

COVID-19 Eviction Moratorium is coming to an end! – Handling the Process

COVID-19 has torn across the world, creating a health crisis and leaving a devastating economic wake. Governors across the United States have issued varied emergency proclamations, many of which remain in effect. Due to the economic crisis, Federal and State Governments have issued a moratorium on evictions that is presently set to expire on January 31, 2021. According to the National Low Income Housing Coalition, 42.24% of Louisiana adult renters have no or slight confidence in their ability to pay rent, and Louisiana is in the top ten for states with the highest numbers of unpaid mortgages and rent.¹ Given these figures, many expect a high number of evictions occurring throughout the state beginning February 1, 2021. The purpose of this article is to provide some simple steps property managers can take to prevent and/or mitigate claims.

- **Check your property management agreements:** Your agreement should include (a) a defense and indemnity clause in your favor and (b) require the landlord to name you as an additional insured under their CGL policy. Your file should include a current certificate from their insurer proving your status as an insured. You can obtain this from your client or, preferably, directly from their insurer.
- **Retain or seek the advice of counsel when appropriate:** We recommend seeking counsel if you anticipate that your managed properties will require numerous evictions that way a systematic process can be established in order to ensure (a) legal compliance and (b) equal application to all tenants in order to avoid discrimination claims. This, of course, will allow you to separate yourself from the eviction process, thereby mitigating potential claims.
- **Be prepared for habitability claims/defenses:** Many tenants attempt to combat evictions by asserting lack of habitability as a defense. These “defenses” will undoubtedly increase due to the impact of Covid-19 reducing managers’ ability to access the properties. You should establish written communication with the tenant addressing all repair requests and the status thereof. If repairs could not be performed or were delayed due to Covid-19, then this correspondence should outline this fact and provide a timeline for such repairs. As a general rule, always imagine anything you write being read in open court.
- **General repair/maintenance recommendations:**
 - Avoid performing yourself when possible.
 - Always use licensed and insured contractors or home improvement professionals.
 - Keep a copy of your contractor’s certificate of insurance in your file and update annually.
 - Print all emails/texts regarding repairs to your file once the repair is complete. That way, all necessary documentation is available should a habitability claim be made.

¹ “Eviction Update.” *National Low Income Housing Coalition*, 18 Dec. 2020, nlihc.org/coronavirus-and-housing-homelessness/eviction-update.

- **General eviction handling recommendations:**

- When executing multiple evictions, set a procedure and apply it consistently to ensure legal compliance and avoid discrimination claims.
- Use the constable to post five-day notices when appropriate, such as in the Parish of Orleans. If you are posting notices, do so accompanied by a witness when possible and take a photograph of the notice upon placement.
- Avoid engaging with the tenant-defendant in person or over the telephone. If a phone conversation or meeting takes place, promptly confirm the context of the conversation via e-mail or text message.
- During the process of the eviction:
 - Always confirm that the tenant-defendant was served with the hearing date by the Constable.
 - Double check your accounting ledger. Any discrepancy may delay securing a Judgment.
 - Have the written correspondence (text messages and e-mails) printed and ready to submit to the Court as evidence.

We trust these general guidelines will aid you in your evictions and general management process. Please contact us should you have any questions or require assistance.

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NOTE that the information contained in this document is for general education and knowledge. It is not designed to be, and should not be used as, the sole source of information when analyzing and resolving a legal problem or claim. Additionally, the situation surrounding COVID-19 is evolving and the subject matter discussed herein may change on a daily basis. Please contact an attorney for timely advice as to any specific issue that may arise.