

The Eviction Moratorium, New Eviction Cases and Pre-COVID Lawsuits

Last updated August 12; [Haz clic aquí para Español](#)

There have been a series of executive orders, court directives, and legislative changes. What does it all mean for evictions, new case filings, court closures and pre-COVID cases? Here is a breakdown! KNOW THIS: the courts made it clear that a universal eviction moratorium is still in place, indefinitely, but at least until October 1st.

EVICTON MORATORIUM: Prohibiting Tenants from being Physically Evicted from their Homes

CURRENTLY:

- A universal eviction moratorium is in effect until October 1, 2020, for all residential tenants across NY. NO EVICTIONS for anyone, for any reason.

AFTER SEPTEMBER 30 (IF THE MORATORIUM IS LIFTED):

- All the outstanding Notices of Eviction have expired. For tenants who have existing warrants, landlords will have to attend a court date (and in NYC get court permission) to move forward. See below for more info.
- Due to the Safe Harbor Act (aka the Tenant Debt Collection Act), tenants who are sued for rent owed between March 7 until we enter stage 4 of the reopening (will vary county by county and some counties are already in stage 4), can raise COVID-19 financial hardship as a defense. If the court decides the tenant proved their financial hardship, the landlord would not be able to evict but can win a money judgement.
 - Tenants who owe rent from before March 7 or after Phase 4 begins will not be protected from eviction.
- Marshals/sheriffs will be able to evict tenants in holdover cases and in non-payment cases where the tenant can't show COVID-19 financial hardship.
- The CDC introduced a national moratorium on evictions for non-payment of rent until December 31, 2020. This moratorium does not cover all tenants and eligible tenants must submit a sworn declaration to their landlords. **All tenants** should get legal advice **before** submitting this declaration, because it could have legal consequences after the moratorium lifts. See our [FAQ](#) for more info.

NEW LANDLORD LAWSUITS

- As of June 22nd, the courts let landlords file new eviction cases. The landlords must include a notice to the tenant telling them they may have more time to respond and how to get legal services/more information.
- Landlords with attorneys must file their cases using the courts "e-filing" system (if their court has that set up) or by mail. Landlords without attorneys can file in person.
- Once a new eviction case is filed, tenants will be asked to answer by phone. However, all cases are suspended indefinitely, so there won't be a court date until further notice, whether a tenant responds or not.
- If a tenant does not respond, the landlord will not get a default judgment (meaning a decision in favor of the landlord because the tenant didn't respond).
- Due to the Federal CARES Act, if a landlord receives federal funding (including Section 8 vouchers, NYCHA, LIHTC) or if their mortgage received help from Freddie Mac and Fannie May, then they cannot file new eviction cases before August 25. This moratorium is broader than many people know so please look up your building. To find out if your building is covered, go here: <https://nlihc.org/federal-moratoriums>

PHYSICAL OPENING OF THE COURTS AND CONDUCTING COURT CASES

- Courts are open to a limited extent - for people without attorneys to file new cases, including for tenants to file cases for all kinds of repairs. Courts are also doing some in-person trials for cases that started before March 17.
- Tenants will be given a phone number to call to respond to court papers, instead of going to court to answer in person.
- **There are no court dates for eviction cases filed after March 16th.**
- Cases that are moving forward are:
 - Eviction cases filed before March 17th
 - Repair and harassment cases
 - Illegal lockout cases
- Here is what will happen in eviction cases that were started before March 17th:
 - All cases must have a court date before a judge before anything else can happen (including cases where there is already a warrant of eviction). Cases should proceed virtually whenever appropriate.
 - At the court date, the judge must review COVID-19 impact on the tenant and possible relief, refer tenants to a legal services organization try to resolve the case.
 - After the court date, the court can take all steps that ordinarily happen in a court case, including adjourning the case, scheduling a trial or ordering an eviction. The court must take into account any protections against eviction the tenant has under state or federal law. **Even if the court orders an eviction, that eviction cannot happen before October 1st.**
 - IN NYC ONLY, starting August 20th: Landlords who want to move forward with pre-existing eviction warrants or get new warrants, will have to get the court's permission. This means a new court date. Tenants will be notified about this new court date, have the right to an attorney, and can challenge the landlord's case. **Even if the court orders an eviction, that eviction cannot happen before October 1st.**
 - IN NYC ONLY, if the court schedules a court date (virtual or in person), and tenants don't attend, the tenant can be held in contempt and even have an eviction order issued against them when they're not there. It's incredibly important to respond to court papers and connect with an attorney! Remember, **even if the court orders an eviction, that eviction cannot happen before October 1st.**



We're calling on the Governor and the State Legislature to issue a REAL extension of the eviction moratorium for ALL tenants and to STOP landlords filing new eviction cases for as long as the crisis lasts. Call your state reps today: bit.ly/evictionfreeny

To learn more and get involved:

www.righttocounselnyc.org or www.housingjusticeforall.org



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