

## RESIDENTIAL EVICTIONS: WHAT TENANTS NEED TO KNOW

*As of December 30, 2021*

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### LOCKOUTS

#### **Can I be locked out of my home during the ongoing COVID-19 emergency?**

**Maybe.** Whether you can qualify for protection from eviction depends on your household income and your completion of a sworn certification.

On August 4, 2021, the Governor signed a [new law](#) and issued [Executive Order 249](#). Here's how they work:

#### **Who Is Eligible?**

- The new law protects certain tenants from eviction based on nonpayment of rent, habitual late payment of rent, or failure to accept a rent increase. We'll refer to these three grounds of eviction collectively as "**rental debt.**"
- If your household income is below 120% of the area median income ("AMI") for your county, you are forever protected from eviction based on rental debt that came due between **March 1, 2020, and August 31, 2021**, but you must file a certification to get this protection. *See below.*
- If your household income is below 80% of the AMI for your county, and you meet certain other criteria (*see below*), you are forever protected from eviction based on rental debt that came due between **March 1, 2020, and December 31, 2021**, but you must file a certification to get this protection. *See below.*

#### **Can my landlord collect my rental debt another way?**

- **Yes!** Your landlord can still sue you in court to collect the rent you did not pay during these periods, but your landlord cannot evict you because of your rental debt. Your landlord cannot sue you for any rent that was paid by the government or a nonprofit providing rental assistance.

#### **How Do I Self-Certify?**

- You can complete the **self-certification** by going to <https://covid19.nj.gov/renter>. This site will guide you through a series of questions to determine whether you are eligible for eviction protection based on your household income. **You don't need to know your AMI to complete**

**the form**; the computer will calculate that for you once you enter your county of residence and the combined income of all adult members of your household.

- To qualify for **protection from eviction based on rental debt that came due through December 31, 2021**, your household income must be below 80% of AMI (which the computer will calculate), and you'll need to certify that you suffered hardship due to COVID-19 and that you have applied for rental assistance. If you have not suffered hardship due to COVID-19 and/or you have not applied for rental assistance, you can answer "no" to those questions *and still complete and submit the certification*. You may still be eligible for protection from eviction based on rental debt that came due between March 1, 2020, and August 31, 2021.
- You should [complete the Income self-certification form online](#) as soon as possible, whether or not your landlord has filed an eviction action against you. If you are not able to complete the form online, you can call [609-490-4550](tel:609-490-4550) for assistance. The State has posted FAQs about the self-certification process [here](#).

#### What Protection Do I Get?

- If you complete and submit a self-certification showing that you are eligible for protection, your landlord **cannot evict you based on rental debt that came due between March 1, 2020, and August 31, 2021**, or, if you are a qualifying lower-income person, **that came due through December 31, 2021**. This **protection from eviction is permanent**; so long as you complete a qualifying self-certification, your landlord can **never** evict you based on rent you did not pay during the applicable covered period.
- The court must dismiss eviction actions based on rental debt—unpaid rent, habitual late payment of rent, or refusal to accept a rent increase—during the applicable covered period.

#### Who Is Not Protected?

- If you owe rent from *before* March 1, 2020, your landlord can go to court to get an eviction order based on that unpaid rent.
- If you owe rent that came due *after* August 31, 2021, and you don't qualify for protection from eviction based on rental debt that comes due through December 31, 2021, your landlord can go to court to get an eviction order based on that unpaid rent
- If your income is *more than* 120% of AMI, your landlord can go to court to get an eviction order based on *whatever* rent you owe.
- If your landlord is trying to evict you for reasons other than nonpayment, habitual late payment, or failure to pay a rent increase, the court can enter an eviction order if the landlord proves other "good cause" for the eviction under state law.
- New Jersey tenants may get protection from eviction only under state law at this point. On August 26, 2021, the Supreme Court of the United States [ended the federal eviction moratorium](#) issued by the Centers for Disease Control and Prevention (CDC).

### **If I applied for rental assistance, do I still have to self-certify?**

- **Yes!** Depending on your circumstances, you should do **both**, and it's probably best to apply for rental assistance first (*see below*). Filling out a self-certification can protect you from eviction based on rental debt that came due during certain periods. Completing a rental assistance application may get you financial help to pay the rent. The applications are **not the same**.

### **What if my landlord locks me out illegally?**

It is a crime for your landlord to lock you out. Under New Jersey law, only the courts can order evictions, and only government officials can remove you from your home. If your landlord locks you out, call the local police. They are required to help you get back into your home. The New Jersey Attorney General has issued [guidance to law enforcement](#) on their obligations in responding to illegal lockouts. You can show this to police who may not understand their role.

### **What if I live in a hotel/motel? Can I be evicted now?**

**Maybe.** Under [Executive Order 249](#), the state eviction moratorium does not apply to rooms rented to a “transient guest or seasonal tenant.” However, longtime hotel and motel residents, along with many others, are not considered “transient” or “seasonal” and should be treated the same as any other tenant under the new law.

To discuss your individual circumstances, contact a legal services organization such as [Legal Services of New Jersey](#), [Volunteer Lawyers for Justice – New Jersey](#), [Community Health Law Project](#), [Essex County Legal Aid Association](#), or [City of Newark Office of Tenant Services](#).

## **RENT PAYMENTS**

### **Do I still need to pay my rent?**

**Yes.** Rent is still due, and you should pay if you can. Even if you are eligible for protection from eviction under the new state law, your landlord can sue you to collect any rent that you owe. If you get assistance from the government or a nonprofit in paying the rent, you will not owe what is paid on your behalf.

### **Is rental assistance available?**

**Maybe.** There is substantial some government funding available to assist tenants struggling to pay their rent. The NJ Department of Community Affairs (DCA) administers some new rental assistance programs, and you can apply for them through the same [online site](#).

**How do I apply?** Go to <https://njdca.onlinepha.com> and follow the instructions to submit a pre-application. You must apply online at this site. No paper applications will be accepted. You must have an email address to apply. If you have a disability, limited English proficiency, or limited internet access, you can call 609-490-4550 for help. A friend, family member, or organization can also help you apply. You may also be able to get help from certified HUD housing counselors through [Housing Help NJ](#).

**What rental assistance is available?** As you will see if you go to <https://njdca.onlinepha.com>, the waiting list for the new programs is currently closed. That is because DCA has allocated all the money it had available for these programs. **Nevertheless, you can and should complete a pre-application at this website.** Completing a pre-application will add you to the group that will be eligible for help if the New Jersey Legislature commits additional funds for rental assistance.

**How will recipients be chosen?** By computerized lottery. Every pre-application submitted will have an equal chance of being selected.

**Can I apply if I have or have had other rental assistance?** Yes, but the state seeks to avoid duplication by permitting a household to receive only one type of assistance for any given month.

**Can my landlord refuse to cooperate or accept the funds?** No. It is a violation of NJ Law Against Discrimination for a landlord not to accept payments or complete the necessary paperwork.

**Can my landlord charge late fees for the rent payments I missed?** If your landlord receives state or federal funds to help cover your missed rent, your landlord may not charge late fees for the period during which your landlord receives such funds.

**What is Nan McKay & Associates?** Nan McKay & Associates is the contractor working with the state to implement this program. **If you receive communications from Nan McKay, respond!**

**If I self-certified to get protection from eviction, does that count as an application for rental assistance?** No! The two application processes are different. The self-certification can get you protection from eviction. The rental assistance application can help you cover the rent. You should apply for **both**, and it's probably best to start by applying for rental assistance.

**Other rental assistance.** The new law requires DCA to establish an Office of Eviction Prevention. Among other responsibilities, the Office is charged with compiling, publicizing and updating information relating to all federal, state, local, and other sources of financial assistance for residential tenants facing eviction. Until the Office of Eviction Prevention's website is up and running, you can check the DCA website for [summaries of rental assistance programs](#), and you can use the [DCAid portal](#) to see if you are eligible. The DCA website also offers [some general answers to questions about rental assistance](#).

## **COURT PROCEEDINGS**

### **Are the courts accepting cases that landlords file against tenants?**

**Yes.** Landlords are permitted to file eviction complaints against tenants, and the courts accepted these filings even when most trials were not being scheduled. You may therefore receive an eviction complaint in the mail and/or posted at your residence.

### **Is the court holding pretrial conferences? Do I have to attend them?**

**Yes, if you receive a notice for a pretrial conference you must attend.**

On July 14, 2021, the New Jersey Supreme Court issued a [Notice and series of Orders](#) announcing changes to the landlord-tenant process. The new process involves meetings among court staff, landlords, and tenants before trial ("pretrial conferences"). In general, these meetings are remote (by

videoconference or telephone), not in person. If you do not have access to the technology or equipment necessary to participate in a remote proceeding, you can call your county courthouse and ask to use a “technology room.” You can also ask to appear in-person.

The pretrial conferences have several purposes. New staff in the courts, called “landlord-tenant (LT) specialists,” will try to learn the status of the case. The LT specialists will refer tenants to sites where they can self-certify for protection from eviction and apply for rental assistance if that makes sense. The LT specialists can also refer unrepresented parties for legal help. And the LT specialists can help parties settle their cases if **both** the landlord and the tenant voluntarily agree to a settlement.

If you are a tenant and you receive a notice from the court directing you to appear at a pretrial conference by telephone or video, you should:

- Contact a legal services organization such as [Legal Services of New Jersey](#), [Volunteer Lawyers for Justice – New Jersey](#), [Community Health Law Project](#), [Essex County Legal Aid Association](#), or [City of Newark Office of Tenant Services](#).
- Share the complaint you received with any organization or lawyer who agrees to help you. If you did not receive a complaint, let your lawyer and the court know that.
- Remember that **you must participate in the settlement conference at the scheduled time!** If you do not show up, a judge will hear from only the landlord.
- You do not have to settle your case at this conference. If you cannot reach an agreement with your landlord, the court will schedule a trial for a later date.

### Is the court holding eviction trials?

**Sometimes and in some counties.** The courts have been scheduling certain kinds of eviction trials for many months, including those where the landlord claims to have proof that the eviction is necessary to protect the safety of other tenants or of the property.

Under the July 14, 2021, [Notice and Orders](#), it seems other eviction trials were set to resume on or after September 1, 2021, but not all counties have restarted such trials.

Under the new process, most trials will be held **remotely** (by videoconference or telephone). Again, if you do not have access to the technology or equipment necessary to participate in a remote proceeding, you can call your county courthouse and ask to use a “technology room” or ask to appear in-person.

### Can I still get emergency repairs in my apartment?

You always have a right to [safe and decent housing](#). If you have concerns about issues such as inadequate heat, exposure to lead, infestations, leaks, crumbling walls and ceilings, or other hazardous conditions, you should ask your landlord in writing to make repairs (keep a copy). If repairs are not made quickly, you can call 2-1-1, contact the state [Bureau of Housing Inspection](#), or call your municipality to report the problem. Due to COVID-19, code enforcement agencies may still be working with limited staff, and it may take longer to get repairs or inspections. As an alternative, if you can manage the repairs on your own, and your landlord fails to respond to your requests for repairs, you can make them

or pay someone to make them. You can then withhold the money you spent on repairs from your rent (save all receipts for the repairs!).

### **If I'm in a HUD-subsidized unit, do I get any special protections in eviction proceedings?**

**Yes.** Tenants in HUD-subsidized properties get a range of special protections in eviction proceedings. Under a [new rule](#), your landlord cannot file an eviction action against you for nonpayment of rent unless the landlord has given you 30 days' notice that includes information about the availability of federal emergency rental assistance. The rule applies when the federal government has allocated funds for rental assistance in response to the declaration of a national emergency, such as COVID-19.

### **ELECTRICITY, GAS, WATER, COMMUNICATIONS**

#### **Can my utilities, water, or sewer service be shut off during the COVID-19 crisis?**

**No.** A [law](#) enacted on December 21, 2021, prohibits most utilities and water/sewer providers from shutting off service until **March 15, 2022**, in response to unpaid bills that accrued during the pandemic. Moreover, before placing, selling, or enforcing a lien on residential property in response to such unpaid bills, the utility or water/sewer provider must offer the residential customer a favorable payment plan.

#### **Can my phone and internet be shut off during the COVID-19 crisis?**

**Yes, as of January 1, 2022.** After this date, under [Executive Order 246](#), an internet or voice service provider must offer to enroll a customer in specified payment plans before shutting off service and may not shut off services to a customer who makes the required payments.

#### **Do I still have to pay for utilities, water, sewer, phone, and internet?**

**Yes.** You still have to pay whatever electric, gas, water, phone, or internet bills you normally pay. If you cannot pay now, you will have to pay later. DCA offers low-income tenants [assistance with some utility bills](#). You can also call the customer service number on your utility bill, or look up the number [here](#), to try to work out a payment plan; or you can check the [website](#) of the Board of Public Utilities for a list of agencies that offer assistance.