

CDC Eviction Moratorium Order

The Center for Disease Control (CDC) issued an order, effective September 4, 2020 to halt evictions for all residential property until the end of the year, December 31, 2020, if the tenant is not able to pay rent and meets specific requirements set out by the CDC. It is a massive and far reaching order to prevent evictions due to the public health crisis from COVID-19, affecting landlord and tenant rights and obligations. Unlike the Coronavirus Aid Relief and Economic Security (C.A.R.E.S.) Act which was limited to federally subsidized rental properties such as Section 8 or HUD rental units or properties secured by a federally backed mortgage or a first or subordinate lien, the CDC Eviction Moratorium Order applies to all residential rental property.

Tenants may not be evicted from their homes if they meet the following requirements:

The tenant must show he/she:

1. made best efforts to obtain available government assistance for rent or housing,
2. was eligible to receive an Economic Impact Payment (stimulus check) or has an annual income of no more than \$99,000 for an individual, or \$198,000 for a family,
3. is not able to pay the full rent due to substantial loss of income, wages, or hours, or because of extraordinary out-of-pocket medical expenses (unreimbursed medical expenses exceeding 7.5% of AGI for the year),
4. used best efforts to make partial rent payments, and
5. has no other available housing options and if evicted, would need to move into a new residence shared by other people who live in close quarters, or would have to move into a homeless shelter.

The CDC Eviction Moratorium Order is limited to evictions for nonpayment of rent. It is important to know that the CDC Order does not excuse or forgive rent, but merely prevents a tenant from being evicted for non-payment of rent if all of the requirements in the order are met. At the end of this temporary halt on evictions on December 31, 2020, the landlord may require payment in full for all payments not made prior to and during the temporary halt and failure to pay any accrued back rent may result in eviction after the moratorium has ended in January, 2021.

A tenant may still be evicted during the moratorium, even if rent cannot be paid, if the tenant:

- engages in illegal drug or other criminal activity at the rental premises,
- threatens the health or safety of other residents,
- damages or creates a significant risk of damage to the rental premises,
- does not comply with health, safety, or building codes, or
- does not follow the terms of the lease/rental agreement and/or rules set out by the landlord.

Every adult person living who is part of the lease or the rental agreement is required to fill out a declaration statement form to qualify to stop the eviction case. The form can be downloaded from Lakewood Court's website under "court forms." (www.lakewoodcourtoh.com). The declaration statement form is also available at the Lakewood Court Clerk's Office. Other, similar declaration forms may be used. The CDC Declaration form and other information is also available at www.ohiolegalhelp.org.

The declaration statement form should be given to the landlord if an eviction is threatened or a case is filed. If the case is already filed, the declaration statement form can also be filed with the court. The tenant should keep a copy of the completed form. There is no cost to file the declaration statement form or take advantage of this procedure.

The CDC Eviction Moratorium Order provides that there are possible criminal penalties for any intentional false, misleading or omitted information.

The CDC Eviction Moratorium Order does not prevent a landlord from filing a forcible entry (eviction) case with the court. The order does prevent the court from going forward with the eviction case once the court is aware that the tenant filled out the form and sent it to the landlord, either directly or through the court.

Although the CDC Moratorium Eviction Order sets out specific requirements to stop the eviction, the language of these requirements is not clearly defined. As a result, a landlord may have the right to challenge the tenant's statements at a court hearing. The CDC Moratorium Order puts the obligation on the tenant to get the completed form to the landlord.

If a landlord received an Eviction Moratorium Declaration form from the tenant, the eviction case cannot proceed without a further court order. The landlord is required to notify the court that this form has been received by the landlord. Failure to do so is grounds for dismissal of the case and may subject the landlord to possible criminal penalties. If no response is made by the time of the hearing, the case will be stayed until after January 1, 2021.

If a court date has already been scheduled, the tenant should show up for the hearing unless the court continues the hearing date. The tenant should not assume that because the declaration statement form was given to the landlord, the court is aware of the form and will continue the hearing or dismiss the case.