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March 31, 2020

CORONAVIRUS FAQs

This list is not meant to be legal advice or to substitute for the advice of your particular attorney.

Of course, any or all of the following could change at a moment's notice. If you need further information or clarification, please contact me to discuss them.

Can I file a nonpayment case in Michigan? NO

On March 23, 2020, the Michigan Supreme Court issued an order which, according to the State Court Administrator, prevents the filing of virtually all landlord-tenant cases in Michigan, except for emergencies.

Additionally, the federal government passed the CARES Act on March 27, 2020, which provides that if a rental property has a federally-backed mortgage, or if it fits within the framework of approximately a dozen federally-subsidized or affordable housing categories, there is a 120-day eviction moratorium in place. This means that a landlord subject to this federal law cannot file a non-payment of rent case until August. A landlord covered by this new law also cannot issue a basic 30-day notice to terminate a tenancy until August 2020.

Can I file an emergency eviction case? YES

Emergency cases can be filed in Michigan at this time.

What is an emergency case?

An emergency case would include a termination for violence, health hazard, drug activity, or danger to the property or to other people. Where there is a threat of danger to the community, management or other residents, those cases may proceed.

Are physical evictions banned in Michigan? YES

According to the Governor's Executive Order 2020-19, dated March 20, 2020, the Governor banned all physical evictions until April 18, 2020. This would include the repossession of a manufactured home in a claim and delivery action.

Can I send a 7-Day Notice? YES, but it depends

According to the Governor's Executive Order 2020-19, dated March 20, 2020, the Governor prohibited personal delivery of notices, such as a 7-day. She did not prohibit the mail delivery of notices. This can be interpreted to mean that 7-days can be mailed, but not hand-delivered. The

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chief judge of the 36th District Court (City of Detroit) had said that 7-days are not to be sent to tenants in Detroit. While the judge's authority to prohibit 7-days is questionable, we do not advise challenging it at this time.

Should I send a 7-Day Notice? MAYBE

Even though you may serve a 7-day by mail, a 7-day notice may be seen as an aggressive act during this time. A better solution might be to send delinquent residents a letter, reminding them that the rent is due and is not being cancelled. There is a lot of talk on the internet about petitions and other requests to ask the government to abate all rent. So far, the Governor has been steadfast that all rents remain due and payable. Similarly, there is no Federal law to abate rent.

Are property management employees critical? YES AND NO DEPENDING ON CIRCUMSTANCES

In the Governor's Executive Order 2020-21, the Stay Home/Stay Safe Order, she identified workers who are considered "critical infrastructure workers." She made direct reference to a federal document which, as of March 19, 2020, identified sectors of workers who were critical. Since that date, the federal document has been amended to specify that necessary residential property management employees were critical. Governor Whitmer has not amended her order to incorporate the federal amendment but all indications from her frequently asked questions would suggest that a skeleton crew of on-site employees, and certainly maintenance staff, are critical. Those on-site people would have to use proper social distancing between themselves and residents and use appropriate care and hygiene. Offices should not be open to residents, vendors, or guests and, unless critical to get someone out of dangerous living conditions to safe residences, any renting of units should be extremely limited and not conducted face-to-face.

Can I charge a late fee? YES, BUT ONLY IF THERE IS NO FEDERALLY-INSURED MORTGAGE

The CARES Act provides that if a landlord with a federally-backed mortgage seeks and receives a mortgage payment deferment, that landlord cannot charge a late fee to its tenants during the crisis. However, even if the landlord of a federally-backed mortgage does not seek a mortgage deferment, the CARES Act prohibits landlords from charging its tenants "fees, penalties, and other charges" relating to non-payment of rent. It is not clear why the word "late" was omitted from "fees" in this section of the law. But, reading it expansively would suggest that a property with a federally-backed mortgage cannot charge a late fee until August. However, if the property does not have a federally-backed mortgage or is not one of those other dozen or so affordable or federally-subsidized types of properties, there is no prohibition on charging a late fee. The question is whether you should from a public relations standpoint.