

New Mexico Legal Aid

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Information on Evictions - What Tenants Need to Know

Information Sheet on Supreme Court Order on Evictions and What Tenants Need to Know and Do to Protect Themselves if Unable to Pay Rent.

What should I do if I cannot pay my rent during the state of emergency?

Some landlords may be willing to work with tenants prior to filing eviction during this public health emergency. If you get a notice from your landlord, it is always a good idea to try to talk to them and see if they are willing to work something out. This avoids the trouble of both of you having to go to court.

What does the Supreme Court's Order suspending evictions in New Mexico mean and what do tenants need to know and do to protect themselves from eviction?

The existing legal process for evictions is not changed by the Supreme Court Order. The following things will still take place, even with the Supreme Court Order:

- The landlord can file a court case seeking to evict a tenant who cannot pay their rent, for whatever reason, or for other reasons unrelated to rent.
- The landlord must give the tenant a three day notice of non-payment of rent before filing an eviction proceeding if that is the reason for the eviction.
- The tenant still has 3 days to make up the rent payment – if possible – and avoid eviction.
- If a landlord files for eviction, you will be served with a summons, which could be posted to your front door.
- You may still appear in court in person for any eviction hearing, but DO NOT physically go to court if you are sick.
- If you need to reschedule your hearing, you should call the court PRIOR to your hearing (as soon as possible if you know you will not be able to attend a scheduled hearing) and ask for a continuance. You can find a “motion for continuance” on the Court’s website, or you can call the Self-Help Center to get a blank form.

- **Right now, Bernalillo County Metropolitan Court is allowing people to appear telephonically and/or via video conference. During this public health emergency, you do not need pre-approval from a judge to appear telephonically.**
- **If you would like to appear telephonically, you should call the judge's courtroom clerk a few minutes before the time of your scheduled hearing. You can find which judge your hearing has been assigned to on the summons.**
- **The numbers for the Metropolitan Court Judges' clerks are:**
 - **1) Judge Allred: 505-841-9862,**
 - **2) Judge Jaramillo: 505-841-8220,**
 - **3) Judge Sedillo: 505-841-8287.**

They are likely getting a high volume of calls at this time, so if you do not get an answer, you can try calling again.

- **The tenant MUST STILL appear by telephone or in person at the hearing to ask the court to **not** evict them because they are unable to pay the rent.**
- **You can also call the court's **corona virus hotline** prior to your hearing time for additional information: (505) 841-9810. Metro Court's self-help center may also have some additional resources: 505-841-9817.**

Steps Tenant MUST take:

- **Let the landlord know if you are unable to pay rent and ask the landlord to work with you before filing for eviction. This may give you more flexibility and time.**
- **If sued for eviction, you MUST SHOW UP AT THE HEARING – EITHER BY TELEPHONE OR IN PERSON. CALL IN TO THE HEARING. MAKE SURE YOU CALL BEFORE THE HEARING STARTS SO YOU ARE ON TIME.**
- **BE PREPARED TO EXPLAIN TO THE JUDGE WHY YOU ARE UNABLE TO PAY THE RENT. PROVIDE INFORMATION – AND IF YOU HAVE IT DOCUMENTS – THAT EXPLAIN THAT YOU WERE LAID OFF, HAVE A FAMILY MEMBER THAT LOST JOB, THAT YOU ARE SELF-ISOLATING, OR WHATEVER IS THE REASON YOU ARE UNABLE TO PAY.** For example: "I work at a bar, and have been temporarily laid-off due to the statewide closure of bars. Therefore, I cannot pay my rent."
 - **Ask the Court to consider allowing you time to catch up with your rent, once the state of emergency is over.**
 - **Make sure you understand what you must do and when – ask questions if you have any. Keep your paperwork.**
 - **Call New Mexico Legal Aid at 505-633-6694 for help. Call 311 for referrals to other**

organizations that can help.

- If you want to appeal an eviction decision you will have 15 days to do that, but call Legal Aid for specific advice based on the facts of your case.

What does the Supreme Court ORDER mean?

- Judges will **stop** the execution of the eviction order (Writ of Restitution) during the time period the Supreme Court Order is in effect.
- The Supreme Court order does not mean that a tenant will not still have to go to an eviction hearing if an landlord files for eviction.
- Sheriffs may not proceed with the eviction at this time if the judge finds that a tenant is unable to pay due to financial hardship.
- Once the Supreme Court Order is no longer in effect, the landlord can proceed to evict the tenant – or – agree to let the tenant catch up on the rent instead of evicting them.
- Tenants still owe the rent for each month that the Supreme Court Order is in effect.

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