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May 20, 2021

Judiciary Special Committee on Landlord Tenant  
Hughes Justice Complex; PO Box 037  
Trenton, NJ 08625-0037

Re: Comments on the Report of the Judiciary Special Committee on Landlord Tenant

Dear Justice Rabner, Judge Grant and The Committee:

This office represents multiple residential and commercial landlords in New Jersey in landlord-tenant litigation and has been doing so for decades. We represent landlords with thousands of units, landlords with one unit, and landlords with any number of units in between. Our history of practice in landlord-tenant courts around the state gives our office perspective with regard to proposed changes to landlord-tenant procedures. We know firsthand how the courts operate in most counties and have seen court process change over the years as recommendations have been made and implemented. It is with that historic perspective in mind that we object to many of the changes proposed by the Committee in its April 21, 2021 report.

Before specifying our objections, it is necessary to acknowledge the hardships created by the pandemic affecting all parties and the necessity for protections that have been afforded to the tenants. However, after 14 months of ensuring that tenants who have not paid rent are not displaced done at the expense of the landlords who are expected to maintain their properties, pay taxes, and provide all ongoing services, it is time to lift that burden from the landlord. This means returning to the expeditious summary proceedings that were previously available to landlords where the only issue in a case is nonpayment of rent. Accountability and the importance of contractual agreements between parties must be paramount. It is in these areas - specifically accountability for tenants and the honoring of leases between landlords and tenants when the terms of those contracts may not benefit the tenant - that we feel the courts have, for years, bent in favor of tenants. The Committee's proposed changes are simply another long stride down that well-worn path, as the courts bend further for the tenants at the landlords' expense.

We would also note that, while we are sure that the Committee is proud to list as members many advocates on both the landlord side and the tenant side of the landlord-tenant arena, we are hard-pressed to identify any proposals contained within that 71-page document that appear likely to have come from anyone on the side of the landlords. The vast majority of the proposals contained within the Committee's report are proposals we have heard made by Legal Services and other tenant advocates over the years. That is consistent with what we have heard

about how the Committee functioned. Obviously, there is a difference between a committee that contains members with opposing viewpoints but adopts only the viewpoints of one side, and one that contains members with opposing viewpoints and that works together to find common ground. It appears that this committee was the former, not the latter.


While the Committee's report makes the obligatory mentions of the importance of landlords and the "profound effect" the pandemic has had on landlords, the proposed changes to landlord-tenant process do little to benefit the landlord while doing much to benefit tenants. The Committee proposes to increase the amount of time these proceedings are to take by adding preliminary appearances and increased court staff involvement. The Committee also proposes to essentially have landlords prove their case in the initial filing by proposing a requirement that landlords would have to submit evidence such as the lease - a document landlords and tenants should both have - along with the summons and complaint. Further, the Committee proposes to have landlords file a CIS, full of information already provided in the complaint, at the onset of the case. As anyone who practices in landlord-tenant court in New Jersey knows well, time is of great import in these cases (the reason they are summary proceedings). They are explicitly intended by rule to move expeditiously, and every day that is added to the process is a victory for the tenants and a loss for the landlords. Further, every new technical loophole that can be exploited by a tenant or their attorney - for instance, an incorrectly filled out CIS form or the failure to submit a lease along with a complaint - is yet another delay benefitting the tenant.

The question these changes raise is: "Why?" The judges in landlord-tenant courts statewide already have and frequently use judicial discretion to, for example, give tenants a few more days to pay when the tenant believes they'll be able to get the money owed or give tenants a second, third or even fourth Orderly Removal to bridge the gap between a lockout and the tenant having a new place to live, all at the expense of the landlord. To use a baseball analogy, every "tie" in landlord-tenant court already goes to the tenant. Frankly, at this point, with all of the many protections tenants have, even matters that should clearly be "outs" are going to the tenants. The changes proposed by the Committee would just continue that trend further. The vast majority of landlord-tenant cases in New Jersey involve the nonpayment of rent that is not even disputed by the tenant. What is the benefit of more time and energy being spent on such cases?

The money the Committee proposes to spend on increased court staff to analyze and mediate cases, the majority of which are nonpayment of rent cases where no dispute exists, should instead either be (a) used to create a fund to help deserving tenants pay their rent or (b) given to Legal Services to afford them greater resources with which to represent tenants. The additional procedures and requirements proposed by the Committee should not be implemented as they are unnecessary and will only serve to complicate and delay landlord-tenant proceedings.

Thank you for your consideration.

Respectfully,

  
Alex Klein, Esq.  
For the Firm