

IN THE
SUPREME COURT OF
ILLINOIS

In re:)	
Illinois Courts Response to)	
COVID-19 Emergency/)	M.R. 30370
Residential Eviction Proceedings)	
)	
)	

Amended Order

The Court's order of August 30, 2021, amending the Court's orders of July 15, 2021 and July 29, 2021, regarding Illinois Court's Response to COVID-19 Emergency/Residential Eviction Proceedings to coincide with the expiration of the Governor's moratorium on the filing of new residential eviction actions, is amended effective immediately as shown below (new material is underscored and deleted material is struck through);

IT IS HEREBY ORDERED that:

1. Effective August 1, 2021, the Governor's moratorium no longer prohibits the filing of new eviction actions. The Supreme Court temporarily stays all dispositive motions, trials on the merits, or judgments in residential eviction proceedings against a "covered person" (defined by Executive Order 2021-13 as amended, reissued, or extended by any subsequent Executive Order) unless that person poses a direct threat to the health and safety of other tenants or an immediate and severe risk to property. Initial return dates and status dates set by the court shall proceed. Notwithstanding the forgoing, where the defendant has been served and fails to appear on the return date, a motion for default may be heard only after the defendant is given notice to appear at a separate hearing on a motion for default.
2. For a newly filed case to be exempt from the temporary stay on dispositive motions, trials on the merits, or judgments created by Paragraph 1 of this order, a complaint filed in any eviction case must be accompanied by the attached certification form prescribed by this order to demonstrate that the plaintiff/landlord has provided each defendant/tenant with a form declaration made available by the Illinois Housing Development Authority (or a similar declaration under penalty of perjury) prior to commencement of the residential eviction proceeding and either (1) has not received a qualifying declaration from any defendant/tenant that they are a "covered person" under Executive Order 2021-13 as amended, reissued, or extended by any subsequent Executive Order or (2) another stated exception to the Governor's moratorium contained in Executive Order 2021-13 as amended, reissued, or extended by any subsequent Executive Order applies. See Appendix A.

3. A plaintiff/landlord may, by way of a motion that identifies with specificity the grounds, where facts pled are sworn under penalty of perjury, seek relief from the stay in Paragraph 1 of this order on the following bases, which a plaintiff/landlord shall have the burden to prove at all times:
- (a) A rental assistance program has denied the tenants' application as a result of: (i) ineligibility; (ii) incompleteness resulting from the tenant's failure to complete the tenant's portion of the application; or (iii) exhaustion of available program funding;
 - (b) That the tenant has not applied for rental assistance and has expressed no intention to apply;
 - (c) The tenant has applied for rental assistance, but is clearly and demonstrably ineligible for rental assistance from the program; or
 - (d) The tenant's declaration making them a "covered person" is materially erroneous, such that the plaintiff/landlord can prove that the tenant does not qualify as a "covered person."

Courts should generally defer to the rental assistance programs for eligibility determinations and should only make their own determination when the matter is clear and free from doubt.

If a plaintiff/landlord is successful in proving that the stay does not apply in a given case, the matter may proceed to a dispositive hearing or trial at a date different from the one on which the motion was decided (i.e., hearings on the motions provided for under this paragraph should not be combined with a hearing or trial on the merits).

4. Nothing in this order grants any plaintiff/landlord the authority to enforce an eviction order in contravention of any provision of law, including any applicable moratorium.
5. This order expires on ~~September 18, 2021~~, October 3, 2021, so as to coincide with the expiration of the Governor's moratorium on the enforcement of eviction judgments against "covered persons."

Order entered by the Court.



IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of said Supreme Court, in Springfield, in said State, this 21st day of September, 2021.

Carolyn Taft Gussbell Clerk,
Supreme Court of the State of Illinois

APPENDIX A

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
FOR _____ COUNTY, ILLINOIS

Plaintiff(s))
)
v.) Case No.)
)

Defendant(s))

Plaintiff's Certification for Exemption from the Temporary Stay

I, [name], hereby state as follows: (check all applicable box(es))

1. I am: The named plaintiff; or An Agent of the named plaintiff.

2. This case is not temporarily stayed and dispositive motions, trials on the merits, and/or judgments may be heard in compliance with M.R. 30370, effective August 1, 2021 and [DATE], because: (a. or b. must apply)
 - a. One or more of the following applies:
 - The defendant(s) poses a direct threat to the health and safety of other tenants;
 - The defendant(s) poses an immediate and severe risk to property;
 - The property at issue is non-residential; and/or
 - The plaintiff shall present a motion to prove that the temporary stay does not apply in accordance with Paragraph 3 of the above referenced M.R. 30370;

OR
 - b. Prior to commencing the action:
 - I served each defendant with a form declaration made available by the Illinois Housing Development Authority (or a similar declaration under penalty of perjury) on [date]; and
 - I did not receive a qualifying declaration from any of the defendant(s) that they qualify as a "Covered Person" under Executive Order 2021-13 as amended, reissued, or extended by any subsequent Executive Order before filing this action.

I certify that everything in this certification is true and correct. I understand that making a false statement is perjury and has penalties provided by law under 735 ILCS 5/1-109.

Sworn:

Date

Plaintiff (or Agent) (spell name)

Plaintiff (or Agent) (signature)