

Eviction Process in NJ

We have been doing evictions for 35 years, and everything has changed since COVID-19.

Evictions:

Evictions are for gaining possession of the property from tenants. The court differentiates between two types of Landlord-Tenant Evictions: Non-payment and For-cause. The court refers to for-cause evictions as "holdover." For-cause evictions require notices to be sent out beforehand. For non-payment only evictions, if the tenant pays the full amount of the rent alleged to be owed to the landlord, then the case is dismissed.

The courts currently have a multi month-long backlog, so it is important to get your eviction in line as soon as possible. We send you an eviction information sheet to fill out. A landlord registration is required to proceed with the eviction. If there are 2 or less units in the building, you need to register with the municipality. If there are 3 or more units, you need to register with the Department of Community Affairs. Courts have been very strict with this.

https://www.state.nj.us/dca/divisions/codes/forms/pdf_lti/landlord_regs.pdf

We need you to fill out our eviction information form and provide the required information and documents.

Once we have all your information, we prepare the eviction and e-file it with the court.

Prior to trial, the court will conduct a Case Management Conference (CMC). You are required to provide us with relevant documents to submit to the court prior to the CMC. If the court does not receive the required documents in time, they may dismiss your case. At the CMC, the landlord and the tenant each tell the court how much they believe is owed and go over any other issues in the case. This is before a legal specialist and not the judge. There may be a mediation at that time.

After the CMC, we are given a trial date. If the tenant does not show up on the trial date, the court will enter a judgment for possession by default in favor of the landlord, and the landlord can apply for a warrant of removal 3 days following entry of the judgment. We will prepare and e-file the warrant of removal request for you. If the landlord does not show up, the case is dismissed. On the day of the trial, there is a mandatory mediation/settlement prior to going before the judge. During mediation, a legal specialist or settlement facilitator tries to get a signed agreement between the parties. If an agreement cannot be reached, you go to trial in front of the judge.

The CMC, pre-trial mediation, and trial are all virtual on Zoom/Microsoft Teams and will continue to be into the future.

Once a Judgment for Possession has been entered, and a Warrant of Removal request has been filed, a court officer will serve a Warrant of Removal advising the Tenant of their rights under New Jersey law. A Landlord cannot evict a Tenant. It is the responsibility of a Superior Court Officer to formally evict a Tenant after proper service of the Warrant and the Tenant's failure to exercise their legal rights to postpone the eviction.

The moratorium ends December 31, 2021 unless the Governor extends it. That means you can file evictions in January without worrying about it being dismissed. Right now, if the tenant files a

certification for the covered period of March 1, 2020 up to August 31, 2021 , the matter is dismissed and you have to file a collection action for that time period. The certification states that the tenant is low income and has applied for aid. If that happens, you need to file a collection action. We believe that we can refile in January and include rent from September 1, 2021 on, but it is unclear so we are going to do it and see what happens.

The bad news is that the courts are really backed up and still dealing with 2020 cases and for cause evictions. But do not be discouraged, file now so you can get a place in line.

Criminal Background Checks:

Landlords are going to be very limited on criminal background checks. It is best to turn people down for credit. First, you must do a credit check and then issue a preliminary approval. Then you can do a criminal background check, but the reasons to deny for criminal are extremely limited. See the forms and rules in the attached link.

<https://www.njoag.gov/about/divisions-and-offices/division-on-civil-rights-home/fcha/>

Security Deposits:

Any tenant who used their security deposit toward rent during the COVID period must pay it back starting January 4, 2022. Just a reminder that security deposits must be kept in an interest-bearing account, and the tenant must receive their interest every year by January 31 or on the renewal date of the lease. You must let the tenant know the location of their security deposit and the interest rate. There are significant penalties for not doing this and for not returning the security deposit.

<https://www.lsnjlaw.org/housing/landlord-tenant/security-deposits/pages/understanding-your-security-deposit.aspx>

Disclaimer: This is a general rundown of the eviction process and does not include all potential issues that may come up in the eviction. Also, the New Jersey eviction process is subject to change as the courts are constantly updating the process with everything going on.