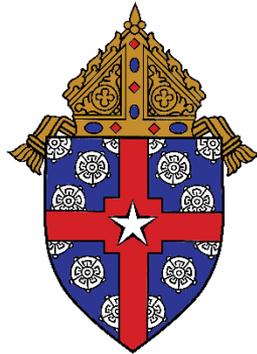


Know Your Rights Webinar

NAVIGATING TENANT CHALLENGES DURING THE PANDEMIC

September 8, 2020

Co-sponsors:



Society of St. Vincent de Paul
Archdiocese of Galveston-Houston

Summary

- CDC eviction moratorium
- Types of leases and governing laws
- Ideas to avoid eviction
- Eviction procedures
- Notice to vacate
- Eviction suit/trial
- Appeal
- Eviction and your record
- Resources

Types of Leases

- Written lease - long term or month-to-month
- Monthly or weekly verbal lease
- All are “official” leases and are subject to the same laws

CDC Eviction Moratorium

What does it stop a landlord from doing?

- Giving you a Notice to Vacate
- Filing for eviction
- Enforcing any eviction that the court already decided, including a writ of possession.

How long does it last?

- It went into effect on September 4, 2020 and expires on December 31, 2020.

CDC Eviction Moratorium, cont'd

Does it protect against all eviction proceedings?

- No. The CDC order only protects against eviction for nonpayment of rent. If you do something to break your lease contract or your lease ends, your landlord can still try to evict you. They should not, however, be able to recover unpaid rent through December 31, 2020 if the declaration has been provided to the landlord.

CDC Eviction Moratorium, cont'd

Does it mean that tenants do not owe rent during the moratorium??

- No. Rent is still owed and will continue to accrue. The outstanding rent will be due when the moratorium expires on December 31, 2020.

CDC Eviction Moratorium, cont'd

Who is covered and what steps need to be taken to be protected?

- If you meet all of the condition listed in the declaration, you are covered. Sign the declaration and provide a copy to your landlord and keep a copy for yourself. You should provide the declaration to your landlord in a way that provides proof that you did so, such as certified mail, email, or fax. All tenants listed on the lease must provide a declaration to the landlord.
- The declaration is signed under penalty of perjury which means that you must tell the truth and any false or misleading statements may result in criminal and civil penalties.

Eviction Basics – The Issue

- The only issue: Who has the right to possession of the property?
- Landlords are allowed to request:
 - Unpaid rent
 - Costs of court
 - Attorney fees
- A tenant cannot make claims against the landlord in the eviction trial, but they can assert defenses.
- Withholding rent for repairs is NOT a defense.

Eviction Basics – The Process

- Breach of the lease
 - Nonpayment of rent
 - Holdover after lease termination
 - Other violation of lease terms
- Notice to vacate
- Eviction lawsuit filed in JP court
- Tenant served with citation and lawsuit by constable
- Trial in JP court
 - If the tenant loses:
 - If the tenant does not appeal, the court will issue a writ of possession
 - If tenant appeals, there will be a new trial in county court

Eviction Basics - Timeline

- Appeal must be filed by 5th day after the eviction trial
- On the 6th day, the landlord is allowed to request a writ of possession
- It takes a day or two for the constable to receive the writ of possession
- The constable posts a notice that is a 24-hour warning
 - After that, the constable can physically remove the person from the home
- NOTE: In order to remain in the property during the appeal, the tenant will have to deposit one's rent into the registry of the court and continue paying rent into the registry every month.

Ideas to Avoid the Eviction Process

- Speak to your landlord to try to work something out as soon as you can
- No benefit in avoiding your landlord – the eviction process can proceed regardless
- Be visible, candid, and up-front
- Do not promise things you can't do
- If you make an agreement with you landlord, get it in writing signed by you and the landlord.

-

Links available on [CatholicCharities.org/tenants](https://www.CatholicCharities.org/tenants)

CARES Act Protections Have Expired

- From March 27, 2020 through August 24, 2020, there were eviction protections in place under the CARES Act which applied to properties that participate in federal housing programs or have federally-backed mortgages.
- Although the CARES Act eviction moratorium has expired, landlords in covered properties are still required to give a 30-day notice to vacate.

Steps in the Eviction Process

Notice to Vacate

- If the lease has been breached (e.g., failure to pay rent): Landlord must give at least 3 days' written notice to vacate the premises, unless the lease says otherwise. Some leases only require a 24-hour notice to vacate.
- Notice to vacate may be given in person, by placing the notice on the back of the door inside the premises, or by mail.
- A notice to vacate placed on the outside of the door must adhere to additional requirements including mailing the notice.
- It is a good idea to take a picture of how the notice to vacate was delivered.

Steps in the Eviction Process

Landlord files eviction petition

- When the notice to vacate expires, the landlord can file the eviction petition in JP Court.
- Court will issue citation to each defendant named on the lease with date and time of the eviction trial.
- The citation and petition must be served on the defendants via a process server or the Sheriff's Department or Constable's Office.

Steps in the Eviction Process

Eviction trial and damages

- You may file a written demand for trial by jury at least 3 days before the trial date.
- An attorney is not required for representation in JP Court.
- Arrive early at the courthouse on the date of your trial, dress neatly, and be respectful and polite to everyone. An attorney is not required.
- At this time, however, due to Covid-19, most eviction trials are conducted virtually by telephone or zoom hearing. Although most courts will still allow you to appear in person, many recommend a virtual proceeding.

Steps in the Eviction Process

Eviction trial and damages, cont'd

- You must request a virtual trial from the court as soon as possible before your trial date. Contact the court clerk or coordinator to do so.
- Have all documents ready to support your case. If you are appearing in person you can show them to the judge.

Steps in the Eviction Process

Eviction trial and damages, cont'd

The landlord will offer evidence on:

- How the tenant breached the lease (e.g., failure to pay rent);
- How the notice to vacate was delivered;
- That the property does not qualify under the CARES Act for a stay in eviction
- Any evidence related to the landlord's damages (past due rent, service fees, attorney fees).

Steps in the Eviction Process

Eviction trial and damages, cont'd

- You may question the landlord on any relevant issue and present any defenses. Loss of income, illnesses, etc. are not defenses of nonpayment of rent.
- The judge is required to follow the law, regardless of his or her sympathies.

Steps in the Eviction Process

Judgment and writ of possession

- If the judgment finds in favor of the landlord:
 - Judge can render judgment for possession of the premises, costs, delinquent rent as of the date of the judgment, and attorney fees, if recoverable by law.
 - Judge must give 5 days to move out. This includes weekends and holidays.

Steps in the Eviction Process

Judgment and writ of possession, cont'd

- If tenant doesn't move out after 5 days, the judge will award a writ of possession upon demand of the landlord. The writ authorizes an officer of the court to remove and store part or all of the tenant's property from the premises.

Appeal

Affidavit of Inability to Pay

- Also called a Statement of Inability to Afford Payment of Court Costs. Form available on court website.
- You are not responsible for filing fees.
- If the landlord disagrees with your Affidavit, you must prove in Justice Court that you cannot afford to pay the cash deposit or file the bond.
- If you disagree with the Justice Court decision, you can appeal to County Court.

Appeal

Paying Rent into Court Registry

- You must pay one month's rent to the Court within five days of filing your appeal, and then you must continue to pay rent every month to the county clerk until your appeal is decided.
- Paying rent into the registry of the court allows you to stay in your property during the appeal. If you do not pay, your appeal will still go forward but the landlord can request a writ of possession for the property and you will have to leave.

Evictions and Your Record

- Typically registers on credit reports within 30 days of a court judgment against you to leave the dwelling, but may take up to 60 days.
- Landlord doesn't have to report the judgment. Credit bureaus search for the information and update their databases from public records.

Evictions and Your Record, cont'd

- If your landlord turned uncollected rents over to a collection agency, it will show up on your credit report.
- Judgements related to evictions are public record.
- Many landlords use tenant screening services – uncollected rents and evictions will be discovered, even if the eviction was completed without a judgment being issued by the court.

If You Have Evictions on Your Record

- Try to find a landlord who doesn't use screening services or check credit history
- Look into reporting any rent that you are currently paying – it could help your credit score
- Try negotiating with a potential landlord by offering a large security deposit or several months rent up front

If You Have Evictions on Your Record, cont'd

- Find a co-signer with good credit
- Live with family or friends who already have a home and history of good payments
- Try to make amends – reach out to your former landlord or collection agency and make up those missed payments. Doing so could make finding a new place easier, especially if you get proof in writing that you made good on the old debts.

Conclusion

- Determine if you qualify for the CDC eviction moratorium and initiate steps to avoid eviction on that basis.
- Understand that rent will continue to build up even during the eviction moratorium. Use any time you have to plan what you need to do in January 2020.
- Try to avoid eviction.
- Communicate promptly and candidly with your landlord to try to get a reduction or delay in rent payments.
- Contact a legal aid organization to see if you qualify for free legal assistance.
- Know your rights.
- Show up at trial.
- If you lose, consider the strength of an appeal.

All links are on *CatholicCharities.org/Tenants*

CDC Eviction Moratorium Resources

- <https://texaslawhelp.org/article/cdc-eviction-moratorium>
- <https://www.nhlp.org/wp-content/uploads/CDC-fact-sheet-AHJ.pdf>

Declarations (English, Spanish, Vietnamese)

- <https://www.makejusticehappen.org/eviction-moratorium-declaration>
- <https://www.nhlp.org/wp-content/uploads/CDC-Declaration-Spanish.pdf>
- <https://www.nhlp.org/wp-content/uploads/CDC-Declaration-Vietnamese.pdf>

All links are on *CatholicCharities.org/Tenants*

Pro Se Guide and Forms

<https://www.makejusticehappen.org/Evictions>

Self Guided Eviction Help

<https://bit.ly/2WLEmUk>

Texas Law Help

<https://texaslawhelp.org/article/evictions-during-covid-19-pandemic>

Sample Rent Repayment Agreement / Sample Early Lease Termination

https://www.makejusticehappen.org/sites/makejusticehappen.org/files/Simple%20sample%20settlement%20agreements_Pro%20Se.pdf

All links are on *CatholicCharities.org/Tenants*

Repairs

- <https://texaslawhelp.org/article/right-repairs-tenant>
- <https://www.texastenant.org/repairs.html>

Utility Shut Offs

- <https://texaslawhelp.org/article/utilities-and-landlord/tenant-issues>
- <https://www.tjctc.org/SRL/tenant-remedies.html>

Renters Rights

- https://www.texastenant.org/application_deposit.html

All links are on *CatholicCharities.org/Tenants*

Court Resources

Harris County JP home page (for orders affecting all courts) and links to each JP court (for phone, fax, and that court's orders)

<http://www.jp.hctx.net/>

Harris County JP Court Documents and Records

<https://odysseyportal.harriscountytexas.gov/OdysseyPortalJP>

All links are on CatholicCharities.org/Tenants

Contact Houston Volunteer Lawyers

www.makejusticehappen.org

Main: (713) 228-0735

Intake: (713) 228-0732

Fax: (713) 228-5826

Email: info@hvlp.org

All links are on *CatholicCharities.org/Tenants*

Current Rental Assistance Program

www.HoustonRentAssistance.org/

Or

www.BakerRipleyRentHelp.org/

All links are on *CatholicCharities.org/Tenants*

Information on Financial Assistance

211

<https://www.211texas.org/>

ACAM (Alliance of Community Assistance Ministries)

<https://acamweb.org/>

Catholic Charities of the Archdiocese of Galveston-Houston

www.CatholicCharities.org

Society of St. Vincent de Paul

<https://www.svdphouston.org/>

All links are on *CatholicCharities.org/Tenants*

Unemployment Benefits

Texas Workforce Commission Unemployment Benefits Services

<https://www.twc.texas.gov/jobseekers/unemployment-benefits-services>

Frequently Asked Questions about Unemployment Insurance Benefits Related to COVID-19

<https://www.twc.texas.gov/news/frequently-asked-questions-about-unemployment-insurance-benefits-related-covid-19>

All links are on *CatholicCharities.org/Tenants*

COVID-19 Information

City of Houston

<http://HoustonEmergency.org/covid19>

Harris County

<http://www.readyharris.org/Incidents/COVID-19-Resources-Recovery>

All links are on *CatholicCharities.org/Tenants*

COVID-19 Testing

Houston

<https://www.khou.com/article/news/health/coronavirus/where-you-can-get-tested-for-coronavirus-in-the-houston-area/285-1727f6ac-13c5-4dc8-9a1e-b886d2abe964>

Fort Bend

<https://www.fortbendcountytexas.gov/your-county/covid-19-testing-for-fort-bend-county-residents>

All links are on [CatholicCharities.org/Tenants](https://www.CatholicCharities.org/Tenants)

Mental Health

Catholic Charities Counseling and Behavioral Health Clinic

713-874-6590

National Suicide Prevention Hotline

800-273-8255 (TALK)