

CIVIL COURT OF THE CITY OF NEW YORK

CHIEF CLERK’S MEMORANDUM

Subject: Procedure for processing
Residential Eviction Proceedings in
relation to the COVID-19 Emergency Eviction
and Foreclosure Prevention Act of 2020

Class: CCM- 212
Category: LT-10, LT-20, LT-30
Eff. Date: Immediately

=====

BACKGROUND:

On December 28, 2020, Governor Cuomo signed the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (“Act”) in response to the widespread economic and societal disruption brought about by the pandemic and specifically in relation to residents facing eviction and foreclosure.

To protect public health and safety, the legislation stays all pending RPAPL article 7 eviction proceedings, and all new proceedings filed through January 28, 2021, for sixty days and provides for a further stay until at least May 1, 2021 in any case where a respondent is adversely impacted by COVID-19, as established through submission of a Hardship Declaration.

New filings of residential eviction cases will be impacted by this legislation and the procedure for accepting these filings is listed below.

This Act expires on May 1, 2021.

PROCEDURE:

Effective December 28, 2020 at 11:59PM, documents submitted at the commencement of any new Article 7 residential eviction must include the following: a copy of the Notice/Hardship Declaration Form (see attached) served on the respondent and the COVID-19 Emergency Eviction and Foreclosure Prevention Act affidavit of service (see attached) from the petitioner or agent of the petitioner. The affidavit of service should:

- Demonstrate the manner in which the petitioner or petitioner’s agent served a copy of the hardship declaration in English and the tenant’s primary language, if other than English, with any rent demand and with other written notice required by the lease or tenancy agreement, law or rule to be provided prior to the commencement of an eviction proceeding,
- Attest that at the time of filing, neither the petitioner nor any agent of the petitioner has received a hardship declaration from the respondent or any other tenant or occupant of the dwelling unit that is the subject of the proceeding.

or

- Attest that the respondent or another tenant or occupant of the dwelling unit that is

subject to the proceeding has returned a hardship declaration but the respondent is persistently and unreasonably engaging in behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others, with a specific description of the behavior alleged.

- Upon accepting a petition pursuant to article 7 of the RPAPL, the clerk shall determine whether a copy of the hardship declaration in English and the tenant's primary language, if other than English, is annexed to the served notice of petition and, if not, shall ensure that the hardship declaration is attached to such notice.

The clerk is also advised that:

- Matters filed prior to December 28, 2020 at 11:59PM should still be processed as usual with the understanding that they are stayed for at least 60 days from the effective date of the Act.
- All pending eviction proceeding are stayed at least 60 days from the effective date of the Act.
- Matters pending on Housing Court calendars should be re-scheduled to a control Part pending further direction. The pending matters should not be "adjourned" as the Act directs that they be stayed.
- Default judgments may not be issued prior to May 1, 2021 without a hearing.
- In proceedings where an eviction warrant has been issued prior to the effective date of this act but has not been executed, the court shall stay the execution of the warrant at least until the court has held a status conference with the parties.
- In any eviction proceeding in which a warrant has been issued, any warrant issued shall not be effective as against the occupants, unless, in addition to the requirements under section 749 of the RPAPL for warrants, such warrant states:
 - The tenant has not submitted the hardship declaration and the tenant was properly served with a copy of the hardship declaration.
 - The tenant is ineligible for a stay under this act because the court has found that the tenant is persistently and unreasonably engaging in behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others.

Dated: January 7, 2021

_____/S/_____
Alia A. Razzaq
Chief Clerk



NOTICE TO TENANT:

If you have lost income or had increased costs during the COVID-19 pandemic, or moving would pose a significant health risk for you or a member of your household due to an increased risk for severe illness or death from COVID-19 due to an underlying medical condition, and you sign and deliver this hardship declaration form to your landlord, you cannot be evicted until at least May 1, 2021 for nonpayment of rent or for holding over after the expiration of your lease. You may still be evicted for violating your lease by persistently and unreasonably engaging in behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others.

If your landlord has provided you with this form, your landlord must also provide you with a mailing address and e-mail address to which you can return this form. If your landlord has already started an eviction proceeding against you, you can return this form to either your landlord, the court, or both at any time. You should keep a copy or picture of the signed form for your records. You will still owe any unpaid rent to your landlord. You should also keep careful track of what you have paid and any amount you still owe.

For more information about legal resources that may be available to you, go to www.nycourts.gov/evictions/nyc/ or call 718-557-1379 if you live in New York City or go to www.nycourts.gov/evictions/outside-nyc/ or call a local bar association or legal services provider if you live outside of New York City. Rent relief may be available to you, and you should contact your local housing assistance office.



Index Number (if known/applicable): _____

County and Court (if known/applicable): _____

TENANT’S DECLARATION OF HARDSHIP DURING THE COVID-19 PANDEMIC

I am a tenant, lawful occupant, or other person responsible for paying rent, use and occupancy, or any other financial obligation under a lease or tenancy agreement at (address of dwelling unit):

YOU MUST INDICATE BELOW YOUR QUALIFICATION FOR EVICTION PROTECTION BY SELECTING OPTION “A” OR “B”, OR BOTH.

- A. I am experiencing financial hardship, and I am unable to pay my rent or other financial obligations under the lease in full or obtain alternative suitable permanent housing because of one or more of the following:
1. Significant loss of household income during the COVID-19 pandemic.
 2. Increase in necessary out-of-pocket expenses related to performing essential work or related to health impacts during the COVID-19 pandemic.
 3. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member during the COVID-19 pandemic have negatively affected my ability or the ability of someone in my household to obtain meaningful employment or earn income or increased my necessary out-of-pocket expenses.
 4. Moving expenses and difficulty I have securing alternative housing make it a hardship for me to relocate to another residence during the COVID-19 pandemic.

5. Other circumstances related to the COVID-19 pandemic have negatively affected my ability to obtain meaningful employment or earn income or have significantly reduced my household income or significantly increased my expenses.

To the extent that I have lost household income or had increased expenses, any public assistance, including unemployment insurance, pandemic unemployment assistance, disability insurance, or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of household income or increased expenses.

- B. Vacating the premises and moving into new permanent housing would pose a significant health risk because I or one or more members of my household have an increased risk for severe illness or death from COVID-19 due to being over the age of sixty-five, having a disability or having an underlying medical condition, which may include but is not limited to being immunocompromised.

I understand that I must comply with all other lawful terms under my tenancy, lease agreement or similar contract. I further understand that lawful fees, penalties or interest for not having paid rent in full or met other financial obligations as required by my tenancy, lease agreement or similar contract may still be charged or collected and may result in a monetary judgment against me. I further understand that my landlord may be able to seek eviction after May 1, 2021, and that the law may provide certain protections at that time that are separate from those available through this declaration.

Signed: _____

Printed name: _____

Date signed: _____

NOTICE: You are signing and submitting this form under penalty of law. That means it is against the law to make a statement on this form that you know is false.

CIVIL COURT OF THE CITY OF NEW YORK

County of _____

**COVID-19 AFFIDAVIT OF
SERVICE OF NOTICE AND
HARDSHIP DECLARATION**

State of New York }

County of _____ }

I, _____, state the following under the penalties of perjury:

1. I am the petitioner in this proceeding, or an agent of the petitioner.
2. On _____ (date), I served a copy of the Covid-19 Hardship Declaration, in English (and in the respondent's primary language, which is _____) on the respondent in this proceeding, along with a rent demand or other required preliminary notice, in the following manner :
_____.
3. This proceeding is permitted to go forward pursuant to the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 because

At the time when this proceeding is filed, neither the petitioner nor any agent of the petitioner has received a Hardship Declaration from the respondent, or from any other tenant or occupant of the dwelling unit that is the subject of this proceeding,

OR

The respondent or another tenant or occupant of the dwelling unit that is the subject of this proceeding has returned a hardship declaration, but the respondent is persistently and unreasonably engaging in behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others, by the following specific behavior:
_____.

(Name)

Sworn to before me this
___ day of _____, 2021.