

CDC EVICTION ORDER

TEMPORARY HALT IN RESIDENTIAL EVICTIONS TO PREVENT THE SPREAD OF COVID-19

DIVISION CVL OPERATIONS ORDER

Updated 1/21/2021

The Centers for Disease Control and Prevention and Department of Health and Human Services has issued an order temporarily halting residential evictions by reason of non-payment of rent between 9/4/20 and 1/31/21 (the "CDC Order"). The CDC Order may be found at [federalregister.gov/d/2020-19654](https://www.federalregister.gov/d/2020-19654). In order to avail themselves of the protections afforded by the CDC Order, each adult tenant at a residential dwelling unit must complete a Declaration form. Plaintiffs/Landlords that receive from their tenants a completed Declaration form are asked to familiarize themselves with the CDC Order as severe financial and criminal penalties may result from violation of the CDC Order.

Plaintiffs/Landlords who contest the veracity of the Declaration form may request a hearing, which the Court may grant in its discretion if the basis of the same appears to be reasonable. The Court asks Plaintiff landlords, however, to recognize that the Declaration is signed under penalty of perjury. If the Plaintiff landlord wishes to bring a separate civil action for perjury or file a criminal complaint for perjury it may, but the Court hearing the FED action does not have jurisdiction over those claims and would only invalidate a Declaration if a Defendant tenant stated under oath that something he/she attested to as true in the Declaration is actually untrue.

All Writs of Restitution are being issued with an Order stating if the case is predicated on non-payment of rent or some other reason. The Sheriff has been instructed that if a residential tenant being served a Writ of Restitution by reason of non-payment of rent provides a completed Declaration form to the Sheriff for each adult resident at the dwelling at the time the Sheriff arrives to execute the Writ, the Writ shall be stayed.

The Court will continue to have possession hearings even for those cases where a CDC Declaration is filed. The Court takes the position that because the definition of "evict" in the CDC Order is to "remove or cause the removal of a covered person from a residential property", entering a Judgment for Possession where appropriate is not causing the removal of a covered person. Only execution of a Writ of Restitution would "cause removal" and thus in those cases where the Court enters a Judgment for Possession in favor of the Plaintiff landlord and a Declaration has been completed, a violation of the CDC Order would only occur if a Writ of Restitution was executed.

So ordered.

Andrea Paprzycki

Magistrate

January 21, 2021