



Landlord-Tenant FAQ During COVID-19

The Magistrate Court of Fulton County is creating solutions during the COVID-19 pandemic to handle pending Landlord-Tenant cases. Between March 14, 2020 and July 14, 2020 due to the Statewide Judicial Emergency, Magistrate Court handled only Electronic Search and Arrest Warrants (24/7) and First Appearance hearings (6 days a week). Last year, Landlords filed 45,000 landlord-tenant cases in Fulton County. At the time of the first declaration of Judicial Emergency, 352 landlord-tenant cases had been scheduled but not heard and the court was projected to equal the number of 2019 filings. During the five (5) month delay, Landlords continued to file 2,500 cases, creating a backlog which the Court is addressing, starting from the oldest cases to the newest.

Q. What has Magistrate Court done to address landlord-tenant cases during the COVID-19 public health emergency?

A. To inform, engage and empower our community, the Court issued several Orders of Business, updated the Administrative Office of the Courts COVID site, as well as our website and social media, held and participated in public town halls, NPUs and community meetings to ensure the public and court users were aware of the Court's processes and plans during the continuing Statewide Judicial Emergency.

In an effort to continue hearing cases the Magistrate Court adopted the Standing Order on Proceedings During and Following Statewide Judicial Emergency on July 13, 2020. In this standing order we explained that for all case types, including Landlord-Tenant cases, we would hold hearings via Zoom Videoconference only. We have proceeded to do so as Information Technology makes hybrid zoom hearings with evidence presentation capability available. The current Zoom hearings require the consent of both parties.

Q. How is the Magistrate Court handling the CDC moratorium?

A. The CDC moratorium covers non-payment evictions filed against tenants described below. This moratorium does not cover all evictions. The court will process evictions as they are filed.

As of September 4, 2020, the Centers for Disease Control published an Eviction Moratorium, effective until December 31, 2020, requiring that the Tenant/Renter present the Landlord with a declaration that the Tenant is not subject to eviction for nonpayment of rent because they:

- Meet the income qualification criteria – tenant received a 2020 federal stimulus, or has income less than \$99,000 single or \$198,000 joint, or did not pay taxes in 2019;
- Are unable to pay rent due to income loss or extraordinary out of pocket medical expenses;
- Would become homeless or need to 'double up' if evicted;
- Will still make partial payments "using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other non-discretionary expenses;" and

- Have applied to all governmental programs for rent assistance during this health emergency.

The Tenant declaration does not have to be filed with the Court. Under the CDC Order the Landlord shall not file a non-payment eviction once presented with this declaration. Landlords who violate the CDC moratorium could face penalties of up to \$100,000.00 and up to one year in jail for a first offense and fine up to \$250,000.00 and a year in jail for a second offense.

Q. Do Landlord-Tenant cases require an affidavit?

A. It depends. Landlords must file a sworn affidavit stating they have not received a declaration from a tenant under the CDC moratorium and that they have not accepted rent after filing a dispossessory action before they will be granted a writ of possession in cases where the tenant does not file an answer.

Additionally, any cases filed March 28, 2020-August 24, 2020 require that the Landlord file a CARES Act affidavit. This affidavit is a sworn statement that the affected property is not covered by the protections offered in the CARES Act.

Q. Do these Orders mean that the tenant will never have to pay back rent?

A. No. All rents remain due and will continue to accrue. The Court has collaborated with three community partners to provide rental assistance and aid the parties reimagine eviction as the cure for rental default. Once cases resume, whether in person or via Zoom, the court will award judgements based on evidence of unpaid rent and property damages.

Q. How will Court hearings happen safely during the Pandemic?

A. To ensure the safety of the community, we are conducting hearings via Zoom Videoconference only. To have a hearing via Zoom, BOTH parties must voluntarily consent, using a consent form included in the Standing Order. If both parties do not consent or do not return the form, the case is placed on hold until the Court can safely resume in-person hearings or technology becomes available that will allow one party to be remote via Zoom and one party to be in the courtroom.

Q. When will the Marshal's Office begin distributing Notices and Evictions?

A. The Marshal began distributing First Notices on writs on July 20, 2020 and began eviction actions August 13, 2020. These were only for cases filed and writs issued before March 14, 2020. The majority of these writs have been executed. Writs will not be executed where Tenants are covered by the CDC moratorium. All writs of possession issued before September 4, 2020 will be reviewed by judges to ensure compliance with all applicable laws, including the CDC moratorium on evictions for nonpayment of rent.

Q. Who can I contact for help?

A. If you would like assistance with your landlord-tenant proceeding, contact:

Housing Court Assistance Clinic 404-521-0790 <https://avlf.org/hcac>
hcac@avlf.org

Atlanta Legal Aid Society 404-524-5811

Star C Apartment Eviction Relief Fund <https://star-c.org/evictionrelief/> 404-698-3781
hello@star-c.org
Hosea Helps Homeless Prevention Program 404-755-3353
Urban League of Greater Atlanta Call 211
City of Atlanta Rental Assistance <https://www.unitedwayatlanta.org/> Text C19-ERA to 898-211