

April 28, 2025

Submitted Electronically to Comments.Mailbox@njcourts.gov

The Honorable Michael J. Blee
Acting Administrative Director of the Courts
Administrative Office of the Courts
Attn: Residential Landlord Tenant Forms & Processes
Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625-0037

Dear Judge Blee:

On behalf of the New Jersey Apartment Association (“NJAA”) and our members who own, manage, and develop market-rate and affordable rental housing for more than one million New Jersey residents, we write to offer our comments on the above captioned proposal regarding the landlord-tenant process.

At the outset, we wish to convey our appreciation to the Court for its continued engagement with stakeholders representing both landlords and tenants on these critical matters, and for including the New Jersey Apartment Association (NJAA) as a stakeholder in this collaborative process. It is our hope that this dialogue has been instrumental in informing the Court’s development of both the proposed mandatory landlord-tenant complaint form and the suggested amendments to Court Rules.

Nevertheless, NJAA would like to respectfully submit the following comments for consideration by the courts:

1) Proposed Rule Revisions and Form Residential Landlord-Tenant Complaint Should Follow the Ordinary Committee Processes

While we appreciate inclusion in the informal stakeholder process, we respectfully caution that this informal dialogue should serve to complement, rather than replace, the established rulemaking process. Under ordinary circumstances, proposed changes to Court Rules are submitted to, and refined by, specialized practice committees. This procedural framework is expressly designed to ensure a balanced and comprehensive consideration of diverse perspectives in the rulemaking process. Only upon the conclusion of this committee process are such proposals published for public comment, thereby subjecting them to further examination through public hearings and inviting the contributions of legal professionals, stakeholders, and the broader public.

The committee process is indispensable as it fosters transparency, encourages the inclusion of diverse viewpoints, and upholds the integrity of the judicial system by ensuring that Rule modifications are consistent with foundational principles and promote



the impartial administration of justice. Accordingly, while NJAA is no longer represented on the Special Civil Part Practice Committee, we firmly believe that a rule change of such significance should first be submitted to, and approved by, the Committee, which is composed of judicial and legal experts appointed by the Chief Justice to carry out this critical responsibility.

2) Court Should Reject Proposed Change to 6:2-1 (“Form of Summons”), Codifying 5-Week Delay in Scheduling Landlord-Tenant Trials

The proposed change to Rule 6:2-1 would extend the time period for scheduling a trial in a landlord-tenant matter from “not less than 10 days” to “not less than five weeks.” This amendment essentially makes permanent what was a temporary delay in scheduling landlord-tenant trials, imposed by the Court as landlord-tenant trials resumed following the end of the eviction moratorium imposed in response to the public health crisis stemming from the COVID-19 pandemic. If this delay was ever justified as courts reopened following the enactment of P.L. 2021, c. 188, that justification has lapsed, and there is no reason to build in a permanent 5-week delay in scheduling trials. As such, we would encourage the Court to reject the proposed codification of an arbitrary 5-week delay in scheduling landlord-tenant trials.

The proposed 5-week delay in scheduling landlord-tenant trials undermines the summary nature of landlord tenant proceedings. Under New Jersey’s Summary Dispossess Act, enacted in 1847, landlord-tenant matters proceed in a summary manner focusing solely on the matter of possession, rather than engaging in the more elaborate fact-finding and evidentiary processes typical of full-scale civil actions. By limiting the scope of the proceeding, the summary process is designed to afford landlords “an expedited procedure to regain possession of leased premises, thereby avoiding the delays ordinarily associated with common-law ejectment actions.” *Hous. Auth. of Morristown v. Little*, 135 N.J. 274, 280, 639 A.2d 286 (1994).

Imposing a minimum five-week delay in scheduling a landlord-tenant trial undermines the statutory purpose of allowing landlord-tenant cases to proceed in a summary manner. This is particularly striking when compared with small claims court proceedings, which must be scheduled between five- and 30-days following service. It seems like the Judiciary is prejudicing one class of litigants (landlord plaintiffs) against another class of litigants (tenant defendants) by subjecting them to an arbitrary court-mandated delays in getting to trial and, by extension, a court mandated loss as an owner cannot recover possession of a unit following default by a tenant.

Furthermore, New Jersey statutes have evolved around this understanding that apartment owners will have quick access to relief in instances of nonpayment of rent. For example, the Security Deposit Act (N.J.S.A. 46:8-19 et seq.) limits landlords from requiring more



than 1 ½ times the monthly rent in security for a residential dwelling unit. And N.J.S.A. 2A:42-6.1 requires owners to provide a grace period for late-payment of rent for five business days for certain tenants.

Accordingly, we would encourage the Court to reject the proposed rule change to 6:2-1 and permit trials to be scheduled with 10 days' notice to the parties.

3) Mandatory Forms Should Be Clearer and Accompanied with Instructions Designed to Assist Proper Completion, Especially for Self-Represented Litigants

Under New Jersey Court Rules, any landlord that is a business entity, such as a limited liability company, corporation, or partnership, must be represented by a New Jersey licensed attorney. However, there are many small property owners who either sole proprietors or own properties personally, who have a right to represent themselves in a landlord-tenant action proceeding as a *pro se* litigant. While it is always preferential to have legal counsel, NJAA receives calls from many small property owners who have lost months of rent before commencing an eviction action and simply cannot afford the legal fees associated with retaining counsel experienced in New Jersey's landlord-tenant laws.

As such, these small owners are often forced to either represent themselves *pro se* or work with attorneys with little practical experience in the workings of landlord-tenant court. The barriers to succeeding as a *pro se* plaintiff in a summary dispossess action are already high, we are concerned that the residential landlord-tenant complaint in Appendix XI-X, which is proposed to be amended and made mandatory, is unnecessarily difficult to complete without error and will lead to cases filed by *pro se* landlords being dismissed for technical reasons.

NJAA is concerned, too, that the proposed mandatory form complaint will even be difficult for attorneys inexperienced in landlord-tenant court and will drive-up the cost and availability of legal counsel with significant landlord-tenant experience.

As such, NJAA would suggest, as a principle, that the mandatory form complaint should be simplified to only require aspects of the pleading that is necessary for fair adjudication, allowing for additional information and data gathering to be developed through the litigation process. For example, why is it relevant that an owner decipher the litany of federal affordable housing programs and checkoff in the complaint whether the property receives a "Project-Based Voucher" vs. "Section 8 Project-Based Rental Assistance" when this information should be evident in the lease agreement and any HUD-required addenda attached thereto?



4) References to Lead-Laws Should Be Removed from Question #8 in the Proposed-Mandatory Landlord-Tenant Complaint

A property exempt from registration under the Landlord Identity Law, N.J.S.A. 46:8-27, as being an owner-occupied two-unit building, is not required to register regardless of whether it is subject to, or exempt from, federal and state regulations pertaining to lead-based paint. The additional requirements under #8 in the proposed mandatory landlord-tenant complaint regarding lead-based paint are drawn from P.L. 2007, c. 251, which has not been implemented by the Department of Community Affairs (DCA) and is therefore not relevant. Furthermore, given that this statutory requirement to register with DCA has not been implemented, there is no practical way for these properties to register with DCA.

The DCA states, in its bulletin to the public, the requirements in P.L. 2007, c. 251, which requires that all one- and two-family rental properties be registered with the Bureau of Housing Inspection (subject to exemptions) **“will not take effect until the Department adopts implementing regulations. No registration or inspection of one- or two-family rental properties is required until such time as the regulations are adopted”** (emphasis in original).

Please see the complete bulletin published by DCA at the following address:

https://www.nj.gov/dca/codes/publications/pdf_bhi/1_and_2_fam_lead_safety_advisory.pdf

Again, on behalf of NJAA, we appreciate the opportunity to comment on the above captioned changes to Court Rules. Moreover, we appreciate the ongoing opportunity for dialogue with the Court and the staff of the AOC toward the collective goal of ensuring access to justice and fair resolution of disputes for all litigants.

Should you have any questions, or wish to discuss these comments further, please do not hesitate to contact me.

Very truly yours,

Nicholas J. Kikis
Vice President