

Checklist for Evidentiary Hearing on Disputes Regarding the Declaration of Eligibility Under CDC Order

After placing the parties under oath for the evidentiary hearing, proceed with the following checklist of information:

- Did each tenant listed on the lease and each adult (age 18 and older) living in the rental unit prepare and provide a signed declaration to the landlord or property owner or at least one tenant in instances where it can be completed on behalf of other tenants? When was the declaration provided? How was the declaration sent to the landlord or property owner – hand delivery, mail, email, etc.?
- Do the tenant(s) understand that payment of rent and compliance with other obligations under the rental agreement/lease are still required, including accrual of any fees, penalties, or interest for non-payment of rent?
- Is/Are the tenant(s) using best efforts to make timely partial payments that are as close to the full payment as possible considering other non-discretionary expenses?
 - Inquire as to the date the rent is due, the amount of the rent payment, the dates of any payments made, and the amounts of each payment made
- Did the tenant(s) use best efforts to obtain all available governmental assistance for rent or housing?
 - Note: Available government assistance means any governmental rental or housing payment benefits available to the individual or any household member.
 - Did the tenant(s) apply? If so, when and what was the result?
 - If the tenant(s) did not apply? What was the reason? Were they eligible to apply?
 - If rental/housing assistance was provided, inquire as to the program, date the assistance was requested, the amount requested, the amount received, the amount paid to landlord and date payment was made to landlord
- If the tenant(s) is/are evicted, would they: likely become homeless, need to move into a homeless shelter, or need to move into a new residence shared by other people who live in close quarters because they have no other available housing options?
 - Note: Available housing means any available, unoccupied residential property or other space for occupancy in any season or temporary housing, that would not violate federal, state or local occupancy standards and that would not result in an overall increase of housing costs to the tenant.

- Does one of the following criteria apply to the tenant(s)? If the answer is yes to any of the items below the tenant(s) are covered by the CDC order.
 - expect to earn no more than \$99,000 in annual income for all of the year 2020-2021 (or no more than \$198,000 if filing a joint tax return), OR
 - was not required to report any income in 2019/2020 to the U.S. Internal Revenue Service, OR
 - received an Economic Impact Check Payment (stimulus check) pursuant to Section 2201 of the CARES Act.
- Is/Are the tenant(s) unable to pay full rent because of a substantial loss of household income, loss of compensable hours of work or wages (reduction in hours worked) or a lay-off?
 - Note: The CDC order does not list a requirement on the part of the tenant to demonstrate a link between the income loss and COVID-19.
 - Inquire as to the dates of employment, name of employer, wages or salary prior to COVID-19, reason for leaving employment, if applicable, and wages or salary since COVID-19, receipt of any unemployment benefits, if applicable, etc.
- Is/Are the tenant(s) unable to pay full rent due to extraordinary out-of-pocket medical expenses?
 - Extraordinary medical expenses are any unreimbursed medical expense likely to exceed 7.5% of the person's adjusted gross income.
 - This does not include expenses incurred but have been not paid, or expenses for which insurance of any kind has paid on your behalf.
 - Inquire as to the person who incurred the medical expenses, amount of medical expense incurred, and the relationship of the person with medical expenses to the tenant, receipts of payments/bills may be provided
- Does the tenant(s) understand that when the CDC order no longer applies, the housing provider may require payment in full for all payments not made prior to and during the temporary halt and failure to pay in full may subject the tenant to eviction pursuant to state and local laws?