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DEC 15 2020

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY KMA DEPUTY

# IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

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| IN RE THE MATTER OF THE RESPONSE BY PIERCE COUNTY SUPERIOR COURT TO THE PUBLIC HEALTH EMERGENCY IN WASHINGTON STATE | Emergency Order: 20-19 **AMENDED**<br><br>**AMENDED EMERGENCY ORDER #19 (amended to remove expiration date in Paragraph 6)**<br><br>PUBLIC HEALTH EMERGENCY ORDER REGARDING UNLAWFUL DETAINER ACTIONS AND THE EVICTION RESOLUTION PROGRAM (ERP) |

This matter comes before the Court again on the COVID-19 public health emergency in Washington State.

Incorporated by reference are all Pierce County Superior Court Emergency Orders, Supreme Court Orders related to the public health emergency and court operations **(specifically including Order No. 25700-B-639 authorizing the Eviction Resolution Program in Superior Courts, dated and filed on September 9, 2020),** Washington State Department of Health orders, Pierce County Department of Health orders and directives that may impact Court operations, as well as any relevant Proclamations by Governor Inslee.

WHEREAS, the Court makes the following findings:

A. Nearly one million people in Washington state have lost their jobs or have had employment hours severely curtailed because of the COVID-19 emergency;

this mass loss of income has made it impossible for many families and individuals (tenants) to keep current in rental payments;

B. Various federal, state, and local orders and proclamations ("moratoria") have prohibited most residential evictions during the COVID-19 emergency; however, at some point, these moratoria will end and many tenants will face substantial arrearages and threat of eviction upon termination of the moratoria;

C. Many landlords face economic hardship and significant loss of income due to the inability of tenants to keep current in their rent and the prohibition on evictions established by these moratoria;

D. Once these moratoria end, the anticipated significant increase in residential unlawful detainer filings challenges the ability of this court to timely hear and fairly decide such cases consistent with statutory deadlines, due process, and mandated procedures; however, some State and local rent-assistance programs offer the opportunity for immediate assistance in addressing rent arrearages (or portions thereof);

E. It is understood that the local Dispute Resolution Center (DRC) and local Housing Justice Project (HJP) are prepared to assist tenants facing the threat of eviction through non-judicial processes including the Eviction Resolution Program (ERP). The goal of the ERP is to divert residential unlawful detainer cases based on nonpayment of rent through conflict resolution and alternative dispute resolution processes, with the assistance of an impartial Eviction Resolution Specialist (ERS) trained and provided by the local DRC, as well as providing tenants with access to community resources, such as attorney representation through the local HJP.

F. ***Prior to*** the expiration of any state and/or local eviction moratoria, the ERP will encourage landlords and tenants to voluntarily participate in a structured resolution process that offers a real prospect of resolving cases before they are scheduled on the court's calendar; the successfulness of the ERP ***post-moratoria*** depends on mandating its use in order to divert residential unlawful

detainer cases from this court thereby ensuring all court calendars are managed effectively;

G. This court is one of six (6) Washington State superior courts that has agreed to participate in a pilot ERP;

H. The Court designates Commissioner Clint Johnson to serve as the procedural point person to work with relevant stakeholders on the implementation and ongoing administration of the ERP and certifies such designation has been provided to AOC;

I. This Emergency Order is issued to specifically mandate use of the ERP ***after*** expiration of any state and/or local eviction moratorium;

**IT IS HEREBY ORDERED** that:

1. An unlawful detainer summons and complaint for nonpayment of rent regarding residential properties must include notice to the tenant of the Eviction Resolution Program and the available rental assistance resources (sample notice attached).
2. ***Prior to any hearing on the Unlawful Detainer calendar(s),*** residential landlords and tenants must fully comply with the Eviction Resolution Program including Tier One and Tier Two processes (description of the processes attached).
3. Prior to conducting a hearing on the Unlawful Detainer calendar(s) ***after*** expiration of any state and/or local eviction moratorium, residential landlords and tenants must file the Eviction Resolution Program DRC Certification Form evidencing that: (1) mediation was offered; (2) if the parties met at mediation; (3) if so, whether they conferred in good faith; (4) the case was not resolved; and (5) whether the parties agreed to any information being shared with the court. The failure of one party to confer in good faith does not preclude a hearing if the judicial officer concludes, based on a preponderance of the evidence, that the party failing to confer in good faith had proper notice and a reasonable opportunity to fully participate in the Eviction Resolution Program.

4. Any landlord that voluntarily follows the procedures set forth above in sections 1 and 2 ***during the moratoria*** will be deemed to have followed the requirements of sections 1 and 2 and need not do so again once the moratorium is lifted. Any breach of an agreement by the tenant of an agreement entered into between the landlord and tenant ***during the moratoria*** will be deemed satisfaction of sections 1 and 2 above.

5. Prior to serving and/or filing a summons and complaint ***during the moratoria***, the landlord or landlord's counsel shall: (A) send the Tenant's last known contact information (*i.e.* address(es), telephone number(s) and e-mail(s)) to the appropriate HJP and DRC for this county via e-mail and/or mail; and (B) file a certification with the court that states:

   I certify and declare under penalty of perjury under the laws of the state of Washington that on _____ (the date prior to filing), that I e-mailed/mailed notice of my intent to file a Complaint in Unlawful Detainer against Tenant _____(insert Tenant's name) along with the Tenant's last known contact information (*i.e.* address(es), telephone number(s) and e-mail(s) to the appropriate HJP and DRC for this county.

DATED December 15th, 2020.

Hon. Garold Johnson,
Presiding Judge
Pierce County Superior Court

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