

Edmondson Law PC

LANDLORD AND COLLECTION LAW UPDATES [JANUARY 11, 2021](#)

Dear Clients and Friends,

2021 is here, and we now face the Extension of the CDC Moratorium through at least January of this new year. General expectations and betting odds favor seeing the Moratorium extended beyond January of this year. Jury trials continue to be on hold in the Courts meaning we continue to wait for normal to return. (Please don't hold your breath.)

What can we do? We can continue to file evictions for tenants who do not pay. If you receive a CDC Declaration, we can continue to challenge them where appropriate. We can collect against tenants who have jobs. Because the CDC Order allows us to proceed with obtaining judgments for nonpayment of rent, we can garnish wages for tenants who have jobs or other allowable sources of income. Landlords can apply for assistance through government programs. (Links later in the newsletter with additional information.) Most importantly, we need to continue to advocate for Landlords in our communities. Remind people who think all Landlords are huge wealthy corporations that this not the case. Contact your state and local representatives regarding any bills coming before the legislature, both statewide and federally, to request favorable votes for landlords. (I will be including legislative updates in our Newsletters this year when possible.)

Continue to check Facebook, LinkedIn and Blythe's Blog for the latest news on Evictions. We made it through 2020, and we will make it through 2021! *Blythe*



Edmondson Law PC Useful Links

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www.EdmondsonLawPC.com



Extension of CDC Eviction Moratorium and Information needed to challenge the CDC Declaration

The CDC Eviction Moratorium has been extended through January of 2021. We anticipate it will be extended several months beyond January 2021. We can continue to file evictions for all noncompliance issues (lease violations, criminal activity, tenant hold over after termination of lease and nonpayment of rent.) The CDC Moratorium stops the Writ from issuing in Nonpayment cases where the Tenant has provided the Landlord with a CDC Declaration and in some cases in holdover matters. We can challenge the CDC Declaration in certain cases.

To challenge a CDC Declaration we need to be able to prove one of the following:

1. The tenant has not entered into a partial payment agreement and/or is not making partial payments.
2. The tenant has not used his/her best efforts to obtain all available housing assistance.
3. The tenant has not been laid off or lost wages or hours of work due to COVID.
4. The tenant will not be homeless or have to move in with other family and friends in close quarters.
5. The tenant makes over \$99,000 annually or \$198,000 if filing jointly.

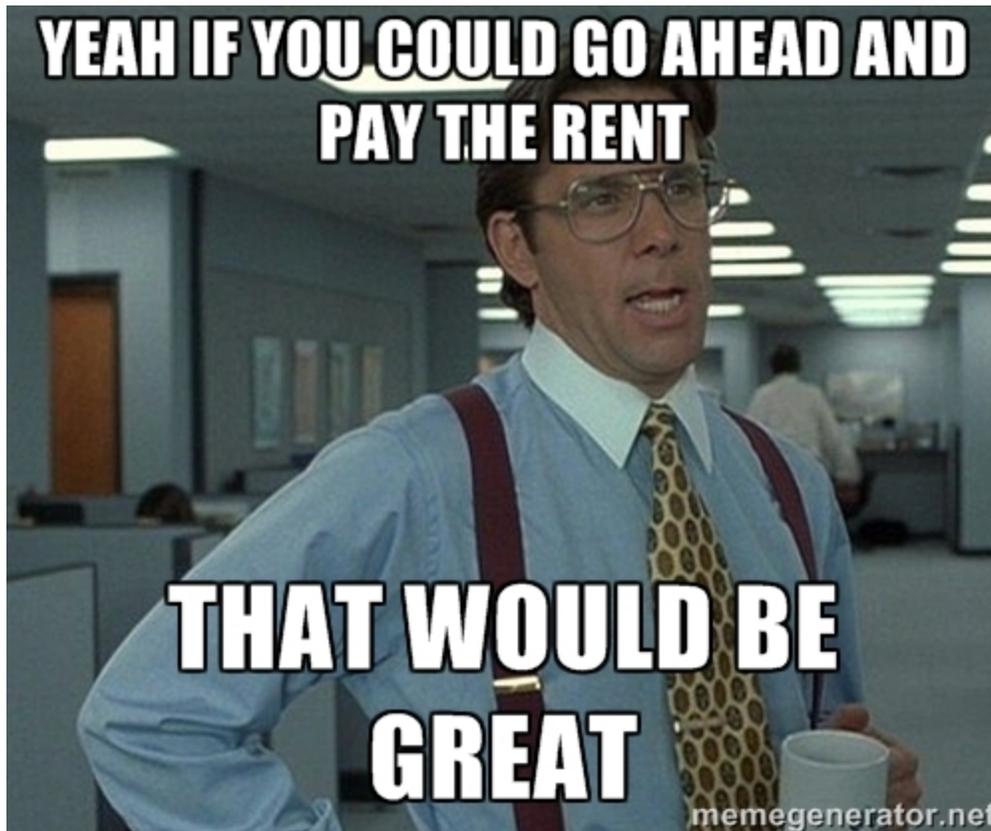
The easiest to prove is the failure to make partial payments or enter into a partial payment agreement. As the Landlord you have those records or lack thereof. We can attempt to request documentation from the tenant about their current income and copies of documentation regarding applications for housing assistance. The tenants may or may not agree to provide this documentation.

Each eviction case is unique and each case to challenge a CDC Declaration is unique. If you have questions about challenging a CDC Declaration please contact our office. The Constables are still providing the CDC Declaration forms to tenants, but the judges are more comfortable with the CDC challenges we bring to them. Although executing the Writ of Restitution is more difficult, we can, at least in some cases, still complete the Writ of Restitution and remove the tenants.

THE INFORMATION PROVIDED IN THIS NEWSLETTER IS GENERAL INFORMATION. PLEASE BE ADVISED EACH CASE IS UNIQUE AND INFORMATION PROVIDED HERE MAY NOT APPLY TO YOUR SITUATION. THIS NEWSLETTER DOES NOT CONSTITUTE LEGAL ADVICE.



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JANUARY BRUNCH WITH
BLYTHE

FRIDAY, JANUARY 22, 2021
11:00AM

PLEASE RSVP TO
Contactus@EdmondsonLawPC.com
FOR THE LINK.

We will discuss where things stand
as we start the new year.



What if a Tenant Vacates and Leaves Unpaid Rent and Damages

When the tenant vacates and leaves unpaid rent and/or damages in his/her wake, what can you as a landlord do? You can pursue collections against the tenant for your damages. How you do that depends on several factors. First, if the tenant is “judgment proof,” meaning he does not have assets or income you can garnish or take, we recommend sending the matter to a large collection agency (we are happy to recommend some) and, unfortunately, don’t expect to see any money. If the tenant, however, has a job or other assets that are not protected by State Law (everyone is allowed an automobile of a certain value, a home of a certain value, tools of the trade and other items that you cannot take in collections) we can move to collect the money the tenant owes. To do so we need a few critical items. We need the tenant’s *social security number*, a *Driver’s License Number* a *date of birth* and a *full legal name*. We can sometimes work around a missing piece or two, but the more information we have, the better our odds of collecting from the tenant. We can pursue the tenant for unpaid rent and late fees as well as damages done to the property beyond normal wear and tear.

THE COLLECTION PROCESS

The Collection Process for a consumer debt, which is often what a landlord is pursuing in the collection process, starts with a third-party debt collector sending a notice to the Tenant. (If the landlord is collecting himself this step is not needed.) As a third-party debt collector, our office needs to give the Tenant a chance to challenge the debt and to enter into a payment agreement before we take the next step. For any judgment already in place (if you evicted the tenant for nonpayment of rent and have a monetary judgment), once the 30-days runs we can begin garnishing wages and bank accounts if the tenant does not agree to a payment agreement. To do this of course we need to know where the tenant now lives and works. Having the Social Security Number and Driver's License number help with this. The garnishment process takes filing paperwork back and forth with the court and serving the employer or bank before funds can finally be released to us and therefore you. The length of time for this process varies depending on the employer or banking institutions response to our requests. If the tenant remains employed, we continue to collect until the tenant leaves that place of employment or pays the debt in full. In the case of a bank garnishment, we get one lump sum.

If the tenant owes additional rent or has done damage to the property or you didn't evict the tenant, we begin the process by filing a lawsuit against the tenant for the unpaid rent and/or damages. (We also file an additional lawsuit if the tenant has done damage after vacating or owes additional rent beyond what is covered in an initial eviction judgment.) To obtain a judgment against the Tenant we need to serve them with the lawsuit, obtain a judgment either through trial or default (the tenant does not answer) before we can begin the garnishment process. This all takes time.

Our office screens our collection cases very carefully. We cannot guarantee we can collect for you, but we don't take cases if we do not believe we can collect from the Tenant. If you believe you have a viable collection case, please feel free to contact us.

LANDLORD INFORMATION AND ASSISTANCE PROGRAMS

Pima County has created a survey for Landlords. Please feel free to fill it out if you wish. (Landlord groups were included in the creation of the survey; it isn't one sided.)

[HTTPS://UARIZONA.CO1.QUALTRICS.COM/JFE/FORM/SV_BDEAMLTWB990LJZ](https://uarizona.co1.qualtrics.com/jfe/form/sv_bdeamltwb990ljz)

Most of the assistance programs available in Arizona are for tenants and not for Landlords. While I could discuss the lack of logic in this approach, I will refrain and simply provide the information available for Property Owners to date. Please note I am not aware of any current programs offering funds for landlords.

Arizona Rental Property Owner Preservation Fund provided \$5 million in assistance for rental property owner across Arizona. \$2.5 million for owners of larger units/complexes and \$2.5 million for "smaller" owners. The funding for this has expired. It is possible this program may be refunded in a future.

Pima County Landlord Resources Link

https://uarizona.co1.qualtrics.com/CP/File.php?F=F_e9cUDzdU9ltCgmx