

Sheila S. Hatami Esq. Comments, Landlord Tenant Committee, May 28,2025

Good morning Court Committee Members:

I stand before you as a lawyer that wears many other hats: as a Realtor, landlord, farmer, and member of a municipal board. I ask the Committee to refrain from making more changes to the Landlord Tenant forms, especially where triable issues of fact and affirmative defenses are reduced to “yes-no” questions.

I represent individual landlords who own single family homes or condos in Monmouth and Ocean Counties. The proposed changes add additional burdens to these small landlords who already must navigate what is already a problematic mish-mash of municipal requirements for registrations and inspections. One of my clients rented his first investment property nearly 50 years ago. What was a summary proceeding is now a lengthy and procedurally complex proceeding take months to resolve.

Part of this complexity are the state imposed registration and lead inspection laws, which are interpreted and treated differently by each municipality.

Some municipalities do not strictly follow the state registration law, but impose other requirements with registration, making **landlord registration an affirmative defense and a triable issue of fact** – one which should not be on a complaint form as a check box.

For example, Howell Township in Monmouth County has rejected landlord registrations even when timely and accurately filed. Rejection of a complete and timely registration was not considered by the State in the statute, and to my knowledge, it has not been considered by the judiciary.

This situation is insufficiently addressed by a check box on a form. A landlord may have long-term tenants and register every year, but despite following state law, have had their registration returned - without any record kept by the municipality. Procedurally, it is only fair for the landlord to have to show registration, or their attempts thereto, at trial - rather than pre-complaint.

This relationship is a novel question of law that has not been considered by any state court and cannot be reduced to a yes or no answer.

Second, whether the landlord is in compliance with the lead inspection laws bears no relation to a summary proceeding for rent and damages and should not be on the complaint form.

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The statute regarding lead inspections does not require a landlord to be in compliance to collect rent. Instead, there are enforcement mechanisms outside the rent collection process, part of which is in the jurisdiction of the municipality, not the superior courts. The judiciary should not take on the obligations that the legislature has imposed upon municipalities. Landlord tenant court is for disputes regarding the tenancy to be quickly and fully heard, not decided as the complaint is filed. The enforcement of lead inspections should be left to the officials that have appropriate jurisdiction under the law.

This question, of **whether a landlord is in compliance with the lead inspection law is an affirmative defense and a triable issue of fact** that should not automatically reject a filing for back rent and damages, when such a process takes 2-3 months. Certainly a landlord, if inadvertently out of compliance with the inspection requirements, can become compliant before trial.

Whether a failure to have lead inspections is a novel question of law that has not been considered by any state court and cannot be reduced to a yes or no question on a form.

Finally, many landlords who rent single family homes in Monmouth and Ocean counties try to resolve rent and damage problems with their tenants before coming to court. They may work out payment plans or agreements for the tenant to pay and leave upon finding a new rental.

Unfortunately, the long, complicated civil eviction process discourages out of court settlements. I now advise client landlords to file immediately for eviction once a rent payment is late. That the landlord tenant court no longer grants a quick disposition penalizes both parties, who are disincentivized from maintaining a relationship outside of court. Eviction filings injure a tenant's chance of finding rentals in future and costs the landlord the attorney and filing fees. When those costs are passed on to a tenant, a tenant can find themselves in a hole of debt that they cannot pay, in addition to the back rent owed.

I do not believe these are the intended outcomes of the summary eviction proceeding or a benefit to the parties.

At a time when desirable, affordable housing is scarce, and landlords have a much longer and cumbersome registration, inspection, and legal process than in decades past – a process that has doubled in cost over the last 5 years – it is important to create a fair, streamlined process for all parties, with the goal of retaining what rental housing remains in the hands of independent landlords and small businesses.

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Thank you for your consideration.