the expiration of the Order (or the moratorium if the Order is extended). The case will **not** be dismissed.

If the Tenant files an Answer to the Landlord's Complaint that includes language that constitutes a Declaration, then the Court will consider that to be sufficient to trigger the protection of the Order.³ No additional Declaration form is necessary.

New Eviction Filings –

The Order does not prohibit new filings for non-payment of rent, unless the Tenant has already provided a Declaration to the Landlord. If no Declaration has been received, the Landlord may file a new case for eviction. However the Landlord must complete the Affidavit of Compliance with Eviction Requirements during COVID-19 Pandemic.⁴

³ The Answer to Forcible Entry and Detainer (Eviction) Complaint, Form CIV-735 contains adequate language in the Defense section 3.a; *see* <https://public.courts.alaska.gov/web/forms/docs/civ-735.pdf>

⁴ *See* Form CIV-731 at <https://public.courts.alaska.gov/web/forms/docs/civ-731.pdf>

Eviction Hearings –

If a Landlord or its agent or attorney appears at an eviction hearing, then the judge shall ask the Landlord, agent, or attorney if the Landlord has received a Declaration from the Tenant. If the Landlord has received a Declaration, then the hearing shall be cancelled.

If a Tenant appears at an eviction hearing, the judge shall ask the Tenant if he or she is aware of the possibility of filing a Declaration. The judge shall provide the Tenant with information about the requirements for filing a Declaration.⁵ If the Tenant seeks to file a Declaration, then the judge shall provide the Tenant a brief opportunity to file a Declaration and serve it upon the Landlord.

Be advised that a Declaration may be provided at any time during the eviction process. Both parties are subject to potential significant penalties, civil and criminal, for wrongful acts and/or false declarations, and therefore all parties should read the CDC Order.

The District Court will not award attorney's fees or late fees until further notice.

⁵ That information can be found at <http://www.courts.alaska.gov/covid19/evictions-faq.htm>

DONE this 14th day of October 2020, at Anchorage, Alaska

/s/

William F. Morse
Presiding Judge
Third Judicial District

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