PREPARED BY THE COURT

KRISTIN JENNINGS & 130 MORRIS	**:**	**SUPERIOR COURT OF NEW JERSEY**
LLC,	**:**	**LAW DIVISION – SPECIAL CIVIL**
PLAINTIFFS	**:**	**MONMOUTH COUNTY**
Vs	**:**	**DOCKET NO: MON-LT-1275-25**
	:	
MARK J. LEAVY,	**:**	**CIVIL ACTION**
DEFENDANT	**:**	**ORDER**

THIS MATTER having been brought before the Court by Plaintiffs, by and through counsel Michael D. Mirne, Esq., seeking a motion to amend the previously filed complaint in the above matter, the court having reviewed the filed papers, and for good cause shown:

IT IS on this **16th** day of **May, 2025 ORDERED** as follows:

1. Plaintiffs' motion to amend the complaint is **DENIED.**
2. Plaintiffs shall serve a copy of this Order on Defendant within 7 days.

/s/ *Gregory L. Acquaviva*
GREGORY L. ACQUAVIVA, J.S.C.

Statement of Reasons

In this unopposed motion arising from a residential landlord-tenant dispute, Plaintiff seeks leave to amend the complaint alleging non-payment of rent to add a so-called "holdover" cause of action pursuant to N.J.S.A. 2A:18-61.1(b), premised on tenant's alleged disorderly conduct. This request must be denied as futile and unduly prejudicial. Nevertheless, because the alleged cause of action accrued after the complaint's filing, nothing prohibits a new, serial complaint from being initiated.

The timeline here is dispositive. Plaintiffs filed a non-payment of rent complaint on April 9, 2025. Trial was scheduled for May 23, 2025.

Thereafter, on April 21, 2025 – 12 days after filing the complaint – Plaintiffs sent via certified mail a notice to quit based on disorderly conduct, pursuant to N.J.S.A. 2A:18-61.1(b).

Plaintiffs filed this motion to amend on May 2, 2025 – just 21 days before the trial date.

Although leave to amend is freely given under Rule 4:9-1, the court may still deny leave when it is futile or unduly prejudicial. Notte v. Merchants Mut. Ins. Co., 185 N.J. 490, 500-01 (2006).

Lateness of a leave request is relevant. See, e.g. Bldg. Materials Corp. of Am. v. Allstate Ins. Co., 424 N.J. Super. 448, 484-85 (App. Div. 2012). The

Appellate Division has sustained denials of leave to amend "late in the litigation because doing so would prejudicially affect the other party's rights." Id. at 484 (citing Fisher v. Yates, 270 N.J. Super. 458, 467 (App. Div. 1994) and Du-Wel Prods. v. U.S. Fire. Ins. Co., 236 N.J. Super. 349, 364 (App. Div. 1989)). In a word, it is unfair to add new claims premised on different factual circumstances on the eve of trial when "the rights of other parties to a modicum of expedition will be prejudicially affected." Du-Wel Products, 236 N.J. Super. at 364 (quoting Wm. Blanchard Co. v. Beach Concrete Co., Inc., 150 N.J. Super. 277, 299 (App. Div. 1977)).

Here, on the cusp of a set trial date, Plaintiffs' request is futile and unduly prejudicial because Plaintiffs seek to short circuit the otherwise applicable strict timeline for landlord tenant holdover matters.

Specifically, for an alleged disorderly person violation, no less than three days can elapse from the notice to quit to the filing of the complaint. N.J.S.A. 2A:18-61.2(a). That statutory requirement is unwaivable and jurisdictional, regardless of whether the landlord acted in good faith or the tenant has not been prejudiced. 224 Jefferson St. Condo. Ass'n v. Paige, 346 N.J. Super. 379, 384 (App. Div. 2002) ("[A]bsent strict compliance . . . a court is without jurisdiction to entertain a summary dispossession action." (collecting cases).

A summary dispossession trial is scheduled for no less than five weeks after notice of the trial. See Notice to the Bar, Landlord Tenant – Conclusion of Mandatory Case Management Conferences & Continuation of Other Landlord Tenant Reforms (July 18, 2023). Thus, applied to a disorderly persons holdover action, a tenant has no less than 38 days from a notice to quit until the trial date. Such time permits a tenant to obtain counsel, marshal evidence, and prepare a defense or, alternatively, organize affairs and find successor housing.

Here, to allow Plaintiffs to proceed would be to truncate that minimum 38-day period to, at best, 21 days if calculating from the date of motion filing and, at worst, seven days if using today's date. A reduction of time of more than a fortnight is unduly prejudicial to a residential tenant seeking to stave off an eviction or find replacement housing.

Put another way, Plaintiffs are seeking to expeditiously get through the backdoor what they cannot through the front. This is not mere rigid adherence to technicalities. Rather, the Anti-Eviction Act "reflects a public policy barring dispossess actions except upon strict compliance with the notice and procedural compliance requirements of the Act." 224 Jefferson St. Condo Ass'n, 346 N.J. Super. at 383. Such requires "'punctilious' compliance with all of the Act's provisions, including the notice provisions." Ibid. (quoting Weise v. Dover Gen. Hosp., 257 N.J. Super. 499, 504 (App. Div. 1992)).

Because the proposed amendment seeks to impermissibly truncate the timeline for holdover actions under the Anti-Eviction Act, it is denied as futile and unduly prejudicial. Nothing, however, prevents the filing of a new, serial complaint that adheres to statutory timeframes based on the underlying, alleged conduct.