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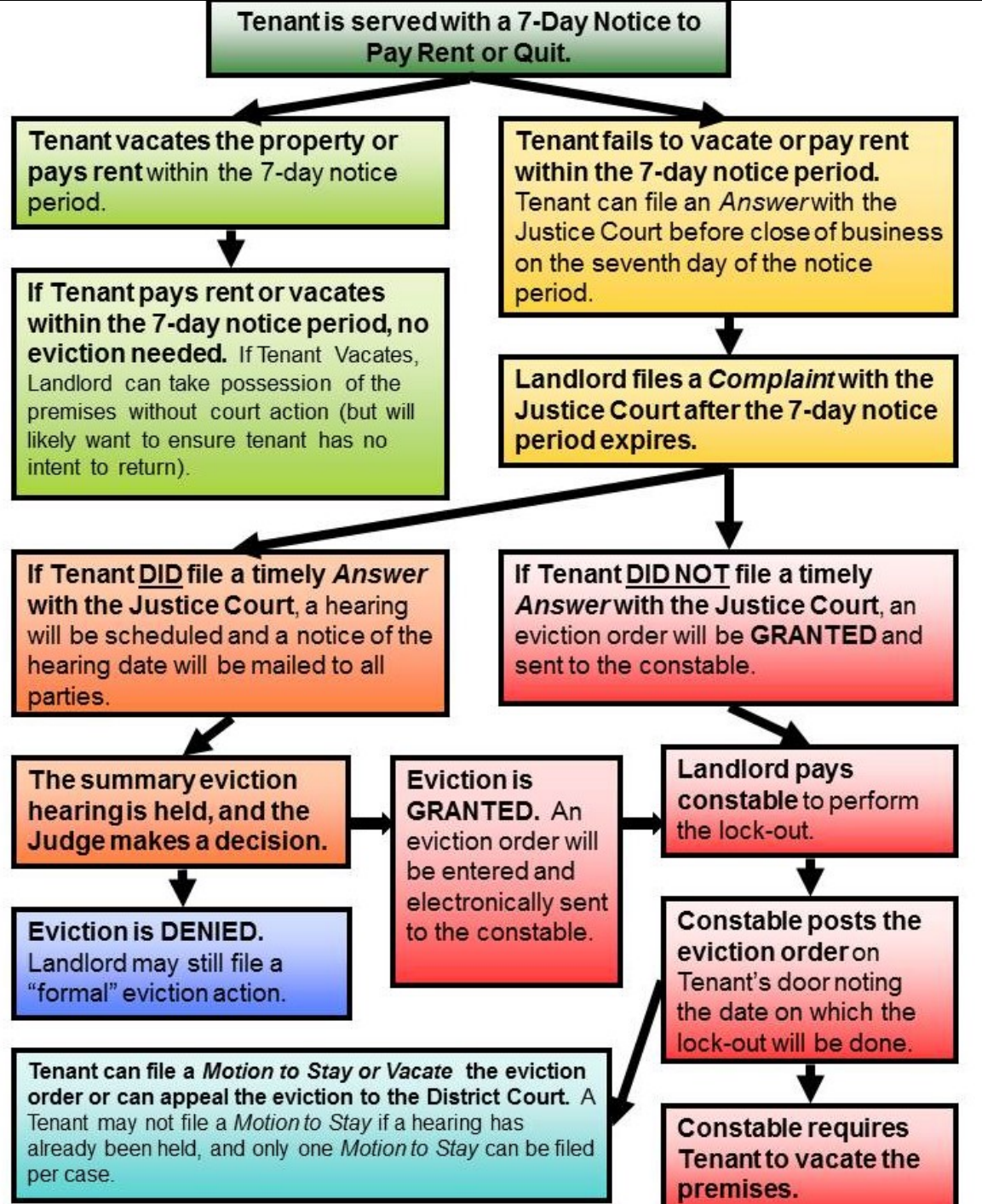
of Southern Nevada



THE CURRENT STATE OF EVICTION PROTECTIONS



OVERVIEW OF THE SUMMARY EVICTION PROCESS



STATE EVICTION PROTECTIONS CURRENTLY IN PLACE

Declaration of Emergency Directive 043

Protects against eviction for nonpayment of rent, and eviction for “no cause” and end of lease (where tenant is behind on rent), until May 31, 2021

To qualify, tenant must provide landlord with signed declaration attesting that they are unable to pay rent due to pandemic, earn no more than \$99k, and will be homeless if evicted

FEDERAL EVICTION PROTECTIONS CURRENTLY IN PLACE

CDC Order temporarily halting residential evictions to prevent the further spread of COVID-19

In place until June 30, 2021

Language is broad, but some courts may limit protections provided

Requires tenant to provide declaration to landlord attesting that they meet 5 criteria

HOW TO DO THE STATE AND FEDERAL PROTECTIONS WORK TOGETHER?

Directive 043 protects tenants from several types of evictions through May 31, 2021

CDC Order offers protection from June 1 to June 30, 2021

BIG TICKET TAKEAWAY ITEMS TO CONVEY TO ALL TENANTS

1. Tenants need to sign a CDC declaration and give it to their landlords
 - Keep a copy, keep proof of service
2. If tenant receives eviction notice, file answer with court even if declaration given
 - File proof of declaration in court case
 - Select mediation if available
3. Apply for rental assistance through CHAP / update application

DIRECTIVE 043: WHAT IS IT?

12/15/2020 – Governor Sisolak issues Directive 036, in effect until March 31, 2021

3/31/2021 – Governor Sisolak issues Directive 043, extending protections of Directive 036 until May 31, 2021

Protects covered tenants from eviction BUT doesn't apply to everyone and is not automatic

WHO IS ELIGIBLE?

Tenant is a “Covered Person” if:

1. Unable to pay rent due to COVID–related reason
2. Makes no more than \$99,000 in 2020 or 2021 / not required report income to IRS / received stimulus check
3. Likely to be homeless or forced into group living

Tenant must give declaration to landlord verifying eligibility (previously–given CDC declaration ok)

WHAT IS PROHIBITED?

Types of evictions prohibited:

Nonpayment of rent

No-cause (30-day and 7-day) + tenant in default on rent

Guidance makes clear it applies to weekly tenancies

End of lease + tenant in default on rent

Lease violation for failure to vacate + tenant in default on rent

WHAT IS ALLOWED?

Evictions NOT prohibited

Nuisance

Lease violations (not rent or fee-related)

Tenants-at-will

Mobile home or recreational vehicle space

WHAT IS ALLOWED?: EXCEPTIONS FOR LANDLORD

Landlord can:

Challenge tenant's declaration to show tenant not eligible, or

Request exemption from directive due to realistic threat of foreclosure before May 31, unless landlord evicts tenant

Landlord must serve notice of intent to challenge *with* eviction notice

WHAT IS ALLOWED?: EXCEPTIONS FOR LANDLORD

Challenge to declaration

Tenant can oppose challenge in their answer or offer testimony in court

Landlord must submit copy of tenant's declaration and evidence demonstrating ineligibility with complaint

If no good-faith basis or evidence, sanctionable

WHAT IS ALLOWED?: EXCEPTIONS FOR LANDLORD

Realistic risk of foreclosure

Landlord must submit evidence demonstrating realistic threat before May 31 unless landlord can evict

OTHER FEATURES OF DIRECTIVE 043

Landlord must include Informational Statement with eviction notice stating:

- That state and federal eviction moratoria provide protection from eviction for certain persons in certain evictions;
- Protections are not automatic and tenant must respond to notice and take action;
- A description of a covered person;
- That tenant who qualifies as a covered person has option to present a Covered Person Declaration (along with copy of declaration); and
- Information about rental assistance programs

WHAT ABOUT CURRENT CASES?

- Eviction orders already stayed until after December 31, 2020 because the court's record contains evidence that the tenant previously provided a CDC declaration to the landlord are Covered Evictions against a Covered Person
- Those eviction orders are further stayed until directive expires on May 31
- Tenants do not need to take any additional action

WHAT ABOUT CURRENT CASES?

- Eviction orders not stayed because the court's record DOES NOT contain evidence that the tenant previously provided a CDC Declaration are exempt from Directive 043 and may resume
- This includes eviction orders on Covered Evictions because the tenant is not deemed a Covered Person under the Directive and the court's record does not contain evidence that the tenant has invoked the protection of the CDC Order or the Directive

CDC ORDER

Extended from April 1 to June 30, 2021

To qualify for protections, tenant must provide landlord with declaration attesting that they meet 5 criteria:

- Used best efforts to obtain rental assistance;
- Earned no more than \$99,000 / not required to report income to IRS / received stimulus check;
- Unable to pay full rent due to substantial loss of household income, layoff, wage/hour reduction, or extraordinary out-of-pocket medical expenses;
- Using best efforts to make timely partial rent payments; and
- Eviction would render them homeless or force them to live in shared living setting

ISSUES WITH CDC ORDER

- Broad language intended to apply in all jurisdictions
- Lists 5 categories of exceptions: (1) criminal activity, (2) threatening health/safety, (3) damaging property, (4) violating building code/health ordinance, (5) violating lease other than nonpayment
- “No cause” and end-of-term evictions are not among the exceptions, so they should be covered
- However, some courts may limit protections provided
- Order is in effect through June 30, 2021
- Tenants should double-check their declarations – if it’s not a CDC declaration, be sure to provide one to landlord

WHAT ELSE SHOULD I KNOW?

- Through end of May, report violations of Directive 043 to Attorney General (deceptive trade practice)
- In June, report violations of CDC Order to CFPB and FTC:
 - CFPB: <https://www.consumerfinance.gov/complaint/>
 - FTC: <https://reportfraud.ftc.gov/#/?pid=A>.

WHAT ELSE SHOULD I KNOW?

- Neither Directive 043 nor the CDC Order waives rent
- Therefore, tenants who are struggling to pay rent should apply to CHAP for rental assistance: <https://chap.clarkcountynv.gov/>

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HOW CAN WE HELP?

- Call Legal Aid Center at (702) 386-1070
- Visit us on the web at www.lacsn.org/covid-19 for information and declaration forms
- Visit Civil Law Self-Help Center at www.civillawselfhelpcenter.org for information and court forms
 - Can file tenant answer online