LANDLORD /TENANT

BASIC SKILLS

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by Tracey Goldstein

A lease between a landlord and tenant can be oral or written, but a written lease is preferable. The lease outlines the parties' responsibilities and obligations, and contains definitive terms upon which the parties have agreed. Since disputes between a landlord and tenant are often highly charged and emotional, they can easily be resolved if a lease provision addresses the issue in dispute. Moreover, if terms are agreed upon and a tenant does not comply, the landlord can evict the tenant based upon breach of the lease.

In New Jersey, the law is clear that just because a provision is included in a lease does not necessarily mean the provision is enforceable. A lease provision must be reasonable to be enforceable. *447 Associates v. Miranda*, 115 N.J. 522 (1989). Additionally, the lease provision must be consistent with New Jersey law, and the lease cannot include provisions where statutory protections afforded to tenants are waived. By way of example, a tenant cannot waive the applicability of rent control. Such provisions are unenforceable because they are against public policy. *Tave v. Furst*, 182 N.J. Super. 497 (D. Ct. 1981). *See* N.J.S.A. 2A:18-61.4 and N.J.S.A. 46:8-48. The landlord bears the burden of proof with regard to the reasonableness of any lease provision.

In the same vein, courts construe lease provisions against the landlord. Ambiguities are resolved in favor of the tenant, and if there is doubt as to whether there is a breach of the lease, courts favor the tenant rather than the landlord in eviction cases. *Carteret Properties v. Variety Donuts, Inc.*, 49 N.J. 116 (1967); *224 Jefferson Street Condominium Association v. Paige*, 346 N.J. Super. 264 (Law Div. 2004).

In instances where there is no lease, one can be implied. In *Housing Authority of East Orange Inc.*, 125 N.J. Super. 425, 434-35 (Law Div. 1973), the court said:

> Generally a relation of landlord and tenant may be implied or presumed where there is occupancy of land under an agreement with the owner to pay rent or accompanied by the payment of rent. However, it is not essential that there be a definite agreement for such payment, and the relation may arise, although the occupant refuses to agree on any particular amount or to pay any sum whatever, if he occupied with the owner's permission and with the understanding that rent would be demanded.

In some instances, even though a written lease existed, the court would not enforce it because it was considered a 'sham.' Such a finding is fact driven and rare, and usually occurs when the property is in foreclosure. Among the relevant factors in reaching that determination is the relationship of the parties to the lease, whether the rental payments called for in the lease represent the fair rental value of the property and the length of the lease. *Security Pacific National Bank v. Masterson*, 283 N.J. Super. 462 (Ch. Div. 1994); *Provident Bank v. Kapoor*, 2013 WL 2395031 (2013).

A tenant is not required to vacate at the expiration of the lease term, and a landlord cannot evict or fail to renew a lease except for good cause as defined in N.J.S.A. 2A:18-61.1 *et seq. See also*, N.J.S.A. 2A:18-61.3. In other words, under New Jersey law, those tenants afforded protection under the Anti-Eviction Act, N.J.S.A. 2A:18-61 *et seq*, have virtually a life interest to occupy the leased premises, unless the tenant is evicted. *JMJ Properties v. Khuzam*, 365 N.J. Super. 325 (App. Div. 2004). Unless a new lease is offered and/or the rent is increased at the expiration of the term, the tenant remains a month–to-month tenant under the same terms and conditions as the expired lease. *See* N.J.S.A. 46:8-10 and *Harris Village, Inc. v. Egg Harbor Twp.*, 89 N.J. 576 (1982). As set forth above, a landlord can only require the tenant to vacate if the landlord has a recognized ground for eviction and serves the proper legal notices.

Notwithstanding the foregoing, a new lease can be offered and the rent can be increased at the expiration of the lease term. If the tenant fails to execute a new lease or pay the rent increase, and the tenant was served with the proper legal notices required under New Jersey law, the tenant can be evicted.

When drafting leases, the lease must comply with the Plain Language Act, N.J.S.A. 56:12-1 *et seq.* This statute applies to consumer contracts, which include leases, and requires that a consumer contract be written in simple, clear, understandable and easily readable language. Failure to comply could result in liability to a party to the contract for actual damages sustained, if the violation caused the consumer to be substantially confused about the rights, obligations or remedies of the contract, plus punitive damages in an amount up to $50. The seller/lessor is also liable to the consumer for the consumer's reasonable attorneys' fees and costs, not to exceed $2,500. Failure to comply with the Plain Language Act cannot serve as a defense to an eviction action. *See* N.J.S.A. 56:12-11.

Mandatory Lease Provisions

Many owners want to use a short and simple lease for their properties. This goal is difficult to achieve because New Jersey statutes and common law mandate specific provisions be included. Moreover, many of the statutes require a particular size font be used. Others require the language to be in boldface type and, in some instances, some statutes require specific language that must be copied word for word. The following clauses must be included in a lease under New Jersey law. The specific language for each of the lease provisions may not be included below, but is referenced. Among them are:

Attorney Review Clause

According to *New Jersey State Bar Ass'n v. New Jersey Ass'n of Realtor Boards et al,* 186 N.J. Super. 391 (Ch. Div. 1982), leases prepared by licensed realtors and brokers must contain an attorney review clause. *See also*, N.J.S.A. 45:15-1 *et seq.* and N.J.A.C. 11:5-6.2.

An attorney review clause must be included in a lease if the lease is prepared by a licensee for a term of one year or more, and for residential dwelling units in transactions in which they have a commission or fee interest. This statute mandates placement of the clause in the lease and the size of the print; it must be at the top of the first page, in print larger than the predominant size of the writing.

Notice for Condominiums/Cooperatives

According to N.J.S.A. 2A:18-61.9 and N.J.A.C. 5:24-1.9, if a condominium or cooperative is rented to a tenant after the master deed was recorded or deed to a cooperative is filed, the owner must provide to a tenant, at the time of applying for the tenancy and at the time of establishing a rental agreement, a specific written statement conforming exactly to the following words in capital letters:

> THIS BUILDING (PARK) IS BEING CONVERTED TO OR IS A CONDOMINIUM OR COOPERATIVE (OR FEE SIMPLE OWNERSHIP). YOUR TENANCY CAN BE TERMINATED UPON 60 DAYS' NOTICE IF YOUR APARTMENT (PARK SITE) IS SOLD TO A BUYER WHO SEEKS TO PERSONALLY OCCUPY IT. IF YOU MOVE OUT AS A RESULT OF RECEIVING SUCH A NOTICE AND THE LANDLORD ARBITRARILY FAILS TO COMPLETE THE SALE, THE LANDLORD SHALL BE LIABLE TO YOU FOR TREBLE DAMAGES AND COURT COSTS.

Note: The words in parentheses shall be omitted or substituted for preceding words that are appropriate.

The statement must be included as the first clause of any written lease, cannot be varied other than what is stated in the statute, and must be included in the lease of all condominiums and cooperatives. If it is not included, a landlord cannot rely upon N.J.S.A. 2A:18-61.1 (l) as a ground for eviction.

Attorneys' Fees Clause

Generally, courts favor each party paying their own attorneys' fees, unless there is a written agreement that provides otherwise. Legal fees are typically covered by Rule 4:42-9 and RPC 1.5. However, the New Jersey Legislature recently enacted N.J.S.A. 2A:18-61.66 *et seq.* Under this statute, if a landlord has a clause in the lease that allows the landlord to recover its attorneys' fees and expenses, automatically implied in that lease is a provision that allows a tenant to recoup his or her incurred legal fees and expenses. The statute outlines the particular circumstances where it is applicable.

N.J.S.A. 2A:18-61.67 sets forth the precise language required in the lease. The language must be in boldface type and in a font size no less than one point larger than the point size of the rest of the lease clause or 11 points, whichever is larger. The obligation to reimburse a tenant for legal fees and costs is not applicable to an action or summary proceeding for non-payment of rent in which the tenant pays all rent currently due and owing on or after the filing of the complaint but prior to entry of a final judgment, and whom the court finds presented no meritorious defense to the complaint other than payment.

Additionally, in order to collect attorneys' fees from a tenant, the lease must contain a provision that states the attorneys' fees are due and are considered to be additional rent. Moreover, such charges are only collectible in a summary dispossess action if those charges are authorized by rent control and federal law. *See Community Realty Management v. Harris*, 155 N.J. 21 (1998); *447 Associates v. Miranda*, 115 N.J. at 522; *University Court v. Mahassin*, 166 N.J. Super. 551 (App. Div. 1979).

Megan's Law

According to N.J.A.C. 11.5-6.4-3(e), in all contracts and leases on residential real estate, real estate licensees are required to include a Megan's law statement. This statement relates to the disclosure of the presence of sex offenders in the area. According to the regulation, the print must be as large as the predominant size print in the document. The theory behind inclusion of such a clause is that real estate brokers who are licensed have obligations regarding the disclosure of information to a prospective buyer or tenant pertaining to conditions that affect the value and/or condition of the property. As to information on notifications from a county prosecutor issued pursuant to Megan's law, the licensee is obligated to tell the person that information about registered sex offenders is maintained by the county prosecutor.

Right of Re-entry

In order to evict a tenant or regain possession of the leased premises upon a default or breach of lease, owners must have the right to 're-enter' the leased premises and therefore, such a provision must be included in the lease. The provision grants the landlord the right to regain possession upon default. If such language is not included, a landlord can be foreclosed from eviction. N.J.S.A. 2A:18-61.1 (e) expressly states that a right of re-entry must be included in order to evict a residential tenant for violation of a lease. *See also*, *Kuzurii Kijiji Inc. v. Bryan*, 371 N.J. Super. 263 (App. Div. 2004).

Lead Paint Disclosures

Individuals selling or leasing most residential housing built before 1978 are to provide purchasers and renters with a federally approved lead hazard information pamphlet and to disclose known lead-based paint and/or lead-based paint hazards. In 1996, Congress enacted regulations pertaining to the disclosure of the existence of lead paint in residential dwellings constructed prior to 1978. The regulations further require landlords to make available records and reports relating to the existence of lead-based paint and/or lead-based paint hazards.

The regulations require each lease to include, as an attachment or within the lease, specific information pertaining to the existence of lead paint or lead-based paint hazards. The regulations also provide a sample disclosure form. *See* 61 FR 9064.

40 CFR §745.113(b) outlines the specific information that must be disclosed. For lease transactions, lead disclosures are required under the rule for: 1) all new leases entered into after the applicable effective date of the rule; and 2) all renewal leases entered into after the applicable effective date of the rule unless: a) disclosures have been previously made, and b) no new information pertaining to lead-based paint or lead-based paint hazards has become available since the previous disclosure. (An increase in rent permitted by a local rent control ordinance, therefore, would trigger the lead disclosure requirement unless the requirement was previously satisfied and no new lead information has become available, as described above.)

The lead paint disclosure form is an attachment to the lease, and the lead hazard information pamphlet is distributed at lease signing. The tenant must affirm receipt of the required information and the lead hazard information pamphlet required to be distributed under 15 U.S.C. §2696 in the lease.

Child Protection Window Guards

According to N.J.S.A. 55:13A-7.12 *et seq.* and N.J.A.C. 5:10-27.1, landlords and their agents are obligated to install and maintain window guards in an apartment and, in some instances, in the hallway, upon written request of the tenant. The landlord must provide the tenant oral and written notice of the option to have the window guards installed and verify in writing that oral notice was provided.

N.J.S.A. 55:13A-7.14 specifically requires all leases offered to tenants in a multiple dwelling to contain a conspicuous notice advising tenants and prospective tenants of the availability of window guards and the need for the tenant to request their installation in writing. A sample model lease and notice provision, along with a guide for tenants for window guard safety, is found as Appendix 27a and 27b to N.J.A.C. 5:10-27.

Notification of a Flood Zone

According to N.J.S.A. 46:8-50, every landlord is required to notify a tenant, *prior* to assuming occupancy, if the property is located in a flood zone or area. This statute applies to commercial and residential tenants, except for buildings that have only two units; are owner occupied with not more than three dwelling units; or are hotels, motels or other guesthouses serving transient or seasonal guests. In addition to the application, this clause should be included in the lease because it is assumed that a tenant will sign a lease before assuming occupancy of the leased premises.

Crime Insurance Information

According to N.J.S.A. 46:8-39, every landlord must notify its tenants of the availability of crime insurance through the Federal Crime Insurance Program of Title VI of the Housing and Urban Development Act of 1970 and advise the tenants where applications for such insurance may be obtained. Tenants must receive this information no more than 30 days after they assume occupancy. However, the federal program is no longer available. As a result, owners usually include the following clause in a lease in order to satisfy this statutory obligation:

Crime insurance is available to tenants through the New Jersey Insurance Underwriting Association, Crime Insurance Indemnity Plan. To apply for crime insurance, contact the New Jersey Underwriters Association, Crime Insurance for Habitable Property, 744 Broad Street, Suite 1100, Newark, New Jersey 07102, directly for an application. The telephone number is 973-622-3838. This insurance is applicable to theft and/or burglaries. This information is strictly for advice and the landlord is not responsible for securing insurance for the tenant. In all cases, it is the tenant's responsibility to insure and protect the contents of the apartment.

Exemption from Rent Control

According to N.J.S.A. 2A:42-84.1 *et seq.*, newly constructed multiple dwellings are exempt from rent control, provided the owner meets the requirements set forth in the statute. N.J.S.A. 2A:42-84.3 requires each lease offered to a prospective tenant contain a provision notifying the tenant of the exemption from rent control. Additionally, prior to entering into any lease with a person in a multiple dwelling that is exempt from rent control, prospective tenants must also receive written notification of the exemption.

Provisions Implied in Residential Leases

Duty to Repair

Even if the lease does not include a specific provision addressing the parties' responsibilities regarding repairs, implied in every lease is the obligation of a landlord to maintain the leased premises in habitable condition. *Marini v. Ireland*, 56 N.J. 130 (1970). A landlord of residential premises implicitly covenants or warrants that at the inception of the lease there are no latent defects in facilities vital to use of the premises because of faulty construction or deterioration from age or normal use, and further implicitly covenants that these facilities will remain in usable condition throughout the entire term of the lease.

The Supreme Court in *Marini* said:

> …a landlord has a duty of warranting that a building or part thereof rented for residential purposes is fit for that purpose at the inception of the term and will remain so during the entire term. Of course, ancillary to that understanding it must be implied that he has further agreed to repair damage to vital facilities caused by ordinary wear and tear during the said term. Where damage has been caused maliciously or by abnormal or unusual use, the tenant is conversely liable for repair. The nature of the vital facilities and the extent and type of maintenance and repair required is limited and governed by the type of property rented and the amount of rent reserved. Failure to so maintain the property would constitute a constructive eviction.

However, the obligation to repair is limited to 'vital' facilities. In *Academy Spires, Inc. v. Brown*, 111 N.J. Super. 477 (D. Ct. Essex Cty. 1970), the court said:

> In a modern society one cannot be expected to live in a multi-storied apartment building without heat, hot water, garbage disposal or elevator service. Failure to supply such things is a breach of the implied covenant of habitability. Malfunction of venetian blinds, water leaks, wall cracks, lack of painting, at lease of the magnitude presented here, go back to what may be called "amenities." Living with lack of painting, water leaks and defective venetian blinds may be unpleasant, aesthetically unsatisfying, but does not come within the category of inhabitability. Such things will not be considered in diminution of the rent.

Therefore, if the lease does not specifically contain a provision relating to repairs, under New Jersey law the landlord's obligation to repair vital facilities is implied.

Duty of Good Faith and Fair Dealing

Under New Jersey law, every contract in New Jersey contains an implied covenant of good faith and fair dealing. *Sons of Thunder, Inc. v. Borden, Inc*., 148 N.J. 396 (1997). Each party to a contract has a duty of good faith and fair dealing in its performance and enforcement. This covenant has been implied in commercial leases. *Brunswick Hills Racquet Club, Inc. v. Route 18 Shopping Center Associates*, 182 N.J. 210 (2005). This covenant is likely to be implied in residential leases. *See Franklin Tower One, L.L.C. v. N.M.,* 304 N.J. Super. 586 (App. Div. 1997), *aff'd*, 157 N.J. 602 (1999), where the Supreme Court did not address if the covenant was breached, thereby suggesting that such a covenant exists.

Provisions That Should be Included Based upon Statutory Obligations

In addition to the provisions that must be included by law, many other provisions should be included because of a landlord's obligation to comply with them.

Compliance with the Security Deposit Act

According to the Security Deposit Act, N.J.S.A. 46:8-19 *et seq*., within 30 days of receipt of the security deposit tenants must be notified of the amount of deposit, location of the security deposit (*e.g*., name and location of bank, which must be in New Jersey), current interest rate and type of account. (There are other instances during the tenancy where notification and information as to the security deposit is required to be supplied.) Since the security deposit is often paid at the time of lease signing, this notice is typically provided in the lease. Moreover, if this provision is included in the lease, the tenant's signature on the lease serves as an acknowledgement that the tenant received the required notice mandated by the law.

Additionally, if notice is not provided, the tenant can have the security deposit plus an amount representing interest at a rate of seven percent per annum applied to unpaid rent or to payments to become due. Additionally, the landlord is precluded from requesting another security deposit during the remainder of the tenancy. The tenant usually seeks to apply the deposit to the unpaid rent in a summary dispossess proceeding based upon non-payment of rent. This defense is usually raised on the trial date in landlord/tenant cases, and it is useful to have the provision in the lease because the lease is typically brought to court on the trial date.

The Security Deposit Act, N.J.S.A. 46:8-19 *et seq*., applies to residential tenancies except owner-occupied premises with not more than two rental units, where the tenant has failed to provide 30 days written notice to the landlord invoking the provisions of the act.

Landlord Registration Act

According to N.J.S.A. 46:8-27 *et seq.*, N.J.S.A. 55:13A-12 and N.J.S.A. 2A:42-78, a landlord is required to register the property for residential use with the Department of Community Affairs (DCA), or with the municipality, and distribute a certification of registration, also known as a registration statement, to each tenant.

The registration statement is a document issued by the DCA after a form prescribed by the commissioner of the DCA is filled out and filed with the DCA, when the property is a multiple dwelling.

When the property involves a one-dwelling unit or a two-dwelling, non-owner occupied property, the registration statement is not obtained from the DCA, but rather from the clerk of the municipality. The landlord is required to provide each occupant or tenant in the building with a copy of the registration statement.

According to N.J.S.A. 46:8-27, a tenant must be served with the registration statement at the creation of a new tenancy. (If the registration statement is amended, a copy must be provided to the tenant within seven days after the amended statement is filed.) Therefore, the registration statement is often attached to the lease, and the tenant acknowledges receipt of it in the lease.

Additionally, N.J.S.A. 46:8-33 provides that judgment for possession in an eviction case cannot be entered if the landlord is not registered. According to the statute, the case can be continued up to 90 days, to permit the landlord to register the premises. Since most landlords bring the lease to court on the trial date, it is helpful if a copy of the registration statement is attached to the lease so it can be presented to the court on the trial date.

Truth in Renting

According to N.J.S.A. 46:8-43 *et seq.*, owners are required to provide to tenants a booklet entitled "Truth in Renting," which is an informational document explaining the legal rights of tenants. The statute requires all landlords to post and distribute this booklet at the time of creation of the tenancy. The booklet is distributed by the DCA, and must be posted in one or more locations on the property. Acknowledgment of receipt of the booklet is usually included as a provision in the lease, and the document is usually handed out at lease signing. Violation of the statute carries a $100 penalty.

Suggested Lease Provisions

Among the provisions that should always be included in a lease are the names and addresses of all parties, a description of the leased premises, the term, the amount of monthly rent and the date it is due, a description of the tenant's responsibilities to maintain the leased premises, limitations or restrictions on use, limitations on the landlord's liability, assignment and

subletting, right to enter, alterations, termination, a description of what constitutes a breach (default) and remedies upon default. Below are some provisions that should also be included, since these issues are often litigated.

Late Charges, Legal Fees upon Default and Other Charges

If a landlord wishes to charge a tenant a late charge, legal fees, damages, extermination fees or any other fees, those charges must be included in the lease, and the lease must state that those charges are considered additional rent. This is because under New Jersey law, landlords can only recoup those charges in eviction actions that are listed in the lease and that are considered 'additional rent.' *Miranda, supra*; *University Court v. Mahassin*, 166 N.J. Super. 551 (App. Div. 1979). Therefore, if a landlord seeks to evict a tenant for a fee or a charge imposed, it must be listed in the lease, and the lease must explicitly state that the charge is additional rent. Also, in order for those charges to be collectible in a summary dispossess action, those charges must be permitted by rent control and federal law. *Community Realty Management v. Harris*, 155 N.J. at 21.

Name(s) of Occupants and Occupancy Limits

A popular issue in landlord/tenant cases is the occupancy of the apartment by individuals who are not listed on the lease as tenants or occupants of the apartment and an excessive number of people occupying the apartment. In order to properly address these issues, the lease should specifically include the names of all tenants and occupants, and non-discriminatory occupancy limits should be established. (When establishing occupancy limits, landlords should consult with legal counsel. *See also*, Keating Memorandum issued by the United States Department of Housing and Urban Development on March 20, 1991, N.J.A.C. 5:10-22.3 and 5:10-22.4, as well as local ordinances that outline, based upon safety standards, the number of occupants per bedroom/ living area based upon square footage, as well as *Texas Department of Housing & Community Affairs v. Inclusive Communities Project, Inc.*, 135 S. Ct. 2507 (2015)).

Termination of Lease by Landlord upon Death

Under New Jersey law, a lease does not automatically terminate upon the death of the named tenant. *Center Avenue Realty, Inc. v. Smith*, 264 N.J. Super. 344 (App. Div. 1993). Therefore, a provision may be included in the lease that provides for termination upon death. However, a question remains as to whether it is enforceable. The New Jersey Supreme Court, in *Maglies v. Estate of Bertha Guy*, 193 N.J. 108 (2007), referenced inclusion of such a provision in the lease but did not expressly rule on it. Despite that holding, such a provision should be included, as it would assist a landlord in regaining possession of the apartment after the named tenant dies.

Additionally, occupants remaining in the apartment after the named tenant dies may be able to remain in the apartment as a tenant if they can show they are the functional equivalent of a

tenant and would, therefore, be entitled to protection under N.J.S.A. 2A:18-61.1 *et seq*, the Anti-Eviction Act. Certain criteria must be satisfied in order for the remaining occupant to remain in the apartment. *See Maglies v. Estate of Bertha Guy*, 193 N.J. at 108.

Access

Landlords often need access for repairs, extermination and for showing the apartment. Without such a provision in the lease, a landlord can be precluded from getting a tenant to comply. Moreover, with the proliferation of bedbugs, owners need to ensure that not only is the tenant obligated to grant the landlord access to exterminate, but the tenant is obligated to comply with the exterminator's instructions, bag clothes, move furniture away from walls and not clutter the apartment. Inclusion of such a provision would assist with enforcement, since violation of the lease is grounds for eviction. Costs for extermination should be addressed as well.

Compliance with Rent Control

A total of 97 municipalities in New Jersey have enacted some form of rent control. These local ordinances provide restrictions on the amount of rent a tenant can be charged. Under New Jersey law, a tenant cannot waive the applicability of rent control. *See Tave v. Furst*, 182 N.J. Super. at 497. Also, a rent control ordinance can impose other requirements upon landlords. For example, some ordinances require landlords to notify tenants in the lease of the existence of rent control and to provide contact information for the local rent control board. Non-compliance with a rent control ordinance could result in the forfeiture of a rent increase or preclusion of certain defenses to overcharge complaints. Therefore, when drafting a lease, the applicable rent control ordinance should be reviewed for mandatory lease provisions.

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CHAPTER

2

Removing a Residential Tenant

by Tracey Goldstein

Removing a residential tenant can be an extremely frustrating process if the law is not properly followed. The law requires punctilious compliance. Any mistake can result in a dismissal of a case and require starting over with the issuance of the first statutory required notice. *Ashley Court v. Whittaker*, 249 N.J. Super. 366 (App. Div. 1990). Therefore, in order to evict a residential tenant, it is vital to know the law and to have a practical understanding as to how it is applied. This article will address the steps that must be taken to evict a residential tenant from leased property and how to obtain a judgment for possession.

In 1974, the Anti-Eviction Act was enacted. The purpose of the act was to abolish self-help and to prevent arbitrary evictions of residential tenants. The act was "designed to limit the eviction of tenants to 'reasonable grounds' and to provide for 'suitable notice' to tenants in the event of an eviction proceeding." *447 Associates v. Miranda*, 115 N.J. 522 (1989). Self-help evictions of residential tenants are prohibited by N.J.S.A. 2A:39-1. Under the act, a tenant may not be locked out or denied possession of the leased premises unless the landlord complies with the act.

The act applies to all residential properties except those that fall within one of the exemptions. Therefore, the act applies to residential single-family homes, mobile homes or land in a mobile home park or tenement leased for residential purposes. Exempt under the act are: 1) owner-occupied premises with not more than two rental units or a hotel, motel, or other guest house or part thereof rented to a transient guest or a seasonal tenant; 2) a dwelling unit that is held in trust on behalf of a member of the immediate family of the person or persons establishing the trust, provided the member of the immediate family on whose behalf the trust is established permanently occupies the unit; and 3) a dwelling unit that is permanently occupied by a member of the immediate family of the owner of that unit, provided, however, that exception 2 or 3 shall apply only in cases in which the member of the immediate family has a developmental disability. (The last two exceptions were expanded by N.J.S.A. 2A:18-61.40.) If an exemption is applicable, eviction must be pursued under N.J.S.A. 2A:18-53 *et seq.*

Under the act, a tenant is a tenant for life unless one of the statutory grounds or 'good cause' for eviction exists. If a landlord does not have a recognized reason, also referred to as a 'ground' to evict a tenant, the landlord cannot pursue eviction. Significantly, under New Jersey law, if a lease expires and a landlord does not have a recognized ground for eviction, a tenant is not required to vacate. Unless a new lease is offered and/or the rent is increased or other terms are agreed to, the tenant can remain in the leased premises after the lease expires and become a month-to-month tenant under the same conditions and terms as the prior lease. N.J.S.A. 46:8-10. Therefore, the landlord may not refuse to renew a lease or evict a residential tenant except for good cause. N.J.S.A. 2A:18-61.3. The practical effect of the act is that a tenant can remain in the leased premises for his or her life if the tenant chooses, unless the landlord has grounds for eviction.

When interpreting the act, courts have said that the act must be liberally construed. *447 Associates v. Miranda*, 115 N.J. at 522. In contrast, there are cases that say the act is "in derogation of a landlord's common law right of ownership, so the Act must be strictly construed." *JMJ Properties v. Khuzam*, 365 N.J. Super. 325 (App. Div. 2004). As a practical matter, courts inevitably interpret the act in favor of the tenant, precluding eviction unless there is compliance with the act.

Procedural Requirements of Eviction

In order to evict a tenant for other than non-payment of rent in private, non-subsidized housing, proper legal notices must be served. If the notice is not proper and/or not properly served, the court will not have jurisdiction to hear the matter and the case will be dismissed. *Ashley Court v. Whittaker*, 249 N.J. Super. at 552. There is nothing worse than having a case dismissed because of a defective notice.

Types of Notices

Under the act, there are two types of notices (*i.e.*, a notice to cease and a notice to quit). In all cases, except for non-payment of rent in private housing, at least one notice must be sent to the tenant as a prerequisite to eviction. The act and N.J.S.A. 2A:18-61.2 outline the specific notices that must be sent for each ground for eviction. The notices must be in writing.

A notice to cease is a warning notice. The purpose of the notice is to let the tenant know the landlord has grounds for eviction and if the person does not stop the behavior complained of an eviction action can be filed.

A notice to quit is a notice that terminates the tenancy on a specific date. Under N.J.S.A. 2A:18-61.2, some grounds for eviction require service of a notice to cease prior to service of a notice to quit. Other grounds for eviction only require service of a notice to quit. In the instances where a notice to cease is a prerequisite to service of a notice to quit, the notice to quit is served because the person did not cease the behavior complained of in the notice to cease.

The notice to quit must contain a demand for possession of the leased premises and the actual date by which the tenant must move out and turn over possession to the landlord. It must also warn that if the tenant does not vacate on or before the termination date in the notice to quit, an eviction action will be filed.

If a notice to cease and/or a notice to quit with a demand for possession is not served, the case will be dismissed for lack of jurisdiction. *See*, N.J.S.A. 2A:18-61.2; *Housing Authority v. Raindrop*, 287 N.J. Super. 222 (App. Div. 1996).

Importantly, courts typically hold that rent from the tenant cannot be deposited by the landlord after the termination date in the notice to quit. *Carteret Properties v. Variety Donuts, Inc.,* 49 N.J. 116 (1967). *But see, Jasontown v. Lynch*, 155 N.J. Super. 254 (App. Div. 1978), which stated that "waiver" is a question of fact.

Who is Served and Named in the Notice

The notice (whether it be a notice to cease or notice to quit) should be served on all tenants and occupants residing in the leased premises. If there are individuals in possession of the leased premises who are unauthorized, they should be named as well. The underlying theory is that all occupants, regardless of their status, are entitled to protection of their due process rights. *See Newark Housing Authority v. Melvin*, 2013 WL 149666. However, when naming them in a complaint in a landlord-tenant action, be sure to list them as "unauthorized occupants," otherwise, the court could conclude that the individual is a tenant. *See also* R. 6:3-4, which "permits the landlord to join as defendants both the actual tenant and any other person in possession provided each is identified and the interest of each is specified." Pressler & Verniero, Current N.J. Court Rules, comment 1 on R. 6:3-4. The rule permits joinder of "another in possession." *See Melvin, supra*.

Manner of Service

The notices must be served either personally or by certified and regular mail upon the tenant or lessee or such person in possession. N.J.S.A. 2A:18-61.2.

If the notice is served by certified and regular mail and sent out at the same time, and the certified mail is returned as unclaimed but the regular mail is not returned, the notice is deemed to be served. *See* R. 1:5-4(b). *See, also, SSI Medical Services, Inc. v. HHS, Div. of Medical Assistance & Health Services*, 146 N.J. 614 (1996), holding that a legal presumption of proper mailing will arise when a party proves through the preponderance of the evidence that mail properly addressed, stamped, and posted was received by the party to whom it was addressed.

Content of Notices

According to N.J.S.A. 2A:18-61.2, the notices shall specify in detail the cause of the termination of the tenancy. The notice is required to be sufficiently specific so as to put the tenant on notice regarding what the breach is and how to prepare a defense. *Aspep Corp. v. Giuca*, 269 N.J. Super. 98 (Law Div. 1993); *Sibig & Co. v. Santos*, 244 N.J. Super. 366 (App. Div. 1990); *Harry's Village, Inc. v. Egg Harbor Tp,* 89 N.J. 576 (1982). *See also, Carteret Properties v. Variety Donuts, Inc.*, 49 N.J. 116 (1967), which applied to a commercial tenancy, but defined the term 'specify' and is applied when determining the appropriate content of notices.

Federal law places additional notice requirements on the landlord. If the property or the tenant receives federal assistance, additional language must be included in the notice. *See*, 24 CFR 247.4. Each type of housing has its own notice requirements, and these must be complied with as well as those generally required under the act.

Time Frames and Effective Dates of the Notice

In order to determine if a notice to cease is required, N.J.S.A. 2A:18-61.1 must be closely examined. If a notice to cease is required, the ground for eviction will specifically state that "the person has continued, after written notice to cease" to engage in the inappropriate behavior. If that language is not included in the act, just a notice to quit is required. There is no specific time frame that must lapse between service of the notice to cease and service of the notice to quit. There is also no specific time period that must lapse before the notice to cease becomes ineffective. *A.P. Development Corp. v. Band*, 113 N.J. 485 (1988). However, in *Brunswick St. Associates v. Gerard*, 357 N.J. Super. 598 (Law Div. 2002), the court held that five days was an insufficient time period between the notice to cease and notice to quit, and in *A.P. Development Corp. v. Band*, 113 N.J. at 485, the court refused to decide if a 16-month time lapse between the notice to cease and the notice to quit rendered the notice to cease ineffective but instead said it was "a function of time and circumstances."

A notice to quit must include a date that the tenant must move out and surrender possession of the leased premises to the landlord, also known as the termination date. N.J.S.A. 2A:18-61.2 sets forth the minimum amount of time that must be provided to a tenant in a notice to quit to 'move out' of the leased premises and terminate the tenancy. If the tenant does not move out prior to that date, and remains after that date, an eviction action can be filed. For grounds of eviction that require one month's prior notice, the notice to quit must terminate the tenancy precisely on the anniversary date. Typically, the anniversary date ends on the 30th or 31st of each month.

An eviction action cannot be filed until after the termination date in the notice to quit has passed. Filing an eviction action prior to the termination date in the notice to quit is a basis for dismissal of the action, since the court will lack jurisdiction to hear the case. *See, Housing Authority of Newark v. Caldwell*, 247 N.J. Super. 595 (Law Div. 1990).

Summary of Grounds for Eviction under the Anti-Eviction Act

As stated above, a landlord cannot evict a tenant unless the landlord has good cause for eviction under the act. The following are specific grounds for eviction under the act:

a. Non-payment of rent—Rent must be unpaid, legally due and owing. *Housing Authority of Passaic v. Torres*, 143 N.J. Super. 231 (App. Div. 1976). If the leased premises receives federal funding, a notice to quit must be served. *See*, 24 CFR 247.4(e). Otherwise, no prior notice is required.

If a complaint is filed based upon non-payment of rent and all rent, plus costs, are paid into court on or before the entry of a judgment for possession (which in practice is by 4:30 p.m. on the trial date), the eviction action must be dismissed. N.J.S.A. 2A:18-55.

b. Disorderly conduct—The person's conduct interferes with another resident's peace and quiet enjoyment of the property. Noise is the most common type of disorderly conduct. A person who creates noise that is loud and excessive could be evicted for disorderly conduct. The question that needs to be answered is whether the condition is one to which the tenant should reasonably be expected to accommodate as part of everyday living in an area populated as the premises in question. *Millbridge Apts. v. Linden,* 151 N.J. Super. 168 (Camden Cty Ct. 1977); *Gottdiener v. Mailhot*, 179 N.J. Super. 286 (App. Div. 1981).

In instances where the ground for eviction is disorderly conduct, a tenant must testify in court as to the disorderly behavior. However, if the conduct is violent, no such testimony is required. *Housing Authority of the City of Newark v. Jones*, 204 N.J. Super. 600 (App. Div. 1985).

In order to evict a tenant for disorderly conduct, a notice to cease and notice to quit must be served.

c. Willful and/or grossly negligent damage to the landlord's property—The person has willfully, or through gross negligence, caused or allowed destruction, damage or injury to the premises. Only a notice to quit must be served.

d. Violation of the rules and regulations—The tenant is subject to abiding by the rules and regulations and has substantially violated the rules and regulations. The tenant is responsible for the conduct of its guests and household members. A notice to cease and a notice to quit must be served.

e. Violation of the lease—The tenant is subject to a written lease and has substantially violated the lease. However, the lease provision must be reasonable. *447 Associates v. Miranda*, 115 N.J. 522. The tenant is responsible for the conduct of its guests and household members (*e.g.*, pet, unauthorized occupant). A right of reentry is required. *See Kurzuri Kijii, Inc. v. Bryan*, 371 N. J. Super. 263, 272-273 (App. Div. 2004). A notice to cease and notice to quit must be served.

Subsection (e)(2) applies to subsidized housing. *See, Oakland Housing Authority v. Rucker*, 122 S. Ct. 1230 (2002). A notice to cease is not required under this subsection.

f. **Refusal to pay rent increase—**The landlord properly increased the tenant's rent and the tenant refused to pay the increase. The rent increase cannot be unconscionable. Only a notice to quit must be served. *Fromet Properties v. Buel*, 294 N.J. Super. 601 (App. Div. 1996).

g. **Abating housing or health code violations—**The landlord has been cited for housing or health code violations. Only a notice to quit must be served, but other conditions must be satisfied. More specifically, relocation assistance may have to be paid before a judgment for possession is entered. *See Miah v. Ahmed*, 179 N.J. 511 *rev'g* 359 N.J. Super. 151 (App. Div. 2003); *Haddock v. Dept. of Community Development, City of Passaic*, 217 N.J. Super. 592 (App. Div. 1987).

h. **Permanent retirement from residential use—**The property is being permanently removed from the rental market. In order to rely upon this ground for eviction, a landlord cannot tear down a residential building and build a new one; the property may no longer be used for residential purposes.

   N.J.S.A. 2A:18-61.1b sets forth the information required in the notice (*e.g.*, the notice must state the proposed nonresidential use). This same provision mandates that no tenant shall be evicted pursuant to subsection h if any state or local permit or approval required by law for nonresidential use is not obtained. In other words, in order to evict a tenant, a landlord must be able to present a permit or approval demonstrating the premises will not be used for residential purposes. If a landlord cannot do so, this is not a ground for eviction that should be relied upon. Also, there are penalties imposed on a landlord for failing to properly rely on this ground for eviction. A notice to quit must be served and other conditions must be satisfied.

   There are also penalties imposed for noncompliance with the act. *See*, N.J.S.A. 2A:18-61.1d and e.

i. **Refusal to accept a new lease with reasonable changes—**The tenant refuses to accept and sign a lease with reasonable changes. Case law suggests that two notices to quit may be served. *See Lowenstein v. Murray*, 229 N.J. Super. 616 (Law Div. 1988).

   Additionally, the lease provisions must be reasonable. A tenant cannot waive statutory protections, as it is against public policy. N.J.S.A. 18-61.4 and N.J.S.A. 46:8-48. *Sacks Realty Co, Inc. v. Shore et al*, 317 N.J. Super. 258 (App. Div. 1998).

j. **Habitual late payment of rent—**The tenant pays the rent habitually late and without legal justification to do so. A notice to cease must be served along with a letter after each late payment is accepted and then a notice to quit must be served. *534 Hawthorne Ave Corp. v. Barnes*, 204 N.J. Super. 144 (App. Div. 1985); *Ivy Hill Park v. Abutidze and Giorgadze*, 371 N.J. Super. 103 (App. Div. 2004).

k. **Conversion to cooperative or condominium ownership—**The property is being converted from fee simple ownership to cooperative or condominium ownership. A notice to quit must be served.

l. **Personal occupancy by owner or subsequent purchaser—**An owner or subsequent purchaser of the unit seeks to personally occupy the unit. (An owner must meet specific requirements in order to qualify for this ground for eviction.) Additionally, a limited liability company (LLC) cannot personally occupy a leased residential space. *See*, *3519-35-3513 Realty, LLC v. Mary Law et al*, 406 N.J. Super. 423 (App. Div. 2009). A notice to quit must be served. Penalties are imposed if a notice is served and the owner does not personally occupy for six months. N.J.S.A. 2A:18-61.6.

m. **Termination of the tenant's employment—**The tenant's occupancy of the apartment was conditioned upon employment and the employment was terminated (*e.g.*, superintendent). Unless there is an agreement that provides otherwise, a three-day notice to quit is required. For cases discussing the nature of the employment, *see Cruz v. Reatique*, 212 N.J. Super. 195 (Law Div. 1986); *Village Associates v. Perez*, 253 N.J. Super. 507 (Law Div. 1982); *Kearney Court Associates v. Spence et al*, 262 N.J. Super. 241 (App. Div. 1993).

n. **Violation of the Comprehensive Drug Reform Act of 1987—**The landlord is required to prove that the person has been *convicted of or plead guilty to* an offense involving violation of the Comprehensive Drug Reform Act within or upon the leased premises or the building or complex of buildings and the land appurtenant thereto. The tenant can also be evicted if he or she knowingly harbors or harbored a person who has been convicted or has so pleaded, or otherwise permits or permitted such a person to occupy the leased premises for residential purposes, whether continuously or intermittently. Only a notice to quit must be served.

o. **Assault or terroristic threat—**The landlord is required to prove that the person has been *convicted of or plead guilty to* an offense involving an assault or terroristic threat against the landlord, a member of the landlord's family or an employee of the landlord. Only a notice to quit must be served.

p. **Theft or assault or terroristic threat or violation of the Comprehensive Drug Reform Act—**The landlord is required to prove by the *preponderance of the evidence* that the person is liable for an offense involving theft of property located on the leased premises from the landlord; the leased premises or other tenants residing in the leased premises; or an assault or terroristic threat against the landlord, a member of the landlord's family or an employee of the landlord; or a violation of the Comprehensive Drug Reform Act that occurred within or upon the leased premises or the building or complex of buildings appurtenant thereto. The tenant can also be evicted if the tenant knowingly harbors or harbored a person who has been convicted or has so pleaded, or otherwise permits or permitted such a person to occupy the leased premises for residential purposes, whether continuously or intermittently. Only a notice to quit must be served.

q. **Theft—**The landlord is required to prove that the person has been *convicted of or plead guilty to* an offense involving theft of property from the landlord, the leased premises or other tenants residing in the same building or complex. Only a notice to quit must be served.

r. **Human trafficking—**The landlord is required to prove by the *preponderance of the evidence* that the person violated the human trafficking laws within or upon the leased premises or the building or complex of buildings and the land appurtenant thereto, or knowingly harbors or harbored a person who has engaged in human trafficking or otherwise permits or permitted such a person to occupy the leased premises for residential purposes, whether continuously or intermittently. The action must be brought within two years after the violation occurred. A criminal conviction or a guilty plea to a crime of human trafficking is considered *prima facie* evidence of liability under this ground for eviction. A notice to quit is required.

Filing the Complaint

A summons and complaint for eviction are filed in the New Jersey Superior Court, Special Civil Part, Landlord-Tenant Section. The complaint must be filed in the county in which the property is located.

In the appendix annexed to the Court Rules are sample forms that can be used for filing a summons and complaint for eviction. If the form is not used, Rule 6:3-4 (c) specifically sets forth the information that must be included in the complaint, and the complaint must be verified. *See, Hodges v. Sasil Corp.,* 189 N.J. 210 (2007).

The complaint can include multiple grounds for eviction. If the landlord is relying upon a ground for eviction that requires service of a notice to cease and/or quit, the notices must be attached to the complaint. Rule 6:3-4 (d). *See* Rule 6:2-3 and N.J.S.A. 2A:18-54 regarding service of the summons and complaint.

Importantly, the complaint should seek possession of the apartment, not monetary damages, and the ground for possession must be one of the enumerated grounds for eviction set forth in the act. A landlord ultimately regains possession of the leased premises even though individuals are named as defendants. Furthermore, a landlord cannot evict only one person from the premises. If a landlord prevails, the landlord regains possession of the entire leased space. Pursuant to N.J.S.A. 2A:18-57, a judgment for possession requires eviction of all occupants. Finally, if one tenant leases more than one space, more than one complaint must be filed.

The Trial Date

After the complaint is filed, a trial date is assigned to the case. The trial date cannot be less than 10 days from the date of service of the complaint. Rule 6:2-1. Since an eviction action is a summary proceeding, no answer to the complaint or response is filed. No counterclaim may be filed and there is no discovery. *See* Rule 6:3-4. There is no right to a trial by jury. Rule 6:5-3. Both parties should be prepared to go to trial on the trial date.

A motion to transfer the action to another court can be filed and must be filed prior to the trial date. *See* Rule 6:4-1; N.J.S.A. 2A:18-60. If the motion is timely filed, the case is typically adjourned to another date so the landlord can file an adequate response to the motion to transfer.

On the trial date, if the tenant does not appear a default is entered. Alternatively, the parties can reach an agreement, which should be memorialized in writing. Rule 6:6-4 addresses consent judgments and stipulations of settlement. Courts throughout the state vary in their application of which type of agreement must be placed on the record and approved by the court. However, most courts require the agreement to be placed on the record if the agreement provides that the tenant must pay rent and vacate. If no agreement is reached and the tenant appears, the court conducts a trial, which typically occurs on the first trial date.

Entry of a Judgment for Possession

After a trial, if the landlord prevails, a judgment for possession is entered for possession of the leased premises. Again, the judgment is for possession of the leased premises; it is not a monetary judgment. If there is a default or settlement, a landlord must file with the court a landlord's certification form (Appendix XI-T to the Court Rules) and the landlord's attorney's certification form (Appendix XI-U to the Court Rules). If these documents are not submitted, a judgment for possession will not enter. These forms must be submitted within 30 days from the entry of default.

As evidenced above, any misstep by a landlord's attorney can result in dismissal of the case. The act, Court Rules and case law should be reviewed before handling any landlord/tenant matter.

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CHAPTER

3

The Trial of a Tenancy Case from the Defendant's Perspective

by Gregory G. Diebold

Representation of tenants in summary dispossess actions were once the exclusive realm of Legal Services attorneys. But as rents rise and many middle and upper-middle class people rent, the need for private counsel to represent tenants is increasing.

Residential landlord-tenant law is complicated. The tenancy relationship is governed by a myriad of federal and state statutes, regulations, local ordinances and case law. No one book sets forth governing law. Thus, it is essential that a defense attorney have an understanding of the issues that will arise in a typical case.

This article is intended to provide an overview of the issues commonly encountered by defense counsel in a summary dispossess case. It is not, however, a substitute for research on the specific issues in any given matter.

The Role of the Defense Attorney

As with most every client, one of the first things to determine when representing a tenant is what the client wants. Simplistically, the client wants to avoid eviction. But often that is not the real story. Like a contentious matrimonial case, the relationship between the client and the landlord may have deteriorated to the point where it is to everyone's benefit to end the relationship on the best terms possible. Ascertaining this at the beginning of the case may save time and money for all concerned.

Given the highly technical nature of tenancy law, the number of practitioners in this area is relatively small. For a newer attorney practicing in this field, it is of substantial benefit to establish and maintain a good working relationship with your colleagues. This will enable you to resolve most cases easily and, for those cases that cannot be resolved, make the process go smoother.

Of course, a client's goals and decisions in litigation must be based on an understanding of the law controlling his or her case. Many tenants still labor under the misconception that a tenant must leave his or her home when the landlord wants him or her to. Counsel should reassure the tenant, early in the process, that he or she is protected by all sorts of legal rights.

Since the passage of the Anti-Eviction Act, N.J.S.A. 2A:18-61.1 *et seq*., a residential tenant has virtually a lifetime tenancy absent good cause for eviction. Thus, defense counsel must, at the outset, ascertain three things:1) what is the basis for eviction; 2) what must the landlord prove pursuant to that ground; and 3) what affirmative defenses exist.

Each of the statutory grounds for eviction contains several elements. For example, subsection (e)(1) permits eviction where:

> The person has continued, after written notice to cease, to substantially violate or breach any of the covenants or agreements contained in the lease for the premises where a right of reentry is reserved to the landlord in the lease for a violation of such covenant or agreement, provided that such covenant or agreement is reasonable and was contained in the lease at the beginning of the lease term.

A close reading of this provision demonstrates that the landlord must prove the following:

1. The tenant violated a lease provision,

2. A notice to cease was served on the tenant,

3. The tenant continued to violate the lease after receipt of the notice to cease,

4. The violation was substantial,

5. A right of reentry for said violation exists in the lease,

6. The lease provision is reasonable, and

7. The provision was contained in the lease at the beginning of the lease term.

R.W.B. Newton v. Gunn, 224 N.J. Super. 704 (App. Div. 1988); *Kuzuri Kijiji, Inc. v. Bryan*, 371 N.J. Super. 263 (App. Div. 2004.) Too often, counsel on both sides will assume a lease violation alone is a sufficient basis for eviction, which is clearly not the case.

A common response by tenants to an eviction is that "everyone else is doing the same thing," meaning that the tenant is being singled out for eviction. While this 'selective prosecution' is not in and of itself a defense, it is important to discover any ulterior motives the landlord may have for bringing the eviction. Retaliation, discrimination or other illegal activities may provide an affirmative defense or impact upon the landlord's credibility. *See, for example*, *Les Gertrude Assoc. v. Walko*, 262 N.J. Super. 544 (App. Div. 1993).

Pretrial Considerations

Once retained, defense counsel will usually be left with little time to prepare the case. Rule 6:2-1 provides for a trial date within 10-30 days of service of the complaint. Since there is no formal discovery in an eviction case, Rule 6: 4-3 (a), and since clients rarely tell the full story, some informal discovery is essential. This should involve speaking to the plaintiff's attorney, the landlord (if self-represented), inspectors, and witnesses, and examining relevant documents. Plaintiffs are usually eager to show you how strong their cases are, so a free exchange of proofs generally occurs even in the absence of formal discovery.

Since it is in the landlord's interest to resolve the case at the least cost possible, settlement negotiations are often most fruitful early in the case. In most cases based on non-payment of rent, the plaintiff wants the money, not a vacant apartment. Thus, a payment plan advantageous to the tenant may be most available early in the proceedings. Most landlords appreciate a tenant who acknowledges his or her rental obligation and takes steps to resolve any default.

Of course some cases will not settle, and it is, therefore, imperative to prepare for trial. The first steps in the analysis are to determine: 1) if the anti-eviction act applies, and 2) if it does, which ground does the landlord allege gives rise to eviction. Once that is ascertained, counsel should determine what evidence the landlord will need to establish at trial, what proofs will need to be refuted, and what affirmative defenses exist.

A relatively infrequent issue to determine is whether the case is appropriate for transfer to the Law Division. Under N.J.S.A. 2A: 18-60, a summary dispossess action can be transferred to the superior court for a plenary proceeding where the case is "of sufficient importance." Prior to the merger of the county district court into the superior court in 1982, this procedure was more readily invoked, since there was no right of appeal in dispossess actions. N.J.S.A. 2A 18-59. This is no longer true, but cases may still be transferred if there is a compelling need for discovery, or if additional parties need to be joined.

The procedures for a motion to transfer are set forth in Rule 6: 4-1 (g). The criteria governing a transfer have been discussed in *Morocco v. Felton*, 112 N.J. Super. 226 (Law Div. 1970), and *Carr v. Johnson*, 211 N.J. Super. 341 (App. Div. 1986).

The Trial Date

The trial date for a dispossess case will be stamped on the summons that is served on the tenant. No other notice is provided, and no other pleadings are permitted. The tenant, with or without counsel, simply shows up on the return date.

Procedures differ from county to county, depending, in large part, on the volume of cases in that county. Two things will occur in all counties, however. First, the so-called *Harris* announcements will be read. *See, Community Realty v. Harris*, 155 N.J. 212 (1998).

Second, the calendar call will take place, and cases will be marked "default" "dismissed" or "ready." Where both sides appear and the case is ready, some form of mediation will occur—with or without the assistance of a mediator.

Most cases are disposed of during the mediation process. Parties will be encouraged to settle their cases; however, it is important from the tenant's perspective not to agree to vacate simply because the landlord wants the tenant to move. If your case is strong, settlement may not be a worthwhile option.

If your case cannot be settled, it is helpful to try to conference the matter with the court. You may get a sense of the issues the judge thinks are important. Also, if the case is complicated, it may be advisable to try to agree on a trial date where the judge will have sufficient time to hear the case, rather than waiting in court for hours, only to be told to return on a different day.

Procedural Defenses

Residential landlord/tenant practice is highly technical. Absent compliance with these technical requirements, the court lacks jurisdiction to hear the case. Thus, the tenant can often secure dismissal of the case based on a 'technical' defense.

Most larger properties are owned by an limited liability company (LLC) or corporation. Rule 1:21 and Rule 6:10 provide that only an individual owner or general partner in a partnership may appear *pro se*. Thus, a complaint filed without counsel by an LLC or corporation is subject to dismissal. It is wise to check the tax records or deed for the property, as some individuals file *pro se* when, in fact, the record owner of the property is an entity. See, *Gobe Media Group LLC v. Cisneros*, 403 N.J. Super. 574 (App. Div. 2008).

Also essential for the court's jurisdiction is the existence of a landlord/tenant relationship between the parties. Without such a relationship, the plaintiff must seek possession by way of ejectment. *See*, *Cahayla v. Saikevich*, 119 N.J. Super. 116 (Law Div. 1972).

Except for non-payment cases, all tenancy actions require a proper notice to quit, and often a notice to cease. Required notices must be attached to the complaint. Rule 6:3-4 (d). In the absence of a proper notice, the complaint must be dismissed, even if the tenant is not prejudiced. *Weise v. Dover General Hospital*, 257 N.J. Super. 499 (App. Div. 1992).

A valid notice to quit must contain four essential elements: 1) a notification of a landlord/tenant relationship, 2) a date upon which the tenancy terminates (which complies with N.J.S.A. 2A: 18-61.2 as to length), 3) the basis for the termination, and 4) a demand for possession. *Harry's Village v. Egg Harbor Tp.* 89 N.J. 576 (1989); *Kroll Realty v. Fuentes,* 163 N.J. Super. 28 (App. Div. 1978).

Since there is no discovery, courts have held as a matter of due process that the basis for termination must be a detailed statement of the facts upon which the eviction is based. It is insufficient to simply state the statutory grounds for eviction. *Carteret Properties v. Variety Donuts*, 49 N.J. 116 (1969). The failure to comply with this requirement often leads to dismissal of the case. Thus, the tenant's attorney should carefully evaluate the validity of the notices.

Finally, the complaint cannot be filed until after the effective date of the notice. N.J.S.A. 2A: 18-61.2.

Substantive Defenses

Aside from the procedural defenses noted above, there are a number of substantive defenses available to the tenant. This article is by no means exhaustive, but will touch on the more common ones.

As noted above, by far the greatest number of cases are based on non-payment of rent. Judges are fond of saying that the issue in these cases is clear—the rent was paid or it wasn't. But, in fact, N.J.S.A. 2A: 18-61.1(a) requires that a landlord establish that the rent is "due and owing," as well as unpa*id. Marini v. Ireland*, 56 N.J. 130 (1970).

The first question to be answered is whether the amount sought by the landlord is 'rent.' For late fees, legal fees and other charges to be considered rent, the lease must clearly define them as such. And, the charges must not be prohibited by federal, state or local law.

The amount of the base rent may also be in excess of that permitted by a rent control ordinance or federal regulation, and thus be unenforceable. *Ivy Hill Park v. Sidisin,* 258 N.J. Super. 19 (App. Div. 1992). Thus, if the landlord is charging the maximum rent allowed under a rent-leveling ordinance, charging legal fees as additional rent is prohibited.

Tenants who have paid a security deposit are entitled to be advised in writing where the security deposit is located. N.J.S.A. 46: 8-19. Where the landlord fails to comply with this statute, the tenant may apply the deposit, plus seven percent interest, to any rent that is due. This defense can save a tenant who falls a month behind in rent from eviction.

The most common defense in these cases is the lack of habitability of the premises. All residential leases contain an implied covenant by the landlord that the premises are free and will remain free from defects affecting the livability of the apartment. Where such defects exist and are not corrected within a reasonable time, the tenant may seek an abatement of the rent. *Berzito v. Gambino*, 63 N.J. 460 (1972). Alternatively, the tenant may make the repair him or herself, and deduct the cost from the rent. *Marini v. Ireland*, 56 N.J. 130 (1970). However, tenants seeking to avail themselves of this defense will generally be required to post the full amount of the rent with the court pending the outcome of the case.

Since the Supreme Court's decision in *Miah v. Ahmed*, 179 N.J. 511 (2004), the issue of rent for an illegal apartment frequently arises. Although the court expressly left open the issue of whether rent could be charged at all for an illegal unit, it made clear that no eviction could occur until the tenant was paid six times the monthly rent as a relocation expense. That money cannot be offset by unpaid rent.

For cases based on grounds other than non-payment, as noted above, the landlord must prove each element of its cause of action by a preponderance of the evidence. Thus, tenant's counsel should be aware of any absence of proof for each of the essential elements of a case. In this regard, it should be remembered that no matter how 'bad' the tenant's alleged conduct is, eviction is not warranted unless one of the statutorily enumerated grounds for eviction is proven. *See*, *Georgia King Assoc. v. Frazier*, 210 N.J. Super. 146 (App. Div. 1986).

Various affirmative defenses may also be raised. An action brought in retaliation for a tenant's good faith complaint to a public official is prohibited. N.J.S.A. 2A: 42-10.10. If the landlord's reason for bringing the action is in any degree motivated by retaliation, then the complaint must be dismissed. And, the statute creates a rebuttable presumption that a notice to quit served within 90 days of the tenant's protected activity is retaliatory.

An action based on a lease violation may be barred by the doctrine of waiver. If a landlord knows the tenant is violating the lease and continues to accept rent, he or she will be held to have waived the right to enforce the lease. This issue frequently arises in 'no-pet' cases. *Royal Associates v. Concannon*, 200 N.J. Super. 84 (App. Div. 1985).

These are a few of the more common defenses seen in landlord/tenant court. Others, such as defenses based on the Law Against Discrimination, the Civil Rights Act and the bankruptcy statute, while not as common, make landlord/tenant practice a continually developing area of the law.

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CHAPTER

4

Post-Trial Considerations and Proceedings

by Lloyd Garner

In court year 2014, (July 1, 2013 to June 30, 2014), approximately 176,026 landlord/tenant lawsuits were filed in the Special Civil Part and 69,908 warrants of removal were issued. Before the warrant can be requested, a judgment for possession must first be entered by staff. The court's statistical average reflects that only slightly over two percent of these cases are resolved by bench trial per year, necessitating no form to be filed by the landlord. However, the vast majority of cases are resolved either due to the tenant's failure to appear (default) or per settlement/consent entry of judgment between the parties. In instances of either default or settlement, the landlord's certification form (Appendix XI-T) and the landlord's attorney's certification form (Appendix XI-U), must both be signed and submitted to the clerk in order to obtain the judgment for possession, per Rules 6:6-3(b) and 6:6-4(a). These forms must also be submitted within 30 days from the date of entry of default.

In accord with Rule 6:6-4, notwithstanding any consent by a tenant, no warrant of removal may be issued or executed unless the consent judgment for possession (agreement) is in compliance with the law. The two forms of agreement, which also appear in this book, are reflected in Appendix XI-V (pay and stay agreement) and Appendix XI-W (pay and vacate agreement). These forms are not mandated for use by court rule, but are highly encouraged to be used.

If the residential tenant is not represented, the judge must approve the agreements on the day of trial, otherwise the agreement might be unenforceable upon breach. If the tenant is represented and his or her attorney signs the agreement, then the clerk enters judgment, as the judge does not have to approve of the agreement, per Rule 6:6-4(b). Typically, most landlords and/or their attorneys submit the certification forms to the clerk in the courtroom on the day of the scheduled trial date, or infrequently with their subsequent but timely warrant of removal request. Again, it is strongly encouraged that the practitioner submit all forms on the day of trial, and not depart the courtroom until the signed agreement reflects the judge's approval thereon, for cases involving unrepresented residential tenants.

Time Limitations on Issuance/Execution of Warrant of Removal

If a landlord and/or its attorney fail to timely file their certification forms in accord with Rule 6:6-3(b), it may still obtain a judgment for possession by application to the court on written notice to the tenant, served at least seven *calendar* days prior thereto, by simultaneously mailing same by certified and regular mail. Note that per Rule 1:3-1 (computation of time rule), any court rule referencing a period of time less than seven days shall exclude Saturdays, Sundays and legal holidays, so, unless expressly provided otherwise, a rule reference to seven days is applied as calendar days. If opposition is filed, the judge will decide this application; otherwise, most unopposed applications in this regard are granted through the clerk's offices by their entry of the judgment of possession upon the expiration of the proof of the seven days' notice upon the tenant. Do not treat this as a motion under Special Civil Part's Rule 6:3-3 motion practice.

Per Rule 6:7-1(d), a warrant of removal cannot issue until three business days have expired from the date of entry of the judgment for possession, and it must be requested within 30 days after entry of the judgment. The Special Civil Part officer serves the tenant with same, properly calculating the earliest permissible lockout date and entering that date onto the warrant of removal form. They cannot execute the warrant of removal (when the officer performs the lockout) until another three business days have expired from the date it was first served upon the residential tenant. This additional three-business-day waiting period from date of service of the warrant of removal does not apply in commercial tenancies, as the officer serves/executes the warrant simultaneously. When calculating the three business days, the day of the triggering event (*i.e.*, date of entry of judgment or date the officer served the warrant) should not be counted.

Finally, in accord with Rule 6:7-1(d), the execution of the warrant of removal must occur within 30 days from the date the warrant of removal was originally issued by the clerk to the officer. If a landlord and/or its attorney similarly fails to timely apply for the warrant, or fails to have the officer timely execute the warrant, the same aforementioned seven-day application process exists in Rule 6:7-1(d), which permits a landlord to obtain a warrant of removal out of time, or permits a lockout out of time on an existing warrant of removal. The practitioner does not have to file an entirely new lawsuit; however, the court may deny the application and require a new landlord/tenant lawsuit be filed if too much time has passed.

Extending/Tolling Time Limitations to Issue/Execute Warrant of Removal

Thirty days is not a lot of time to obtain the warrant of removal and/or have it executed, so landlords and/or their attorneys need to pay special attention to the time. However, in the event a tenant files for bankruptcy or applies for an order for orderly removal, hardship stay, etc., resulting in any court-initiated stay or order that precludes the landlord from proceeding with obtaining or executing a warrant of removal, the 30-day time limitations thereon are tolled

per Rule 6:7-1(d), so as not to prejudice the landlord's rights to proceed timely. However, upon receiving relief from a stay, or upon the expiration of any orderly removal order, the time within which to obtain/execute upon the warrant of removal immediately starts or continues to accrue.

The 30-day warrant of removal time limitations can also be extended by agreement between the parties or by court order, per Rule 6:7-1(d). For example, as reflected in the consent to enter judgment for possession settlement form (Appendix XI-W–Tenant Pay and Vacate) amended on Sept. 2012, it allows landlords to request/pay for a warrant of removal prior to a tenant's agreed-upon move-out date and/or any payment breach that may or may not occur. The officer serves the warrant in accord with court rules, but cannot execute upon it, if ultimately necessary to do so, until the agreed-upon move-out date. By agreement, this permissibly extends, in most instances, the 30-day warrant of removal time limitation, as most agreed-upon move-out dates are beyond 30 days from the original date of issuance of the warrant to the officer.

The 2012 amended form of agreement consequently removed an inadvertent delay for landlords, inasmuch as the prior version of the form did not allow a landlord (if it wanted to) to request the warrant (which starts the three-business-day tolling periods at this point) until the landlord's filing of the breach certification alleged the tenant failed to make required payments and/or did not move out by the agreed-upon date. However, if a landlord/landlord's attorney chooses to request/pay for the warrant of removal prior thereto, and subsequently they do not require the officer's services to execute upon the warrant (as the tenant honored the terms and paid and/or moved out timely), the filing fee cannot be returned. (*See* discussion *infra*, Directive #03-16.) Most importantly, while the clerk's offices typically provide a copy of this type of agreement and/or the agreed-upon move-out date information to their officers upon issuance of these warrants, so they know they cannot execute until said date, barring an earlier breach/order providing otherwise, the landlord should make sure the officer executes correctly as well.

Special Civil Part Officer (Coordinating the Eviction and Payment)

A landlord will be advised by the clerk's office of the date, and the name of the officer to whom the warrant of removal was issued. The landlord and/or its attorney cannot choose which officer their work will be assigned to. In the normal course, officers will need one to several business days to subsequently retrieve their work and serve same upon a residential tenant. In the event the tenant does not voluntarily leave on or before the expiration of the three business days from the date the warrant of removal was served, it becomes vital for the landlord and/or its attorney to contact the officer to schedule the date/time for him or her to execute the warrant of removal.

Officers are not required by the court to contact landlords and/or their attorneys to subsequently determine if there is a need to perform a lockout (*i.e.*, to find out whether the tenants left or not). If the residential tenant does not voluntarily leave upon the three business days' expiration, it is incumbent upon landlords and/or their attorneys to immediately contact the officer, coordinate

officer payment and schedule the appointment to have him or her now timely execute upon the warrant of removal.

Per Rule 1:43, established by N.J.S.A. 2B:1-7, the fee required to be paid to the clerk for a warrant of removal is $35, plus applicable mileage. The officer's compensation is derived from this $35 filing fee. Pursuant to N.J.S.A. 22A:2-37.2, officers earn $15 to *both serve and execute the warrant of removal*. The applicable mileage fee is paid to the clerk when the warrant of removal is first requested, and then the applicable mileage fee is subsequently paid again, but directly by the landlord to the officer, if/when the officer is requested to execute upon that previously served warrant of removal. The *only* other fee to be paid by the landlord to the officer, in the event the landlord subsequently requires the officer to return to the property and execute the warrant of removal, is a fee for 'additional services.'

As per Court Officer Directive #01-15, Appendix F, Section IV, D, if the landlord and/or its attorney requests the officer to perform additional services while executing the warrant of removal, which ostensibly is anything beyond what the directive has defined as the officer's warrant of removal execution requirements, an officer may charge up to but no more than $75 total. The landlord and/or its attorney must agree to the additional service and the amount charged by the officer, not to exceed $75. Typical examples of additional services include, but are not limited to, securing/locking windows, checking for gas/water leaks, checking hot water heater, addressing issues pertaining to abandoned animals or pets, changing locks, moving furniture, waiting at property for police to arrive in case police assistance is required, etc. Note that the cost/expense of any materials provided for the landlord's benefit are not included in the $75 fee (*i.e.*, cost of a new lock or key). Also note that an officer can demand payment in certified funds or cash, but only if a landlord previously paid by check and the check bounced, and/or failed to appear within 30 minutes of a previously scheduled lockout date and time and the officer memorialized same in writing to the landlord or his or her representative, copying the clerk or assistant Civil Division manager.

Role of Municipal Police and Court Officer

In 2015, all municipal police chiefs were provided with a courtesy copy of the officers' new standard-issued badge and identification, relevant excerpts from the aforementioned Directive #01-15 pertaining to officers' duties on landlord/tenant cases, warrant of removal form and the new eviction notice to tenant form (Appendix E to Directive #01-15), which officers serve at the time of execution of a warrant of removal. Officers are not Judiciary employees, and are considered independent contractors appointed by the vicinage's assignment judge. However, they are required to abide by this court officer directive.

Officers are not permitted to touch or forcibly remove a tenant who refuses to leave; they are required to contact the police for assistance if there is a breach of the peace or the tenant refuses to vacate and abide by the officer's verbal command to vacate, per Directive #01-15. This

requirement is also reflected on the court's mandated warrant of removal form itself, wherein it provides: "Local police departments are authorized and requested to provide assistance, if needed, to the officer executing this warrant." (Appendix XI-G) This form is also included in this book. Directive #01-15 and other directives and forms mentioned in this book can also be found on the court's website—NJCourts.com.

Post-Judgment Applications

Orders for orderly removal requests require a tenant to show good reason and provide notice to the landlord, per Rule 6:6-6(b). However, due to the immediacy of these applications, which are typically decided by the court on the day they are received, a landlord or its attorney may be contacted by a clerk's office by phone for immediate comment as to their position. The vast majority of these requests are granted. Also, notwithstanding the rule's requirement that stay of the warrant's execution be for a period of time not to exceed seven calendar days, some courts will grant more than one orderly removal order. The landlord can still move for the order's dissolution, on two business days' notice to the tenant.

There are distinctions worth noting between granting a hardship stay under N.J.S.A. 2A:42-10.1 and 10.6 and vacating a judgment pursuant to Rule 4:50-1. A tenant's hardship stay application applies in residential tenancies only; it cannot exceed six months from the date of judgment with payment conditions imposed, and must be requested within 10 days after the warrant is executed and/or the date the tenant is known to have otherwise left the property. A tenant's motion to vacate judgment applies in both residential and commercial tenancies. A landlord tends to mitigate its circumstances, seeking new tenants upon a tenant's removal, so the judge applies discretion that normally tends not to exceed beyond a few weeks after removal or abandonment of property when deciding Rule 4:50-1 motions. Clerk offices have motion kits or forms for tenants to utilize in this regard, per Rule 6:6-6(d).

Fee Refund Directive #03-16 and Money Posted with the Court

Litigants/attorneys need to take note of new Directive #03-16, effective June 7, 2016, pertaining to the limitation of refunds of court filing fees. If a request for a fee-related document such as a warrant of removal is made in error and/or in duplicate, the clerk cannot issue a refund. Post-judgment applications in landlord/tenant court generally require no filing fee. On those applications where the court required the posting of rent, it is incumbent of the landlord and/or attorney to follow up with the clerk's office on how to obtain remittance in the event a court order has not otherwise addressed how to disburse the funds.

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CHAPTER

5

The Security Deposit Act

by Brian R. Lehrer

N.J.S.A. 46:8-19-26 outlines the rights and obligations of landlords and tenants with regard to security deposits. The act only applies to residential leases. *Presberg and Standard Gasket, Inc. v. Chelton Realty, Inc., et al.*, 136 N.J. Super. 78 (Law Div. 1975). Pursuant to N.J.S.A. 46:8-26, the act applies to all rental premises used for dwelling purposes *except* owner-occupied premises with no more than two rental units, where the tenant has failed to provide 30 days written notice to the landlord invoking the provisions of this act. However, once the tenant invokes the act, the landlord has 30 days after the receipt of the notice to fully comply with the provisions of the act. *Cristiani v. Paul*, 195 N.J. Super. 179 (Law Div. 1983).

A landlord may not require more than a sum equal to one and one-half times one month's rental as security, and when a landlord collects an additional amount of security deposit the amount collected annually cannot be greater than 10 percent of the current security deposit. N.J.S.A. 46:8-21.2.

A landlord must return the security deposit with the accumulated interest within 30 days after the termination of the lease by personal delivery, registered or certified mail, less any charges expended by the landlord in accordance with the lease. N.J.S.A. 46:8-21.1. A landlord who violates the act is subject to a penalty of double the amount of monies owed, together with the full costs of any action and, in the court's discretion, reasonable attorneys' fees to recover the damages. N.J.S.A. 46:8-21.1. A landlord's delay of a few days in returning the security deposit entitles the tenant to doubling of the amount wrongfully withheld, even if the tenant has received the appropriate amount by the time of filing suit. *Kang In Yi v. Re/Max Fortune Properties, Inc.*, 338 N.J. Super. 534 (App. Div. 2001).

Pursuant to N.J.S.A. 46:8-24, any language in a lease that waives a provision of the Security Deposit Act is void. The act does not apply to vacation homes. *Rogers v. Donovan*, 213 N.J. Super. 309 (Law Div. 1986).

It is important to understand that the premise of the Security Deposit Act is that the security deposit is held by the landlord in trust. *Fischer v. Heck*, 290 N.J. Super. 162 (Law Div. 1996). It is remedial legislation enacted to protect tenants from overreaching landlords who diverted security deposits to their personal use. *Frontenac Associates v. Fauerbach*, 148 N.J. Super. 376 (Law Div. 1997).

Pursuant to N.J.S.A. 46:8-21.4, the division of small claims of the Law Division, Special Civil Part, has jurisdiction of all actions between an owner or lessee and tenant for the return of a security deposit where the amount in dispute does not exceed the sum of $5,000, exclusive of costs.

Landlord Obligations

A landlord taking security for a premises may request a security deposit. The landlord is limited to a sum equal to not more than one and one-half times one month's rental on the premises. Once a landlord receives a security deposit, he or she must invest the money. Pursuant to N.J.S.A. 46:8-19(a), the money must be invested in shares of an insured money market fund established by an investment company based in New Jersey, or deposited in a state or federally chartered bank, savings bank or savings and loan association in New Jersey.

However, a landlord taking security for less than 10 rental units is subject to less stringent requirements, and need only deposit the security with a state or federally chartered bank, savings bank or savings and loan association in an account bearing interest at the rate currently paid by the institution on time or savings deposits. Nonetheless, a landlord must notify each tenant in writing of the name and address of the investment company, bank or institution where the deposit is made and the amount of the deposit within 30 days of its receipt. The interest or earnings paid on the security deposit belongs to the tenant, and is required to be paid to the tenant in cash, or to be credited toward the payment of rent due on the renewal or anniversary of the lease or on Jan. 31 of each year if the tenant has been notified in writing that such payment shall be made annually.

If the landlord fails to invest or deposit the security as required by the statute, or to provide the notice or petty interest as required, a tenant may give written notice to the landlord that the security, plus an amount representing interest at the rate of seven percent, be applied to any rent due. *Penbara v. Straczynski*, 347 N.J. Super. 155 (App. Div. 2002). Where a landlord violates the Security Deposit Act during the term of an original lease, and a tenant's security is applied to rent, the landlord does not have the right to require a further security deposit during the term of the written lease or during any holdover tenancy that follows it. *Frontenac Associates v. Fauerbach*, 148 N.J. Super. 376 (Cty. Ct. 1977).

Landlords must be aware that they are subject to the obligations of the Security Deposit Act even if a tenant breaches the lease. *Spialter v. Testa*, 162 N.J. Super. 421 (1978), *aff'd* 171 N.J. Super. 181, *certif. den*. 82 N.J. 300 (1980). Landlords are subject to the obligations of the act even if the tenant defaults on the lease. *Veliz v. Meehan*, 258 N.J. Super. 1 (App. Div. 1992).

Pursuant to N.J.S.A. 46:8-20, landlords are responsible to turn over the security deposit to the property's new owner upon conveying the property or signing the lease. Additionally, in the event of a foreclosure sale, the landlord is obligated to turn over the security deposit plus the tenant's portion of the interest or earnings to the purchaser at the sale. In the event the landlord fails to return a security deposit after a foreclosure, the landlord remains responsible for returning the security deposit to the tenant. *Mauricio v. First Fidelity Bank*, 329 N.J. Super. 342 (App. Div. 2000).

Most disputes involving security deposits revolve around N.J.S.A. 46:8-21.1, which requires the return of the security deposit within a specified period of time. Within 30 days after the termination of the tenant's lease, the landlord must return, by personal delivery, registered or certified mail, the security deposit plus any interest. The landlord may subtract any charges expended in accordance with the terms of the lease and the interest or earnings, and any such deductions must be itemized in the correspondence returning the deposit.

A landlord must return the security deposit within five days after a tenant is caused to be displaced by fire, flood, condemnation or evacuation and an authorized public official posts the premises with a notice prohibiting occupancy, or any building inspector has certified within 48 hours that displacement is expected to continue longer than seven days and has so notified the landlord in writing.

A landlord must return the security deposit within 15 days after a lease terminates, pursuant to N.J.S.A. 46:8-9.6. This section provides that a tenant may terminate any lease prior to its expiration if he or she provides the landlord with written notice that the tenant, or a child of the tenant, faces an imminent threat of serious physical harm from another named person by remaining on the leased premises. In order to invoke this section, the tenant must also provide one of the following: 1) a restraining order protecting the tenant from the person named in the written notice; 2) a law enforcement agency record documenting domestic violence; 3) medical documentation of domestic violence provided by a healthcare provider; or 4) documentation that the tenant or child of the tenant is a victim of domestic violence.

Where displacement occurs, or where a lease terminates due to domestic violence, the landlord shall provide written notice to the displaced tenant or the victim of domestic violence within three business days after the termination or displacement, and the notice shall include the location where the security deposit shall be made available. The notice must be sent by personal delivery or mail to the tenant's last known address. If the tenant's last known address is where

displacement occurred, and the mailbox is not accessible during normal business hours, the landlord shall also post the notice at each exterior public entrance of the property.

Landlords are obligated to make the security deposit available to displaced tenants or victims of domestic violence for a period of 30 days at a location in the same municipality in which the subject leased property is located. The security deposit must be available to be returned upon demand during normal business hours, and any such sum not demanded by and returned to the tenant within 30 days is to be re-deposited or re-invested by the landlord in an appropriate interest-bearing account.

Tenant Damages

A landlord who wrongfully fails to return a security deposit is subject to a penalty. The act permits a prevailing tenant to recover double the amount of the security deposit, together with the full cost of any action, and, in the court's discretion, reasonable legal fees. N.J.S.A. 46:8-21.1.

If a tenant damages the premises, a landlord may take deductions from the security deposit. Any deductions the landlord makes must be itemized and notice must be forwarded to the tenant. N.J.S.A. 46:8-21.1. It is important to remember that a tenant is only entitled to damages for amounts that are *wrongfully withheld*. For instance, when a case involves an offset to the security deposit for unpaid rent, if the rent is greater than the security deposit withheld there is no deposit to return to the tenant and, therefore, no basis for the imposition of the statutory penalty. *Truesdell v. Carr*, 351 N.J. Super. 317 (Law Div. 2002).

In *Penbara v. Straczynski*, 343 N.J. Super. 155 (App. Div. 2002), the court held that a violation of N.J.S.A. 46:8-19 does not mandate forfeiture of the security deposit. Instead, the tenant is entitled to have the security deposit and the interest that should have been earned applied to his or her outstanding obligations. A violation of N.J.S.A. 46:8-21.1 entitles the tenant to double the amount wrongfully withheld, not double the amount of the initial deposit. A judge is required to determine the amount of the offsets, and if they are greater than the security deposit withheld, there is no deposit to return to the tenant and no valid basis for enforcing the notification requirement of the statute.

Courts will engage in a searching analysis regarding what has been wrongfully withheld by the landlord. For instance, a tenant is not entitled to double the amount of the security deposit as an offset to monies otherwise due the landlord because of an unlawful holding over. *Lorril Co v. La Corte*, 352 N.J. Super. 433 (App. Div. 2002). In *Lorril*, the Appellate Division held that the tenants were not entitled to have their security deposit doubled for the failure of the landlord to provide notice of the security deposit, where the tenants owed rent in excess of the deposit, and noted that damages under the statute governing the return of a security deposit are to be calculated based upon the total amount due the tenant, not the amount of the initial deposit.

Sometimes a landlord may ask for an excess security deposit. While the act does not provide a specific remedy for violations of demanding an excess security deposit, where the excess security deposit is not returned at the termination of a tenancy it is automatically deemed wrongfully withheld by the landlord, and the remedy of doubling provided by N.J.S.A. 46:8-21.2 is appropriate. *Reilly v. Weiss*, 400 N.J. Super. 71 (App. Div. 2009).

Once a court finds the landlord has wrongfully withheld all or part of a security deposit, the tenant is then entitled to the statutory penalty of double the amount wrongfully withheld. *MD Associates v. Alvarado*, 302 N.J. Super. 583 (App. Div. 1997). The penalty of awarding twice the amount wrongfully withheld is mandatory under the statute, even in a case where the tenant has failed to plead the statute or demand double damages. *Gibson v. 1013 North Broad Associates*, 172 N.J. Super. 191 (App. Div. 1980).

The statute provides for attorneys' fees where the landlord fails to timely return a security deposit. However, fees are awarded only at the court's discretion. N.J.S.A. 46:8-21.1. Punitive damages are not recoverable under the statute. *Kang In Yi v. Re/Max Fortune Properties, Inc.*, 338 N.J. Super. 534 (App. Div. 2001).

Miscellaneous Issues

Money received by a landlord at the inception of a lease for the specific purpose of refurbishing an apartment after the tenant vacates the premises may not be considered 'security' within the meaning of the act. *Durante v. Gadino*, 157 N.J. Super. 132 (Law Div. 1978). A refundable pet deposit paid by the residential tenant was a 'security deposit' within the meaning of the act. *Reilly v. Weiss*, 406 N.J. Super. 71 (App. Div. 2009).

The burden of proof is on the landlord to prove he or she suffered damages warranting retention of the security deposit, and that he or she attempted to mitigate those damages. *Veliz v. Meehan*, 258 N.J. Super. 1 (App. Div. 1992).

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CHAPTER

6

Negotiating the Commercial Lease

by Gordon J. Golum

This article reviews many of the issues to consider in the negotiation of a commercial lease. It is not intended to be an exhaustive review of all issues.

Negotiation of a commercial lease is significantly different from a residential lease. Residential tenants have many statutory protections, which do not apply in the case of a commercial lease. The parties to a commercial lease are free to negotiate the lease terms based upon business issues, with few constraints. Generally, a court will not interfere with a finely drawn and precise contract entered into by experienced business people. However, in some instances the courts have applied a standard of fair dealing and good faith in resolving lease disputes instead of applying the precise terms of the lease. *Brunswick Hills Racquet Club v. Route 18 Shopping Center Associates*, 182 N.J. 210, 223 (2005).

It is suggested that the terms 'landlord' and 'tenant' be utilized in the lease. While 'lessor' and 'lessee' might be used, and frequently are, a draftsperson may be more likely to reverse these terms. It is also helpful to define terms.

The first step in negotiation of a commercial lease is to agree upon basic business terms. The parties typically may execute a non-binding letter of intent. This will set forth fundamental terms, such as rent, additional rent, term of the lease, permitted use, etc.

This is not the end of negotiations. Terms still have to be addressed in detail, and the language of the lease is important. For example, the letter of intent may provide for the tenant to pay common area expenses, but it is in negotiations that common area expenses will be defined in the lease.

Types of Leases

There are various types of commercial leases based upon the use, the property, the parties and other factors. By way of example, commercial leases may involve, without limitation, any of the following:

1. Office lease
2. Retail lease
3. Industrial lease
4. Warehouse lease
5. Ground lease
6. Restaurant lease
7. School lease
8. Lease with governmental entities (For state of New Jersey leases, *see* N.J.S.A. 52:18A-191, *et seq.* and N.J.A.C. 17:11-1.1, *et seq.*)

While there are common elements to each type of lease, there are certain considerations that are unique to each type. This article will not review all of the special considerations that apply to each lease type, but some examples include: A retail tenant may want a lease provision restricting the landlord from leasing to a competitor in a shopping mall. An office tenant may want to define when the tenant pays additional rent for use of heat and air conditioning.

During negotiations, each party will seek to anticipate issues that may arise during the term of the lease. But lease issues do not necessarily end with the execution of the lease. During the term of the lease, a client may well contact its attorney when issues arise.

Lease Issues

There are myriad considerations in drafting a lease. The following are only examples:

Authority to lease. Does the landlord have the authority to lease the property? The tenant wants to be assured that the landlord has the authority to lease the premises to the tenant. Is the landlord the fee owner of the premises or a sub-landlord? Does the landlord need consent to lease the premises from a lender or a superior landlord, as in the case of a sublease?

Premises. This is a description of the premises. What is included? Is there storage space and parking? Are there reserved parking spaces for the tenant's customers and employees?

Term. This is the term of the lease. What triggers commencement of the lease? When is possession of the premises available? The commencement date might be when the landlord completes the tenant's improvements, if that is required of the landlord under the lease, or when the tenant completes its improvements.

Should the lease state it is contingent upon any approvals?

Use. What is the permitted use of the premises under the lease? Will the use violate any ordinances, be inconsistent with the general uses of the property or violate any restrictive covenants in other leases?

If the premises are used for storage, what is the weight the floor can bear? If the tenant wants access to its offices after business hours, how does it arrange for access and for heating and air conditioning, as may be the case?

Who obtains permits and a certificate of occupancy for the premises, if required?

What governmental approvals are required?

Competition. If this is a retail lease, the landlord and the tenant might negotiate whether the landlord can lease to competing uses subsequent to the date of the lease between the landlord and the tenant. The tenant may want a restrictive covenant that limits the landlord's right to lease to other tenants in the future that have the same or similar type of use. For example, if the lease is for a Chinese restaurant in a shopping center, the tenant may not want the landlord to lease to another Chinese restaurant in the shopping center. A landlord cannot promise a new tenant that it will restrict the uses of an existing tenant unless the existing lease so provides.

Rent. There are issues related to both fixed rent and additional rent. Will fixed rent increase during the term? Will increases be based upon set amounts negotiated in the lease or pursuant to some standard? For example, fixed rent might increase at the beginning of each lease year by the increase in the Consumer Price Index, as defined in the lease.

Rent may also include a percentage rental based upon sales, in the case of a retail tenant or a restaurant. 'Sales' will have to be defined in the lease.

What charges are to be passed through to the tenant as additional rent? A tenant might be required to pay real estate taxes and common area expenses (CAM), or a *pro rata* share of these.

If the tenant is to pay CAM and real estate taxes, is it from the commencement of the lease or over a base period? For example, if the payment for real estate taxes is for increases over a base period, and the real estate taxes in the base period are $100 and the taxes increase after the base

period to $110, then the tenant would pay $10, or its *pro rata* share of that increase in a multi-tenanted building.

What is included in CAM? Tenants will want to limit the scope of CAM. For example, the tenant may wish to exclude the pass-through of capital expenditures, costs incurred exclusively for another tenant, and fines levied against the landlord for violations of laws and ordinances or for environmental cleanup.

Net lease. Sometimes a lease will be called a triple net lease. This is an ambiguous term, but it usually means the landlord is passing through all costs to the tenant. This is best described in detail so it is clear what costs the tenant pays and what the landlord pays, if anything.

Options. A lease might have an option to renew or an option to purchase, or a right of first refusal to purchase or lease. There are many cases that address the issue of whether an option should be honored despite failure to exercise the option in accordance with the precise terms of the lease. This is often a fact-sensitive issue. While in some cases the courts have granted relief to the tenant, for example *Brunswick Hills Racquet Club v. Route 18 Shopping Center Associates*, 182 N.J. 210 (2205) and *Sosanie v. Pernetti Holding Corp.*, 115 N.J. Super. 409, 414 (Ch. Div. 1971), equitable relief is rare. *See Brick Plaza, Inc. v. Humble Oil & Refining Co.,* 218 N.J. Super. 101 (App. Div. 1987); *Kings Supermarkets v. Stop & Shop Supermarket Company*, 2006 N.J. Super. LEXIS 2844 (App. Div. 2006).

Signage. Where can the tenant have signage? The tenant may want to be on any pylon sign on the property. The location and size on that sign are negotiated. Other signage might be on the building directory and at the entry to the premises. The parties should negotiate who pays to prepare and install the signage.

Utilities. Who provides utilities, and how are they paid for by the parties? Are there separate meters or sub-meters? If not, how are the costs allocated among tenants in a multi-tenant building? This might be based upon the square footage of the premises, but it may be unfair if other tenants have uses that generate greater gas, electric or water usage. An expert might be retained to devise a formula based upon each tenant's use.

Repairs and replacements. The lease should address who is responsible for repairs, replacements and maintenance. Each of these terms has been given different meanings through court decisions. Thus, a 'replacement' is different than a 'repair.' A tenant might agree to maintain and repair a heating and air-conditioning system (HVAC) but not to replace the system. Who maintains the roof and signage?

Often, the nature of the lease may determine the negotiating position of the parties. If the tenant is leasing the entire building, the landlord may push to make the tenant responsible for all

repairs and replacements. In a typical office building lease the landlord will not want any tenant to access the roof. Such access might void any roof warranty.

Alterations. There is also the matter of alterations. Who is responsible for alterations, additions or improvements, and at whose expense? Are alterations and improvements permitted to be made by the tenant? If the tenant knows it will be making specific alterations and improvements, the tenant should include permission for them in the lease. The landlord may ask to approve the plans for any improvements and confirm they will not affect common systems of the building.

Common area. Who removes snow and ice, and how quickly? Who repairs the parking area and the building systems?

Assignment or sublease. May the lease be assigned or sublet and, if so, on what terms? The tenant may wish to have the right to assign or sublet the premises. The landlord may wish to have absolute approval of any proposed assignment or sublet. One compromise is to provide that upon request the landlord will not unreasonably withhold or delay its consent. The parties might negotiate how long the landlord has to reject or approve a request. The landlord may want to impose minimum qualifications for any assignee or sub-tenant, such as net worth or experience. *See Jonas v. Prutaub Joint Venture*, 237 N.J. Super. 137 (App. Div. 1989), *certif. den*. 121 N.J. 628 (1990). (Refusal to consent reasonable where identity of the tenant affected the landlord's profits.)

If the lease is silent, the tenant has the right to assign or sublet without consent.

The parties may negotiate if the tenant continues to be liable under the lease after the assignment if the assignee defaults.

Fire and casualty. Typically, the parties negotiate what happens in the event of fire or casualty. Does the lease immediately end or does the landlord have time to restore the premises? Very often, if it is a substantial casualty, the lease will end. If the premises can be restored within a reasonable time, the tenant may be asked to agree to a provision giving the landlord time to do so. The parties will negotiate the period of time to restore. The landlord may want a certain number of days from when it receives insurance proceeds. The tenant will want a fixed number of days from the date of the casualty, after which it may elect to terminate the lease.

Should rent abate or abate proportionately during the period when the premises, or part thereof, cannot be used by the tenant?

Condemnation. What happens in the case of eminent domain? This clause may be subject to extended negotiation in some types of leases. How will an award be allocated where the tenant has made substantial improvements? Should the lease end in the event of partial condemnation? What is the standard? How will rent be adjusted if there is a partial taking and the lease continues?

Personal liability. A landlord might seek to limit its liability, such as limiting liability to gross negligence or willful act, and to the landlord's equity in the property of which the premises are a part.

Brokers. Is there a broker, and who pays the broker or brokers?

Default clause and remedies. Does the tenant have an opportunity to cure a default? In the event of a default, the tenant may want the landlord to give notice and an opportunity for the tenant to cure the default. The landlord will want to restrict the period of time in which the default can be cured.

The lease may set forth remedies for the parties in the event of default. Unlike a residential lease, where statutory protections apply, the terms of the lease will govern. The tenant may ask for more time to cure a non-monetary default than a monetary default. Typically, a lease will set the number of days to cure a non-monetary default subject to extension if the tenant is proceeding diligently to cure the default and it cannot be cured within the fixed number of days.

The tenant may ask for a covenant of quiet enjoyment. In such a case, if the landlord breaches the lease the doctrine of constructive eviction may be invoked. *See Reste Realty v. Cooper*, 53 N.J. 444 (1969); *JS Props., L.L.C. v. Brown & Filson*, 389 N.J. Super. 542, 548, 549 (App. Div. 2006).

Holdover. What happens if the tenant does not vacate the premises upon the expiration date of the lease? Among other things, a lease may provide tenants pay double the rent upon holdover.

Rules and regulations. Are there rules and regulations applicable to the building? The tenant should review the rules and regulations because they may, on their face, be unobjectionable, but any given tenant may have an issue. For example, in an office lease, if the rules bar cooking in the premises will the tenant be permitted to have a microwave?

Insurance. What insurance will be required of the parties? The tenant should maintain insurance covering its personalty in the premises and maintain liability insurance. The terms of the liability insurance may be negotiated—the amount, the rating of the insurance company and other elements.

The landlord may want the tenant's insurance policy to have a waiver of subrogation provision. This means that in the event the insurance company pays the tenant for a loss caused by the landlord, it will not step in the shoes of the tenant and sue the landlord. The tenant may ask for the waiver to be mutual. *See School Alliance Insurance Fund v. Fama Construction Co.*, 353 N.J. Super. 131 (Law Div. 2001), *aff'd o.b.,* 353 N.J. Super. 1 (App. Div. 2002).

The landlord may maintain property insurance and liability insurance and seek to pass through the premiums to the tenant.

Security deposit. This is a matter for negotiation. What is the amount? Nothing requires the landlord to hold the security in a separate fund or in an interest-bearing bank account, as is the case with a residential lease. When is the deposit returned to the tenant? The tenant may wish to offer a letter of credit (LC) instead of a cash deposit. The terms of the LC will be negotiated, and the tenant will work out the arrangement with its bank or other institution upon which the LC is drawn.

Nondisturbance Agreement

A lease can be terminated by a mortgagee if the landlord defaults under its mortgage. The tenant may wish to obtain an agreement in the lease that the landlord's lender will furnish a nondisturbance agreement to the tenant stating that, notwithstanding a default by the landlord under its mortgage, the lease will not be terminated so long as the tenant is not in default under its lease. Similarly, if the landlord is a sub-landlord the sub-tenant may ask that the prime landlord recognize the lease if its landlord defaults under the prime lease.

Conclusion

The foregoing illustrates the types of considerations to be addressed in negotiation of a commercial lease. The first step is to have the parties agree upon the basic business terms, such as rent, additional rent and the size and location of the premises. Once the basic terms are agreed upon, one of the parties will draft the lease and further negotiations will follow. Precise lease language is important.

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CHAPTER

7

Eviction of Commercial Tenants

by Gary Wolinetz and Luke Kealy

Virtually all leases contain a provision requiring the tenant pay rent and vacate the premises on a particular date. In a commercial setting, absent unusual circumstances, the landlord is entitled to recover possession on that date. If the commercial tenant does not vacate, it risks eviction and being assessed double rent as a holdover tenant. N.J.S.A. 2A:42-6.

When a problem arises regarding the terms of a lease, the landlord and tenant should consider whether attorneys are needed to attempt to resolve the problem and, if so, when the attorneys should become involved. If a commercial tenant is unable to pay rent, it is doubtful the tenant will have the funds to hire an attorney. Thus, even when there is a provision in a lease that allows a landlord to recover its attorneys' fees in the event of a default, a tenant who cannot afford to pay the rent will not be likely to pay a landlord's claim for attorneys' fees. In those instances where the tenant cannot afford to stay in the premises, and is willing to surrender possession to the landlord, it may make financial sense to avoid litigation expenses by agreeing that the tenant will vacate the premises and deliver them to the landlord on an agreed-upon date. This gives the tenant time to get its affairs in order and remove its property from the premises, and it saves the landlord the cost and expense of retaining an attorney, filing a complaint, proceeding to trial and, thereafter, evicting the tenant. The landlord can preserve its claim to recover the unpaid rent, but begin to mitigate its damages by trying to find a new tenant.

That said, a landlord or a tenant may not fully understand their obligations, both under a lease agreement and under law, and may require the assistance of an attorney. For example, a landlord may not be aware of the notice requirements before it can commence a summary dispossess action, or a tenant may not know whether it has a valid habitability or waiver defense. Thus, where the parties' respective rights and obligations are unclear, both parties should seek legal counsel.

Moreover, based on the specific business entity involved, a commercial landlord or tenant may or may not be compelled under the New Jersey Court Rules to retain counsel to represent it in litigation. Specifically, a corporation or limited liability company must be represented by counsel to prosecute or defend a claim. Rule 1:21-1(c). A general partnership may appear by one of its partners, and individuals may represent themselves *pro se*. Rule 1:21-1(4); Rule 6:10. A corporation or limited liability company that files papers or appears in court without counsel is likely to be directed to obtain counsel before the case continues, or have its case dismissed.

Summary Dispossess Act (N.J.S.A. 2A:18-53)

Prior to commencing eviction proceedings, a landlord must review the lease to confirm that it has properly complied with any notice requirements. An example of a notice requirement is a letter sent by regular and certified mail to a tenant advising that it is in default because it has failed to pay base rent or additional rent, known as common area maintenance charges (CAM), as required by the lease. Assuming the landlord had satisfied any notice requirements, the landlord must determine the grounds he or she intends to rely upon to evict the tenant. For example, is the landlord trying to evict the tenant because it failed to pay base rent? Is the landlord seeking to evict the tenant because it failed to pay CAM? Is the landlord trying to evict the tenant because the tenant is holding over or has breached provisions of the lease, such as violating the landlord's rules and regulations?

Whatever the reason, absent very unusual circumstances, following the service of the appropriate notices (see discussion below) a commercial landlord will file an eviction action, also known as a summary dispossess action, in the Landlord/Tenant Section of the Special Civil Part of the New Jersey Superior Court. Rule 6:1-2(a)(3). The only relief a landlord is entitled to receive in an action in the Landlord/Tenant Section is *possession* of the leased premises. Even though the amount of past due rent may be tens of thousands of dollars or more, a landlord is not entitled to obtain money damages in the Landlord/Tenant Section. The court can only award possession of the premises.

In a tenancy action, answers, counterclaims or third-party complaints, and the opportunity to conduct discovery are not permitted. A landlord seeking to obtain money damages must file a separate action in the Law Division or, more rarely, in the Chancery Division, of the New Jersey Superior Court. As discussed below, these restrictions will cause some tenants to seek to transfer an action commenced in the Landlord/Tenant Section to the Law Division. An action to evict a commercial tenant is governed by the Summary Dispossess Act. N.J.S.A. 2A:18-53, *et seq.*

In other than nonpayment of rent cases, and when required by the lease, a landlord must serve the commercial tenant with a notice to quit prior to the commencement of an eviction action within a specific time period, based on the tenancy that has been created. N.J.S.A. 2A:18-56. A landlord must also serve the commercial tenant with written notice and a demand for possession if it seeks to recover double rent because the tenant has improperly held over. N.J.S.A. 2A:42-6. Obviously,

as the termination date of a lease term approaches, the parties must determine if they want to continue in their tenancy relationship. If the answer is yes, the parties should work to either renew the existing lease, with whatever revisions are necessary, or draft an entirely new lease agreement. The parties should, of course, try to execute the renewal lease or new lease before the termination date of the prior lease, to avoid a holdover situation.

If the parties are still negotiating the terms of the renewal or new lease when the current lease expires, the tenant becomes a month-to-month tenant, subject to the terms of the expired lease. N.J.S.A. 46:8-10. If the parties cannot reach an agreement on a renewal or new lease, the landlord may still evict the commercial tenant if it serves the proper notice to quit. For a month-to-month tenancy, the landlord is obligated to serve the tenant with a notice to quit that is effective at least a full month after notice is served. N.J.S.A. 2A:18-56. For example, if a landlord wants to terminate a month-to-month tenancy that began on Aug. 1, and provides the tenant with a notice on Aug. 20, the tenancy will end on Sept. 30. Accordingly, the tenant is obligated to surrender the premises by that date and the landlord may consummate a lease with a new tenant containing a term that begins on Oct. 1.

Commencing the Summary Dispossess Action

There are three things needed to commence a summary dispossess action: 1) complaint, 2) summons, and 3) the required fees for filing the complaint and service of the complaint and summons. The complaint should plainly state the name of the landlord and tenant. The complaint should, at a minimum, plead the following: 1) the existence of a landlord/tenant relationship between the parties, 2) the address of the leased premises, 3) the terms of the lease that are implicated in the dispute, 4) how the tenant breached the lease, and 5) that the tenant is currently in possession of the leased premises and holds over and continues in possession without the landlord's consent. Note that the complaint must be verified (*i.e.*, a representative of the landlord must swear the allegations of the complaint are true).

A summons advises the tenant that it is compelled to appear in court to address the allegations of the complaint on a date certain. It will, among other things, list the names of the parties, state that the landlord is seeking to permanently remove the tenant from the premises and provide information about what the tenant should do if it cannot afford to retain an attorney. The clerk's office will complete the portion of the summons setting forth the date of the trial, the docket number of the case and the courtroom where the trial is scheduled.

Note that a summons (as well as the complaint) in a summary dispossess action is served by a Special Civil Part officer, sometimes referred to as a constable, who handles landlord/tenant actions, not a commercial process server that would be hired in a typical case. The practitioner should check with the Landlord/Tenant Section of the clerk's office to ascertain the fees for service, which depend on the distance the Special Civil Part officer must travel to effectuate service.

Finally, if not filing in person, a cover letter should be sent to the Landlord/Tenant Section of the clerk's office enclosing three copies each of the summons and complaint, and the required fees for filing and service. A check can be sent or, if the firm has an account with the county, the clerk's office can be asked to charge the account.

Motions to Remove/Transfer

Certain commercial tenancy disputes are not suitable for disposition in the Landlord/Tenant Section. For example, the summary nature of the typical eviction action may prejudice a commercial tenant who needs discovery to properly defend the case. To avoid such prejudice, a tenant may file a motion to remove a summary dispossess action and transfer it to the Law Division. *See* Rule 6:4-1(g). Once a case is transferred, the tenant has the opportunity to file an answer and any counterclaim and third-party complaint, engage in discovery, and (if not barred by the lease) demand a jury trial. All of these things are not permitted in a summary dispossess action.

Under N.J.S.A. 2A:18-60, the statute governing transfer motions, a summary dispossess case may be transferred if the court "deems it of sufficient importance." Courts have discussed the factors a court should consider in determining whether to transfer a case, the most important decision being *Morrocco v. Felton,* 112 N.J. Super. 226, 235-36 (Law Div. 1970), and, more recently, *Bloomfield Tp. v. Rosanna's Figure Salon*, 253 N.J. Super. 551, 562-63 (App. Div. 1992). The key issue to be determined by the court is whether the parties will be prejudiced by either a transfer or the denial of a transfer. *Id.* at 563. In *Bloomfield*, the Appellate Division explained that certain factors referenced in *Morrocco* were relevant in a transfer motion:

1. The complexity of the issues and the need for discovery;

2. The presence of multiple actions for possession arising out of the same transaction or series of transactions;

3. The appropriateness of class relief;

4. The need for uniformity of results if separate proceedings are simultaneously pending in the Special Civil Part and the Law Division; and

5. The need to join additional parties or claims to reach a final result. *Id.* at 562-63.

In *Bloomfield*, the Appellate Division added another factor a court evaluating a transfer motion should consider—the likelihood of another lawsuit between the parties. *Id.* at 565. In the end, practitioners representing tenants should identify and discuss as many factors as possible, and highlight the prejudice to the tenant by having the case remain in the Landlord/Tenant Section of the Special Civil Part.

Under Rule 6:4-1(g), a tenant seeking to transfer a summary dispossess action to the Law Division must file a motion with the clerk of the Special Civil Part "no later than the last court date prior to the date set for trial." The motion may be heard on the trial date or, if additional time is sought by the landlord to prepare a response, on a date set by the court. Accordingly, this means the judge deciding the transfer motion will almost invariably be the trial judge if the case is not transferred. Once the motion is filed, the Landlord/Tenant Section of the Special Civil Part cannot take any action regarding the case until the motion is decided. If the motion is not decided on the original trial date, the Special Civil Part may order the tenant to deposit rent with the court. The payment of rent into the court (or into an escrow fund established by the parties) should occur in all but the most extraordinary cases. Note that it is generally much easier to recover and transfer money from an escrow account created by one of the parties than to receive it from the court.

The Day of Trial

The Landlord/Tenant Section is required to list a summary dispossess case for trial within 30 days after it is filed. The Landlord/Tenant Section in each county will generally list cases for trial on certain days of the week. Depending upon the county, there may be more than 100 tenancy cases listed on the same day. The commercial cases and residential cases are listed together. In most residential tenancy situations, there are no attorneys involved in the cases; the individual landlord or the property manager appears on behalf of the landlord, and the residential tenants are unrepresented and appear *pro se*. In commercial tenancy cases, attorneys may be involved, depending upon whether either of the parties is required to be represented, as previously discussed above.

On the day of the trial, the judge presiding at the call of the landlord/tenant trial list will provide instructions to the landlords and tenants who come to the court regarding the law and procedure. A written copy of the instructions provided by the judge will also be made available. A Spanish version of the instructions will be given via a videotape recording and in writing in those counties with a significant Spanish-speaking population. In most counties, after the judge provides the instructions he or she will leave the courtroom, and a court clerk will call the list of cases.

When the case is called, the landlord and tenant, or their respective representatives or attorneys, will state that they are present and whether or not they are ready to proceed. A case will be marked "ready" when both the landlord and tenant are present. The court will mark a case "default" when the landlord is present, but the tenant fails to appear. The court will dismiss a case when the landlord fails to appear.

Note that if a landlord seeks to evict a tenant when it obtained title to the leased property from the tenant, or has given the tenant an option to purchase the leased property, it must remain in court to testify, even when the tenant does not appear.

Tenant Fails to Appear—Entry of Default

If a default is entered, the landlord must complete and file a certification that includes all the facts necessary to get a judgment for possession and, in a nonpayment of rent case, a statement of all charges and fees that are claimed to be due and owing from the tenant as permitted by the lease. The landlord's attorney, if there is one, must also complete and file a certification that the charges and fees, including any attorneys' fees, are permitted by law and the lease. If either the tenant or the landlord fails to appear in a case, the party in attendance should stay in court until provided additional instructions and permitted to leave. Often, a second call is made, which gives a party who appears late and misses the first call a chance to have the case marked "READY" and proceed to trial.

Settlements

Any time after a complaint is filed and a case is listed for trial, the parties may voluntarily engage in settlement negotiations and resolve their case without a trial. After the court calls the list of cases, the parties will be encouraged to meet and try to settle their cases. Often the court involves volunteers or law clerks as mediators to try to assist in the process.

A settlement is voluntary. Neither party is required to settle the case, and a party should only do so if the terms are agreeable. If a case is resolved by settlement, the parties should memorialize the terms in writing, which, if counsel is involved, can be supplemented later by a formal written agreement. The parties may also place their settlement on the record before the court, and the transcript of the settlement terms becomes evidence of the settlement that can be used, if necessary, to enforce the settlement terms.

The Trial

If the landlord and tenant appear and are unable to settle, the case will proceed to trial. Usually, the court will reach all cases on the same day they are listed.

At a trial, a commercial landlord should be prepared to demonstrate why the tenant should be removed from the premises, and that the landlord is entitled to take back possession. To do so, a representative of the landlord must testify based on either personal knowledge of the facts or his or her knowledge of the books and records of the landlord. Typically, the property manager is the landlord's primary witness.

To prove its case, the landlord must initially establish that a landlord/tenant relationship exists. Generally, this involves having the landlord present the written lease or testify that an oral lease was created. In a nonpayment of rent case, the individual who has personal knowledge of the books and records of the landlord must testify as to the total amount of rent that is due and owing. This total may include 'additional rent' charges for late fees, interest, real estate taxes and

CAM charges. The landlord should testify regarding the paragraphs of the lease that require the tenant to pay those additional amounts, and that they are identified as additional rent under the lease. Other than a nonpayment of rent case, or when required by the lease, the landlord must also present the court with copies of any notice to cease and notice to quit served upon the tenant, and proof that the required notices were properly served. Such proof may be the testimony of the person who delivered the notices, or the receipts issued by the U. S. Postal Service.

Note, however, that if the trial does not happen or the trial is not finished, the tenant may have to deposit with the clerk of the court the amount of rent to be determined by the court, no later than 4:30 p.m., in cash or money order or bank cashier's check made payable to the clerk of the Special Civil Part, rather than to the landlord. If it is deposited, the clerk will reschedule the case with a new trial date. If the tenant does not deposit the rent, a judgment for possession will be entered in favor of the landlord. Thereafter, as detailed below, the landlord will be able to have the tenant evicted by a Special Civil Part officer.

Potential Tenant Defenses

Payment of Rent

A commercial tenant may have various defenses to an eviction complaint. If the complaint is based upon nonpayment of rent, and the tenant has paid the rent, it should bring proof of the payments (*e.g.*, copies of receipts, cancelled checks, money orders or bank statements). If a tenant demonstrates it paid the outstanding rent, or pays the rent on the day of trial plus the costs of the proceedings, the court will dismiss the complaint. N.J.S.A. 2A:18-55. *See* also, *Community Realty Management, Inc. v. Harris*, 155 N.J. 212, 231 (1998).

A dispute may arise at trial if a tenant claims it paid the rent and the landlord does not have a record of the payment. As noted above, a tenant should bring to court any proof (such as receipts, cancelled checks or bank statements) evidencing that rent was paid. From the landlord's perspective, it is difficult to prove a negative. The landlord should have a person familiar with the books and records to testify that the rent was not paid. Matters often become complex if a tenant misses a payment or a landlord fails to credit a payment and the court is faced with a situation where the landlord charges late fees and interest on the 'missed' payment. Often, the party that has better records and more credible witnesses will succeed at trial.

Habitability

A frequently raised defense to an eviction action is a commercial tenant's claim that the premises were not fit for their intended use, often because the landlord did not make required repairs or perform necessary maintenance. For example, a tenant may assert that the landlord did not provide essential services such as heat, water and electricity, or allowed the leased premises to deteriorate. Water leaks or a defective roof are common defenses. In short, the tenant is claiming

the landlord breached the lease and, therefore, it no longer is required to pay the rent under the lease. A tenant asserting a habitability defense should make sure it is indeed the landlord's responsibility to make the necessary repairs at issue, and that it has served the landlord with any notices it is required to provide under the lease and provided the landlord with a reasonable opportunity to make the repairs.

Prior to trial, the tenant should advise the landlord in writing and demand that the landlord resolve the problem by a date certain. If the problem is serious, and, again, making sure the tenant has complied with all of its obligations under the lease, the tenant may consider withholding a portion or even all of the rent and paying it into an escrow account maintained by its attorney. In serious situations, the tenant may make the repairs itself and then deduct the cost of the repairs from the rent. If the tenant cannot resolve the problem, it should consider whether it has been constructively evicted from the leased premises. If so, the tenant must vacate the premises—not just threaten to leave. If it is asserting a habitability defense, the tenant should be prepared to offer proof of its actions at trial, which can include photographs, reports, invoices, cancelled checks, and written estimates. The tenant will require additional witnesses to testify regarding this evidence.

Waiver

Waiver is defined in the law as the intentional relinquishment of a known right. *A.P. Dev. Corp.*, 113 N.J. at 497. The concept of waiver often arises in commercial landlord/tenant trials. Invariably, it is a factual issue and may arise in connection with the late payment of rent. For example, if the rent is required to be paid by the first day of the month, but the landlord consistently accepts the rent when it is paid late, then the landlord may be found to have waived the right to receive timely payment in a nonpayment case.

Also, if a landlord obtains a judgment for possession, but then accepts rent from the tenant in a nonpayment case, the court may find the landlord has waived the right to evict the tenant because accepting the rent has created a new tenancy. In fact, absent the rarest of circumstances, once a landlord serves a notice to quit, he or she should refuse to accept any rent payments from the tenant. Certainly, the landlord should refuse to accept rent once a summary dispossess action has been filed, unless he or she is prepared to dismiss the action. If a landlord inadvertently accepts rent, he or she should return it immediately. A tenant who can offer proof that the landlord waived its rights may be successful in having the case dismissed.

Judgment for Possession and Warrant of Removal

If a commercial landlord is successful at trial, it will be awarded a judgment for possession. A judgment for possession gives a landlord the right to request a warrant to have a tenant evicted by a Special Civil Part officer. A landlord cannot lock out a tenant by him or herself. After the landlord completes the application to request a warrant and pays the required fee, the warrant may be issued no sooner than three business days after entry of the judgment for possession is

entered. The request for the warrant must be made within 30 days after the judgment for possession is issued; otherwise, the landlord must make an application to the court on notice to the tenant.

The warrant of removal is then served by the Special Civil Part officer on the tenant. The warrant is usually hand delivered to the tenant and, if the tenant is not present, is posted on the door of the leased premises. In a commercial eviction, the lockout can be performed at the same time the warrant of removal is served. In a residential case, the warrant must advise the tenant that a lockout is scheduled to occur after three days, and that the tenant has the right to apply for a stay of execution. N.J.S.A. 2A:42-10.16 (Fair Eviction Notice Act).

Once the Special Civil Part officer performs the lockout, the landlord can re-enter the premises, change the locks, and deny the tenant access to the premises, except for the purposes of removing the tenant's property. A tenant that tries to reenter the premises without permission will be considered a trespasser and be subject to criminal prosecution. The tenant will need to coordinate access with the landlord to recover any of its personal property.

Stopping the Eviction/Orders to Show Cause/Appeals

After the court has entered a judgment for possession, a tenant may try to make an agreement with a landlord to stop an eviction. Generally, this involves the payment of all or some portion of the unpaid rent and an agreement to vacate the premises at a later date. If the landlord makes such an agreement, it should be in writing, with a copy filed with the court. It should also include a provision that allows the landlord to continue with the eviction should the tenant default on its obligations.

If the landlord does not agree, then, even after a warrant of removal has been issued and served on the tenant, or even after the tenant has been removed by the Special Civil Part officer, the tenant may apply to the court for relief to stop the eviction or to put the tenant back in possession of the leased property. This may be accomplished by applying to the court for an order to show cause, requesting that the landlord be required to show cause as to why the judgment for possession should not be reversed and the complaint be dismissed if the tenant can show good reasons. A court may grant or deny any of these applications, and if an application is granted, the court may also establish certain conditions.

Gary K. Wolinetz is a New Jersey attorney. Luke J. Kealy is a partner at Greenbaum, Rowe, Smith, & Davis LLP. He concentrates his practice in commercial litigation, handling a wide variety of matters ranging from commercial landlord/tenant cases to real estate, construction and environmental law.

CHAPTER

8

An Overview of Rent Control

by Roberta L. Tarkan

Although the New Jersey Legislature has enacted many laws addressing the landlord/tenant relationship, there is no state law governing rent increases. Instead, the state's municipal legislative bodies may enact ordinances regulating the amount, frequency and timing of rent increases. At this time, rent control laws exist in approximately 100 New Jersey municipalities.

State statute permits the governing body of a municipality, upon a finding that "the health and safety of residents of the municipality are impaired or threatened by the existence of substandard multiple dwelling," to enact an ordinance regulating rents. *See* N.J.S.A. 2A:42-77. There is also an implied power that municipalities may enact rent control. *Caldwell Terrace Apartments, Inc. v. Borough of Caldwell Township*, 224 N.J. Super. 588 (App. Div. 1988).

An ordinance enacted by the municipality must provide for a 'public officer' often called an administrator or director, to exercise the powers prescribed by the ordinance. N.J.S.A. 2A:42-77(a). The municipality may appoint a public body, usually called a board, to handle various rent control matters as specified in the ordinance. The members of the board are local residents. Accordingly, the board is "not expected to adhere strictly to all judicial strictures in conducting hearings." *Kramer v. Board of Adj. Sea Girt*, 45 N.J. 268 (1965).

Aspects of Rent Control Ordinances

A rent control ordinance may address the ability and procedure for a tenant to obtain a decrease in rent based on a reduction in services provided by a landlord. Reduction in services covers a situation where a tenant incurs an additional cost, for example a heating bill due to a landlord's conversion of a heating system. The reduction in service may also focus on the condition of the premises, and the ordinance may require proof of housing code compliance in order to pass through the rent increase.

Annual registrations of the apartments under rent control are normal requirements of an ordinance. Owners/property managers are usually required to fill out a registration form provided by the rent control office on an annual basis and file it with the rent control office. The proof of filing and receipts for fees paid should be maintained by the owner. A filing fee is often required.

The ordinance shall include provisions that provide for hardship increases and capital improvement increases that provide for a fair return to a landlord, and surcharges based on taxes and water/sewer increases may be a part of the ordinance. The right of a landlord to apply for these increases helps the landlord in obtaining a fair rate of return. An ordinance must enable a landlord to obtain a fair rate of return in order to withstand a challenge of being confiscatory and, thus, unconstitutional.

A rent control ordinance may exclude certain buildings, for example those that are owner occupied or those with few units. Some ordinances do not contain any exclusions, in which case even a single-family house or an owner-occupied two-family home may be governed by the local rent control ordinance.

Of most importance is that a practitioner ascertain whether or not the local rent control ordinance applies to the building at issue. Reading the ordinance is primary. Obtaining additional information from the rent control officer is helpful, but should not be relied upon without backup from the ordinance or case law. Nonetheless, speaking to a rent control officer to learn the procedures followed by the rent control office and the board is recommended.

It cannot be stressed enough that the information provided herein must be viewed in the context of the rent control ordinance at issue. The term rent control is often used interchangeably with rent leveling and stabilization. Findings by the public officer or the administrator/director will, at times, require review by a rent control board. The findings may require automatic review by the board, or a dissatisfied party may be required to file an appeal to the board. Again, the ordinance should provide the procedure.

Constitutional Challenges

There are several court cases that challenge the constitutionality of a rent control ordinance.

An ordinance that is confiscatory may be successfully challenged. *See Helmsley v. Borough of Fort Lee*, 78 N.J. 202 (1978); *Brunetti v. New Milford*, 68 N.J. 576 (1975). If the ordinance provides for a mechanism for a landlord to obtain a fair rate of return, the ordinance will not be confiscatory.

In *Knight v. City of Hoboken*, 332 N.J. Super. 547 (App. Div. 2000), a provision of a regulation that provided for a time limitation for a tenant to file for a refund or credit was invalidated. The regulation was enacted by the board, not Hoboken's legislative body, the city council. The board's attempt to impose a two-year time limitation was a significant limiting condition that

only the legislative body could enact. The board may enact rules and regulations that provide procedural requirements, but the rules and regulations may not alter the legislative mandates of the ordinance. Only the legislative body that enacted the ordinance may modify it. In this case, the enabling legislation, which created the board, did not give the board power to alter the ordinance. Accordingly, the two-year limitation in the regulation was deemed *ultra vires* and, thus, null and void. Thereafter, a similar time restriction was added to the Hoboken rent control ordinance with other amendments to the ordinance. Clearly, it is much simpler to promulgate a regulation than to amend an ordinance.

The board is usually entitled to promulgate rules and regulations that impact procedural issues. Accordingly, a practitioner should be familiar with the ordinance and the rules and regulations of the municipality in which it provides legal advice. If a real estate closing involves transfer of a building with tenants, the attorney involved in the transaction should be knowledgeable on the subject of rent control in connection with the location of the building.

In most ordinances, the rent control officer will issue a finding that is deemed final if not appealed to the board within a time frame provided in the ordinance. In certain situations, the rent control officer's decision will require automatic review by the board. Once the board issues its final decision, the decision should be memorialized through a written resolution. The issuance of the resolution will normally commence the accrual of a cause of action if one takes issue with the findings. The claimant must exhaust all administrative remedies before the matter is ripe for judicial review.

The decision of the board may be appealed to the New Jersey Superior Court, Law Division. Pursuant to Rule 4:69-1 *et al*, an applicant (which would normally be the landlord or tenant) who seeks to challenge the decision of the board must file a complaint in lieu of prerogative writ. The complaint in lieu of prerogative writ should be filed with the superior court within 45 days from when the cause of action accrues. The 45-day period may be extended in the interest of justice, per Rule 4:69-6 (c).

A complaint in lieu of prerogative writ relies on the underlying record. The initial pleading requires a certification that all necessary transcripts of the local agency proceedings have been ordered. *See* Rule 4:69-4. The mechanics often involve the appellant first requesting a copy of a CD or tape of the underlying hearing and forwarding it to a licensed court reporting service for a transcript.

Pursuant to Rule 4:69-4, all actions in lieu of prerogative writ are assigned to Track IV. Despite being assigned to Track IV, the managing judge expedites the disposition by scheduling a management conference and then due dates for briefs. Discovery shall be permitted upon a showing of necessity. Because these actions rely on the underlying record, discovery is often not requested or granted. The managing judge, after receipt of briefs, will usually set the matter down for a hearing on the briefs as soon as they are filed.

Courts have remanded the cases back to the board where there is a dearth of findings or conclusions by the board. *Park Tower Apts., Inc. v. City of Bayonne*, 185 N.J. Super. 210 (Law Div. 1982).

The overcharge of rent has resulted in litigation yielding awards of compensatory damages and damages permitted under the New Jersey Consumer Fraud Act (CFA).

The CFA, which applies to landlord/tenant relationships, provides for the tripling of damages and attorney fees. In *Wozniak v. Pennella*, 373 N.J. 445 (App. Div. 2004), an aggressively litigious landlord that overcharged a tenant found itself liable for claims filed under the CFA and malicious prosecution/abuse of process. The award of attorney fees is mandatory, not discretionary.

In order to encourage construction, the New Jersey Legislature enacted N.J.S.A. 2A:42-84.6. The statute provides for an exemption of a newly constructed building. The owner claiming an exemption from a rent control ordinance must file a statement supporting the exemption with the local construction official at least 30 days prior to the issuance of a certificate of occupancy.

Federally subsidized housing preempts local rent control. *See Levin-Sagner-Orange v. Rent Leveling Board*, 142 N.J. Super. 429 (Law Div. 1976) *aff'd*, 147 N.J. Super. 303 (App. Div. 1977).

Many ordinances have been amended to include various clauses that limit a tenant's ability to seek reimbursement of the overcharge (*i.e.*, time limitation). The ordinances cannot limit one's ability to pursue a claim under the CFA. Nevertheless, without the ability to collect for damages, the tenant has no viable claim under the CFA.

In *Osoria v. West New York Rent Control Board*, 410 N.J. Super. 437, 440 (App. Div. 2009), the Appellate Division held that "neither the Anti-Eviction Act nor the municipal ordinance implicitly creates vested rights protecting tenants whose buildings are converted from non-exempt to exempt status." The *Osoria* court disapproved of holdings in *Surace v. Pappachristou*, 244 N.J. Super. 70 (App. Div. 1990) and *Chambers v. Nunez*, 217 N.J. Super. 202 (Law Div. 1986).

An eviction complaint for nonpayment of rent may only include eviction for failure to pay a legal rent due and owing under the law and lease. The court has interpreted rent control as limiting the amount of 'rent' that may be included in an eviction complaint. A nonpayment of rent complaint filed in landlord/tenant court may only include legally defined rent. A lease may define 'additional rent' to include attorney fees and late fees. However, if the rent control ordinance does not include attorney fees or late fees as permissible rent, a nonpayment of rent complaint cannot include attorney fees and late fees as part of the rent that must be paid by a tenant to prevent the entry of a judgment of possession. Jersey City rent control includes a permissible late fee of $35, but this is rare.

In summary, a practitioner must know the local ordinance in order to provide proper advice to a landlord on handling tenants living in a rent-controlled apartment.

Roberta L. Tarkan is a Jersey City sole practitioner for over 18 years, concentrating in landlord/tenant and other civil matters. She represents both landlords and tenants, as well as other parties in civil litigation.

APPENDIX

A

FORMS

FORM 1
AGREEMENT GRANTING OPTION TO LEASE

Agreement made the 26th day of January, 2018, between Larry Landlord, of New Brunswick, NJ, hereinafter called the lessor, and Tom and Tammy Tenant, of Atlantic City, NJ, hereinafter called the lessee:

It is hereby agreed between the lessor and the lessee as follows:

1. In consideration of $100 now paid by the lessee to the lessor, the receipt whereof is hereby acknowledged, the lessee shall have the option of taking a lease of the premises known as 100 Main Street, Apartment 2D, New Brunswick, NJ for a term of one year(s) at that yearly rent of $9,600.

2. Such option shall be exercisable by notice in writing by the lessee to the lessor at any time within one month(s) from the date hereof, and if and when so exercised then the lessor shall grant and the lessee shall accept a lease of the said premises for the said term, which shall commence from the date of the exercise of the option, at the said rent.

3. The lease shall be in the form as hereto attached.

4. In the event of the option being exercised the lessor shall cause the lease to be prepared in duplicate and in conformity with the said form, and the lease shall be so executed by the lessor and the lessee, respectively, whenever required by either party after the date of the exercise of the option; and from such date until the execution of the lease the parties shall be bound by the covenants and agreements to be contained therein as if the same had been actually executed.

In witness whereof, the parties hereto have hereunto set their hands and seals the day and year first above written.

_____

Landlord Signature

_____

Tenant's Signature

FORM 2
APPLICATION TO LEASE

Date: **February 17, 2018**

Landlord: **Larry Landlord**

Application for **Apartment 2D at 100 Main Street, New Brunswick, NJ**

Applicant(s): **Tom and Tammy Tenant**

Present Address: **999 South Street, Atlantic City**

Telephone No.: **(609) 555-1111**

Present Landlord: **Owen Owner**

Address: **546 Atlantic Avenue, Atlantic City**

Telephone No.: **(609) 555-2222**

Applicant(s) occupation: **stockbroker/teacher**

Business name and address: **Merrill Lynch, 1818 Main Street, New Brunswick**
New Brunswick Elementary School, 2727 North Street, New Brunswick

Business telephone No.: **(732) 555-3333/ (732) 555-4444**

References:
Atlantic County Bank, Atlantic City (609) 555-5555
National State Bank, Absecon (609) 555-6666
Owen Owner, Atlantic City (609) 555-2222

Lease Term: **one year**	Annual Rent: **$9600.00**
Beginning: **March 1, 2018**	Monthly Rent: **$800.00**
Ending: **February 28, 2019**	Security: **$1200.00**

If there is more than one Applicant the word "Applicant" shall include them.

Rent. Only a party signing this Application and the Lease and the spouse and children of that party may live in the Apartment.

Use. The Apartment will be rented to be used only as a private residence to live in.

Security. The Security shall be given to Landlord at the time Landlord delivers to Applicant a copy of the Lease signed by all parties.

Lease. The Lease shall be basically in the same form as the leases for other Apartments in the building. When the Landlord offers the Lease to Applicant, Applicant shall immediately sign and return to Landlord 2 original signed Leases.

Form 2 Continued: Application to Lease

Receipt of Payment. Applicant has deposited $800 in payment of the first one month's rent.

Applicant's failure, damages. If Applicant fails to sign the two leases or fails to pay the Security:

1. Applicant may not move into the Apartment and has no rights related to it.

2. Applicant shall be liable for Damages to Landlord in an amount equal to the total Rent for the full Term. The Damages shall be paid in the same manner as the Rent.

3. Landlord may rent the Apartment without notice to Applicant. The period of the rental may be shorter or longer than the Term.

4. Applicant shall pay Landlord all Landlord's renting expenses in addition to the Damages.

5. If Landlord rents the Apartment the Damages shall be reduced by the amount collected as rent by Landlord from the new tenant during the Term.

Failure to give possession. Landlord shall not be liable for failure to give Applicant possession of the Apartment on the beginning date of the Term. If for any reason Landlord is unable to give possession, Rent shall then be payable as of the date possession is available. The ending date of the Term shall not change.

Representations. All promises made by Landlord or Landlord's agents are in this Application. Landlord will not make any decorations or alterations in the Apartment unless specifically stated in this Application. This Application may not be changed orally.

Landlord relies on the truth of this Application. The Landlord is relying on the truth of all Applicant's statements in this Application in deciding whether to rent the Apartment to Applicant.

This is only an Application and Receipt of Deposit. This Application is subject to Landlord's approval. The Apartment is not rented until both parties have signed a Lease and Applicant is given a signed copy.

Applicant(s) _____

_____

Landlord _____

FORM 3
PLAIN LANGUAGE GENERAL LEASE — SHORT FORM

LEASE

This Lease is made on _____, 20 _____

BETWEEN the Tenant(s) _____

_____

whose address is _____
referred to as the "Tenant."

AND the Landlord _____

whose address is _____
referred to as the "Landlord."

The word "Tenant" means each Tenant named above.

The word "Tenant" means each Tenant named above.

1. **Property.** The Tenant agrees to rent from the Landlord and the Landlord agrees to lease to the Tenant the property known as _____ referred to as the "Property."
2. **Term.** The term of this Lease is for starting _____, 20 _____ and ending, _____, 20 _____. The Landlord is not responsible if the Landlord cannot give the Tenant possession of the Property at the start of this Lease. However, rent will only be charged from the date on which possession of the Property is made available to the Tenant. If the Landlord cannot give possession within 30 days after the starting date, the Tenant may cancel this Lease.
3. **Rent.** The Tenant agrees to pay $ _____ as rent, to be paid as follows: $ _____ per month, due on the _____ day of each month. The first payment of rent and any security deposit is due upon the signing of this Lease by the Tenant. The Tenant must pay a late charge of $ _____ for each payment that is more than 10 days late. This late charge is due with the monthly rent payment. Said late charge shall be considered additional rent.
4. **Use or Property.** The Tenant may use the Property only for the following purpose(s):
5. **Eviction.** If the Tenant does not pay the rent within _____ days after it is due, the Tenant may be evicted. The Landlord may also evict the Tenant if the Tenant does not comply with all of the terms of this Lease and for all other causes allowed by law. If evicted, the Tenant must continue to pay the rent for the rest of the term. The Tenant must also pay all costs, including reasonable attorney fees, related to the eviction and the collection of any moneys owed the Landlord, along with the cost of re-entering, re-renting, cleaning and repairing the Property. Rent received from any new tenant will reduce the amount owed the Landlord. Said costs, including attorney's fees, shall be considered additional rent.

FORM 3 Continued: Plain Language General Lease — Short Form

6. **Payments by the Landlord.** If the Tenant fails to comply with the terms of this Lease, the Landlord may take any required action and charge the cost, including reasonable attorney fees, to the Tenant as additional rent. Failure to pay such additional rent upon demand is a violation of this Lease.

7. **Care of the Property.** The Tenant has examined the Property, including all facilities, furniture and appliances, and is satisfied with its present condition. The Tenant agrees to maintain the property in as good condition as it is at the start of this Lease except for ordinary wear and tear. The Tenant must pay for all repairs, replacements and damages caused by the act or neglect of the Tenant or the Tenant's visitors. The Tenant will remove all of the Tenant's property at the end of this Lease. Any property that is left becomes the property of the Landlord and may be thrown out.

8. **Quiet Enjoyment.** The Tenant may remain in and use the Property without interference subject to the terms of this Lease.

9. **Validity of Lease.** If a clause or provision of this Lease is legally invalid, the rest of this Lease remains in effect.

   Parties. The Landlord and each of the Tenants are bound by this Lease. All parties who lawfully succeed to their rights and responsibilities are also bound.

   Entire Lease. All promises the Landlord has made are contained in this written Lease. This Lease can only be changed by an agreement in writing by both the Tenant and the Landlord.

   Signatures. The Landlord and the Tenant agree to the terms of this Lease. If this Lease is made by a corporation, its proper corporate officers sign and its corporate seal is affixed.

Witnessed or Attested by:

_____

_____ (seal)
Landlord

_____ (seal)
Tenant

_____ (seal)
Tenant

LEASE		Dated: _____ , 20_____ Expires on _____ m, 20_____
	Landlord to Tenant	**Rent $**

FORM 4
PLAIN LANGUAGE GENERAL LEASE — LONG FORM

LEASE

This Lease is made on _____, 20 _____

BETWEEN the Tenant(s) _____

_____

whose address is _____
referred to as the "Tenant."

AND the Landlord _____

whose address is _____
referred to as the "Landlord."

The word "Tenant" means each Tenant named above.

1. **Property.** The Tenant agrees to rent from the Landlord and the Landlord agrees to lease to the Tenant the apartment located at _____ referred to as the "Apartment."

2. **Term.** The term of this Lease is for _____ starting on _____, 20 _____ and ending _____, 20 _____. The Landlord is not responsible if the Landlord cannot give the Tenant possession of the Apartment at the start of this Lease. However, rent will only be charged from the date on which possession of the Apartment is made available to the Tenant if the Landlord cannot give possession within 30 days after the starting date, the Tenant may cancel this Lease.

3. **Rent.** The Tenant agrees to pay $ _____ as rent, to be paid as follows: $ _____ per month, due on the _____ day of each month. The first payment of rent and any security deposit is due upon the signing of this Lease by the Tenant. The Tenant must pay a late charge of $ _____ for each payment that is more than 10 days late. This late charge is due with the monthly rent payment. Said late charge shall be considered additional rent.

4. **Security Deposit.** The Tenant has deposited $ _____ with the Landlord as security that the Tenant will comply with all the terms of this Lease. If the Tenant complies with the terms of this Lease, the Landlord will return this deposit within 30 days after the end of the Lease, including any extension. The Landlord may use as much of the deposit as necessary to pay for damages resulting from the Tenant's occupancy. If this occurs prior to the Lease termination, the Landlord may demand that the Tenant replace the amount of the security deposit used by the Landlord. If the Landlord sells the property, the Landlord may transfer the deposit to the new owners for the Tenant's benefit. The Landlord will notify the Tenant of any sale and transfer of the deposit. The Landlord will then be released of all liability to return the

security deposit. The Landlord will fully comply with the Rent Security Law (N.J.S. 46:8-19 *et seq*.). This includes depositing the security deposit in an interest bearing account, and notifying the Tenant, in writing, of the name and address of the banking institution and the account number. Interest due the Tenant will be credited as rent on each renewal date of this Lease.

5. **Landlord's Agent.** The Landlord authorizes the following person(s) to manage the property on behalf of the Landlord (name[s] and address[es]):

_____

_____

6. **Use of Property.** The Tenant may use the Apartment only as a private residence for the following persons:

_____

_____

referred to as "household members".

7. **Utilities.** The Landlord will pay for the following utilities:

( ) electricity ( ) cold water ( ) hot water

( ) heat ( ) air conditioning ( ) gas

The Tenant will pay for the following utilities:

( ) electricity ( ) cold water ( ) hot water

( ) heat ( ) air conditioning ( ) gas

8. **Eviction.** If the Tenant does not pay the rent within _____ days after it is due, the Tenant may be evicted. The Landlord may also evict the Tenant if the Tenant does not comply with all of the terms of this Lease and for all other causes allowed by law. If evicted, the Tenant must continue to pay the rent for the rest of the term. The Tenant must also pay all costs, including reasonable attorney fees, related to the eviction and the collection of any moneys owed the Landlord, along with the cost of re-entering, re-renting, cleaning and repairing the Apartment. Rent received from any new tenant will reduce the amount owed the Landlord. All costs and attorney fees shall be considered additional rent.

9. **Payments by Landlord.** If the Tenant fails to comply with the terms of this Lease, the Landlord may take any required action and charge the cost, including reasonable attorney fees, to the Tenant as additional rent. Failure to pay such additional rent upon demand is a violation of this Lease.

FORM 4 Continued: Plain Language General Lease — Long Form

10. **Care of the Apartment.** The Tenant has examined the Apartment, including the living quarters, all facilities, furniture and appliances, and is satisfied with its present physical condition. The Tenant agrees to maintain the property in as good condition as it is at the start of this Lease except for ordinary wear and tear. The Tenant must pay for all repairs, replacements and damages caused by the act or neglect of the Tenant, the Tenant's household members or their visitors. The Tenant will remove all of the Tenant's property at the end of this Lease. Any property that is left becomes the property of the Landlord and may be thrown out.

11. **Repairs by Landlord.** If the Apartment is damaged or in need of repair, the Tenant must promptly notify the Landlord. The Landlord will have a reasonable amount of time to make repairs. If the Tenant must leave the Apartment because of damage not resulting from the Tenant's act or neglect, the Tenant will not have to pay rent until the Apartment is repaired. If the Apartment is totally destroyed, this Lease will end and the Tenant will pay rent up to the date of destruction.

12. **Interruption of Services.** The Landlord is not responsible for any inconvenience or interruption of services due to repairs, improvements or for any reason beyond the Landlord's control.

13. **Alterations.** The Tenant must get the Landlord's prior written consent to alter, improve, paint or wallpaper the Apartment. Alterations, additions and improvements become the Landlord's property.

14. **Compliance with Laws.** The Tenant must comply with laws, orders, rules and requirements of governmental authorities and insurance companies which have issued or are about to issue policies covering this Apartment and/or its contents.

15. **No Waiver by Landlord.** The Landlord does not give up any rights by accepting rent or by failing to enforce any terms of this Lease.

16. **No Assignment or Sublease.** The Tenant may not sublease the Apartment or assign this Lease without the Landlord's prior written consent.

17. **Entry by Landlord.** Upon reasonable notice, the Landlord may enter the Apartment to provide services, inspect, repair, improve or show it. The Tenant must notify the Landlord if the Tenant will be away for 10 days or more. In case of emergency or the Tenant's absence, the landlord may enter the Apartment without the Tenant's consent.

18. **Quiet Enjoyment.** The Tenant may live in and use the Apartment without interference subject to the terms of this Lease.

19. **Subordination.** This Lease and the Tenant's rights are subject and subordinate to present and future mortgages on the premises, which include the Apartment. The Landlord may execute any papers on the Tenant's behalf as the Tenant's attorney in fact to accomplish this.

FORM 4 Continued: Plain Language General Lease — Long Form

20. **Hazardous Use.** The Tenant will not keep anything in the Apartment which is dangerous, flammable, explosive or might increase the danger of fire or any other hazard.

21. **Injury or Damage.** The Tenant will be responsible for any injury or damage caused by the act or neglect of the Tenant, the Tenant's household members or their visitors. The Landlord is not responsible for any injury or damage unless due to the negligence or improper conduct of the Landlord,

22. **Renewals and Changes in Lease.** The Landlord may offer the Tenant a new lease to take effect at the end of this Lease. The new lease may include reasonable changes. The Tenant will be notified of any proposed new lease at least _____ days before the end of the present Lease. If no changes are made, the Tenant may continue to rent the Apartment on a month to month basis (with the rest of the Lease remaining the same). In either case the Tenant must notify the Landlord of the Tenant's decision to stay or to leave at least _____ days before the end of the term. Otherwise, the Tenant will be responsible under the terms of the new lease.

23. **Pets.** No dogs, cats, or other animals are allowed in this Apartment without the Landlord's prior written consent.

24. **Notices.** All notices provided by this Lease must be written and delivered personally or by certified mail, return receipt requested. Notices to the Landlord may be sent to the Landlord's Agent.

25. **Signs.** The Tenant may not put any sign or projection (such as a TV or radio antenna) in or out of the windows or exteriors of the Apartment without the landlord's prior written consent.

Validity of Lease. If a clause or provision of this Lease is legally invalid, the rest of this Lease remains in effect.

Parties. The Landlord and each of the Tenants are bound by this Lease. All parties who lawfully succeed to their rights and responsibilities are also bound.

Entire Lease. All promises the Landlord has made are contained in this written Lease. This Lease can only be changed by an agreement in writing by both the Tenant and the Landlord.

Signatures. The Landlord and the Tenant agree to the terms of this Lease. If this Lease is made by a corporation, its proper corporate officers sign and its corporate seal is affixed.

FORM 4 Continued: Plain Language General Lease — Long Form

Witnessed or Attested by:

_____

_____ (seal)
Landlord

_____ (seal)
Tenant

_____ (seal)
Tenant

APARTMENT LEASE	Dated: _____ , 20_____
Landlord to Tenant	***Property*** Apartment Rent per month $
	Payable Expires

FORM 5
OFFICE LEASE AGREEMENT

LANDLORD: _____

TENANT: _____

_____

_____

DATE: _____

PREMISES: A Portion of the _____ Floor

in the Building located at

_____,

New Jersey _____

Form 5: Table of Contents

THIS LEASE AGREEMENT, dated as of the _____ day of _____, between, with an address of _____, ("Landlord") and _____, with an address of _____, as ("Tenant").

W I T N E S S E T H:

ARTICLE 1. PREMISES TERM OF LEASE AND USE

Landlord has leased to Tenant and Tenant has leased from Landlord the Premises consisting of approximately _____ square feet of gross rentable area outlined on Exhibit "A" on the _____ floor ("Premises") within the office building (hereinafter "Office Building" or "Building") at _____, together with the non-exclusive right to use in common with Landlord and other tenants the common areas in the Building and property described in Exhibit A-1 ("Property") including sidewalks, parking areas, driveways, restrooms and the like. The term of the Lease is _____ years to commence on the first day of the month ("Commencement Date") following the earliest of the following: (i) the date that Landlord certifies in writing to the Tenant that the Premises are ready for Tenant's occupancy in accordance with Exhibit B ("Landlord's Work") or (ii) the date on which the Tenant shall take possession and occupy the Premises. This Lease shall terminate at midnight on the day preceding the fifth anniversary of the Commencement Date. Each twelve (12) month period after the Commencement Date shall be considered for the purposes of this agreement a lease year. For the period occurring between the date of initial occupancy and the Commencement Date of the term of this Lease Tenant shall pay Basic Rent in accordance with Article 37 hereof for its use and occupancy. The parties after the Commencement Date has been established, upon request of either party, shall execute a memorandum setting forth the Commencement Date.

The Premises shall be used by Tenant for offices and _____ in accordance with the zoning requirements applicable to the Premises and only for such use and not for any purpose or use.

ARTICLE 2. BASIC RENT AND ADDITIONAL RENT FOR PREMISES

A. Basic Rent. Tenant shall pay as Basic Rent during the Initial Term without notice, abatement setoff, deduction or demand the following: _____. During the Renewal Term of this Lease, if any, as defined in Article 56, Tenant shall pay as Basic Rent without notice, abatement, setoff, deduction or demand the following: $_____.

B. Additional Rent. All payments Tenant is required to make pursuant to this Lease in addition to Basic Rent shall constitute additional rent ("Additional Rent").

ARTICLE 3. LATE CHARGE

If Tenant fails to pay any Basic Rent or additional rent within five (5) days of the date they are due and payable, the unpaid amounts will be subject to a late payment charge equal to five (5) percent of the unpaid amounts.

ARTICLE 4. REPAIR OBLIGATIONS OF TENANT

A. Tenant shall at its cost and expense take good care of and make all necessary repairs and replacements to the interior of the Premises and shall at the Tenant's own cost and expense make all repairs and replacements resulting because of its breach of this Lease or the negligence or intentional acts of Tenant or any of its agents, servants, employees, invitees or contractors. At the end or other expiration of the term Tenant shall deliver up the Premises in good order and condition, damages by the elements and ordinary wear and tear excepted.

B. Subject to Article 4A, the Landlord shall, at its cost, maintain in good condition (i) the structural elements of the Building and the Premises, including the foundation, load-bearing and exterior walls, sub-flooring and roof; (ii) the electrical, plumbing and sewer systems; (iii) windowframes, gutters and downspouts on the Building and (iv) any heating, ventilation and air conditioning systems ("HVAC") serving the Building.

ARTICLE 5. COMPLIANCE WITH STATUTES, ORDINANCES, ETC.

Tenant, at its cost and expense, shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of the Federal, State and local government applicable to said Premises, for the correction, prevention and abatement of nuisances, violations or other grievances, in, upon or connected with the Premises or arising from the use or manner of use of the Premises during the term. Tenant shall also promptly comply with and execute all rules, orders, ordinances, and regulations of the Board of Fire Underwriters, or any other similar body, for the prevention of fires, at the Tenant's own cost and expense.

ARTICLE 6. LANDLORD'S RIGHT TO PERFORM TENANT'S COVENANTS

In case the Tenant shall fail or neglect to comply with the aforesaid statutes, ordinances, rules, orders, regulations and requirements or any of them, or in the case the Tenant shall fail or neglect to make any necessary repairs or replacements, then the Landlord or the Landlord's agents may enter the Premises and make said repairs or replacements and comply with any and all of the said statutes, ordinances, rules, orders, regulations or requirements, at the cost and expense of the Tenant and in case of the Tenant's failure to pay therefor, the said cost and expense shall be added to the next month's Basic Rent and be due and payable as additional rent at such time as the next month's Basic Rent is due and payable, or the Landlord may deduct the same from the balance of any sum remaining in the Landlord's hands. This provision is in addition to the right of the Landlord to terminate this Lease or exercise other remedies by reason of any default on the part of the Tenant.

ARTICLE 7. USE

Tenant represents and covenants that the activities to be conducted by it at the Premises are limited to utilizing same as an office and _____. Tenant shall not use or occupy or permit the Premises to be used or occupied in violation of the Certificate of Occupancy affecting the Premises. Tenant will not use the Premises to refine, store, handle, transfer, process or transport "Hazardous Substances," as such term is defined or to generate, manufacture, refine, transport, treat, store, handle or dispose of "Hazardous Substances" or "Hazardous Wastes" as such terms are defined in the Industrial Site Recovery Act N.J.S.A. 13:1K-6, et seq. ("ISRA"), and regulations promulgated thereunder. Without limiting any other restrictions contained above, Tenant further agrees it shall indemnify, defend and save harmless Landlord from all fines, suits, procedures, claims and actions of any kind arising out of or in any way connected with any spills or discharges of Hazardous Substances or Hazardous Wastes at the Premises and Building caused by Tenant which occur during the term of this Lease. Tenant's failure to abide by the terms of this paragraph shall be restrainable by injunction.

ARTICLE 8. ASSIGNMENT OR SUBLETTING

The Tenant shall not assign this Agreement or sublet the Premises without the prior written consent of Landlord and the approval of the Landlord's mortgagee if mortgagee's approval is required. An assignment shall include but not be limited to the following: (1) an assignment by operation of law; (2) a transfer of a majority of the voting stock if the Tenant is a corporation

whether by sale or as a result of consolidation, merger, reorganization or any other cause; (3) a transfer of fifty (50) percent or more of the interest in partnership if a partnership tenant; or (4) fifty (50) percent or more of the interest or control in a limited liability company or other entity. Landlord's consent to an assignment or sublease will not be unreasonably withheld, provided, however that notwithstanding such assignment or sublease, Tenant shall not thereby be relieved from responsibility hereunder, or permit or suffer the Premises or any part thereof to be occupied for other than professional offices.

The proposed subtenant or assignee shall not be a then existing tenant or occupant of the Building.

Without limiting the foregoing, in the event that as a result of any such assignment or subletting the Tenant receives rent greater than the rent required to be paid to the Landlord hereunder, the rent payments required under this Lease shall be increased by said amount. It is the intention that any and all profits as a result of an assignment or subletting shall inure to the benefit of Landlord. Without limiting any of the rights of Landlord hereunder, Landlord shall have the right but not the obligation, in the event the Tenant wishes to assign this Lease or sublease the Premises, to terminate this Lease in which event neither party shall have any obligation to the other, except such obligation that has accrued under this Lease on or before the date of termination.

Tenant shall pay as Additional Rent the reasonable cost of Landlord's attorney's fees in connection with such assignment or sublease not to exceed $_____.

ARTICLE 9. ALTERATIONS OR IMPROVEMENTS BY TENANT

No alterations, additions or improvements shall be made in or to the Premises without the consent of the Landlord, in writing, under penalty of damages and forfeiture, and all alterations, additions and improvements made by the Tenant shall, at Landlord's election, become the property of Landlord and shall remain on and be surrendered with the Premises. At Landlord's request, all such alterations, additions, and improvements shall be restored to their original condition at Tenant's expense at the termination of the Lease.

ARTICLE 10. CASUALTY

In case of damage, by fire or other cause, to the Building if the damage is so extensive as to amount practically to the total destruction of the Premises or of the Building, then, at either

party's option, this Lease shall cease and come to an end, and the rent shall be apportioned to the time of the damage. Subject to the last sentence of this Article, the Landlord shall repair the damage with reasonable dispatch after notice of damage, and if the damage has rendered the Premises untenantable, in whole or in part, there shall be an equitable abatement, diminution or reduction of the Basic Rent or other charges payable by Tenant under this Lease during the period which Tenant is deprived of use of the Premises or a portion thereof, subject to the qualification that there shall be no abatement, diminution or reduction of the Basic Rent or other charges if the damage was caused by Tenant, its agents, employees or invitees. Notwithstanding the foregoing, Landlord or Tenant may elect to terminate this Lease upon notice to the other if the Premises cannot be restored within 180 days of the date of the fire or other casualty.

ARTICLE 11. LANDLORD'S RIGHT OF ENTRY

(a) Tenant agrees that the Landlord and Landlord's agents, and other representatives, shall have the right, but not the obligation, to enter into and upon said Premises, or any part thereof at all reasonable hours for the purpose of examining the same, making such repairs or alterations therein as may be necessary for the safety and preservation thereof.

(b) The Tenant also agrees to permit the Landlord or Landlord's agents and other representatives to show the Premises upon notice to Tenant at all reasonable hours to persons or entities wishing to hire or purchase the same.

(c) Tenant shall furnish Landlord with keys and the alarm code, if an alarm is installed, to permit entry by Landlord to the Premises.

(d) Landlord shall minimize any interference with Tenant's use and possession upon entry to the Premises.

ARTICLE 12. ABANDONMENT OR EVICTION

If the Premises, or any part thereof, shall become abandoned during the Term, or should the Tenant be evicted by summary proceedings or otherwise, the Landlord or Landlord's agents and representatives may reenter the same, either by force or otherwise, without being liable to prosecution therefor; and relet the said Premises as the agent and representative of the said Tenant and receive the rent thereof; applying the same, first to the payment of such expenses as the Landlord may be put to in reentering and reletting and then to the payment of the rent and

other sums due by these presents; it being understood that the Tenant shall remain liable for any deficiencies.

ARTICLE 13. REPLACEMENT OF GLASS AND DAMAGE DUE TO TENANT'S NEGLIGENCE

Landlord shall replace any and all broken plate glass in the Building perimeter windows. Damage and injury to the perimeter window glass, caused by the carelessness, negligence or improper conduct on the part of the Tenant or the Tenant's servants, agents, employees or contractors shall be repaired by Landlord but at the cost and expense of Tenant.

ARTICLE 14. OBSTRUCTION OF PREMISES

Tenant shall neither encumber, nor obstruct the sidewalk in front of, entrance to or halls and stairs of said Building, other common areas, parking areas or driveways, nor allow the same to be obstructed or encumbered in any manner.

ARTICLE 15. SIGNS

The Tenant shall neither place, nor cause nor allow to be placed, any sign or signs of any kind whatsoever at, in or about the Premises except in or at such place or places as may be indicated by the Landlord and consented to by Landlord in writing. In case the Landlord shall deem it necessary to remove any such sign or signs in order to paint or to make any other repairs, alterations or improvements in or upon the Premises or the Building, the Landlord shall have the right to do so, providing the same be removed and replaced at the Landlord's expense whenever the said repairs, alterations or improvements have been completed.

ARTICLE 16. LANDLORD'S NONLIABILITY FOR PROPERTY DAMAGES

Landlord shall not be liable for any damage to property caused by or resulting from steam, electricity, gas, water, rain, ice or snow, or any leak or flow or flooding from or into any part of the Premises or from any property damage or injury resulting or arising from any other cause or happening whatsoever.

ARTICLE 17. SUBORDINATION

This Lease shall not be a lien against the Premises in respect to any mortgages that are now on or that hereafter may be placed against said Premises, and that upon recording, such mortgage or mortgages shall have preference and precedence and be superior and prior to this Lease irrespective of the date of recording and the Tenant agrees to execute any instrument without cost, which may be deemed necessary or desirable to further effect the subordination of this Lease to any such mortgage or mortgages. A refusal to execute such instruments shall entitle the Landlord, or the Landlord's assigns and legal representatives to the option of canceling this Lease without incurring any expense or damage, and the term hereby granted is expressly limited accordingly. In the event that Landlord procures mortgage loans or refinances existing mortgage loan on said Premises, Tenant agrees to furnish to Landlord from time to time on request, copies of its most recent financial statements prepared by a certified public accountant. Landlord may provide copies of same to any mortgagee.

ARTICLE 18. SECURITY

The Tenant shall pay to Landlord upon Lease execution the sum of $_____("Security Deposit") which Landlord is to retain as security for the faithful performance of all of the covenants, conditions and agreements to this Lease, but in no event shall Landlord be obligated to apply same on rents or other charges in arrears or damages for the Tenant's failure to perform said covenants, conditions and agreements; the Landlord may so apply the security at its option; and the Landlord's right to the possession of the Premises for nonpayment of rent or for any other reason shall not in any event be affected by reason of the fact that Landlord holds this security.

The Security Deposit if not applied toward the payment of rent in arrears or to compensate Landlord for Tenant's failure to observe the conditions and agreements of this Lease shall be returned without interest to the Tenant when this Lease is terminated, according to these terms. In no event is the Security Deposit to be returned until the Tenant has vacated the Premises and delivered possession to the Landlord.

In the event that the Landlord repossesses itself of the Premises because of the Tenant's default or because of the Tenant's failure to carry out the covenants, conditions and agreements of this Lease, the Landlord may apply the Security Deposit to all damages suffered by Landlord. The Landlord shall not be obligated to keep the Security Deposit as a separate fund but may mix the

Security Deposit with its own funds. This Security Deposit under the lease shall not be mortgaged, assigned, pledged or encumbered by Tenant without the written consent of Landlord.

In the event of a bona fide sale of the Property the Landlord shall have the right to transfer the Security Deposit to the vendee for the benefit of the Tenant and Landlord shall be considered released by the Tenant of all liability for the return of such security; and the Tenant agrees to look solely to the new Landlord for the return of the Security Deposit, and it is agreed that this shall apply to every transfer or assignment made of the Security Deposit to the new Landlord.

ARTICLE 19. INSURANCE COVERAGE RATES

In the event that Tenant's occupancy causes any increase in premium for the fire and extended coverage insurance rates on the Premises or the Building, Tenant shall pay, as additional rent, the additional premiums, on said fire and extended coverage insurance.

Tenant will not do anything in the Premises, or bring anything into said Premises, or permit anything to be brought into said Premises or to be kept therein, which will increase the rate of fire insurance on the Premises or Building.

ARTICLE 20. BANKRUPTCY/INSOLVENCY AND DEFAULT OF TENANT

If during the term of this Lease, (a) Tenant shall make an assignment for the benefit of creditors, or (b) a voluntary petition be filed by Tenant under any law having for its purpose the adjudication of Tenant as a bankrupt, or the extension of time of payment, composition, adjustment, modification, settlement or satisfaction of the liabilities of Tenant or the reorganization or liquidation of Tenant, or (c) a receiver be appointed for the property of Tenant by reason of the insolvency or alleged insolvency of Tenant, or if (d) the State or federal government or any officer thereof or duly authorized Trustee or Receiver shall take possession of the business or property of Tenant by reason of the insolvency or alleged insolvency of Tenant, or if (e) an involuntary petition be filed against Tenant under any law having for its purpose the adjudication of Tenant a bankrupt, or for the liquidation of Tenant; and except with respect to items (a) and (b), supra, of this Section 1, which shall be noncurable events of default, if Tenant shall not within sixty (60) days thereafter, remove, have dismissed and/or cure any of the foregoing. In such event Landlord may give Tenant notice of a default under this Lease and if, within thirty (30) days after such notice Tenant shall still have not removed and/or cured any of the foregoing; then the occurrence of any such event

shall be deemed a breach of this Lease and this Lease shall, upon the happening of any of said events and at the election of Landlord, be terminated and Tenant (or such Receiver or Trustee as the case may be) will then quit and surrender the Premises to Landlord, but Tenant shall remain liable as hereinafter provided. If any of the aforesaid events occur prior to the Commencement Date hereof, this Lease shall be ipso facto terminated. Landlord reserves the right to file a claim against any assignee, receiver or trustee of or for the Premises for damages and for loss of rent, for the full term of the Lease or otherwise, which Landlord may suffer, as a result of the foregoing.

If, during the term of this Lease, Tenant shall default in performance of any of the covenants of this Lease (other than the covenants for the payment of Basic Rent or Additional Rent), or if the Premises become abandoned, then in any event Landlord may give to Tenant notice of any default or of the happening of any contingency in this Article referred to, and if at the expiration of thirty (30) days after receipt of such notice the default or the contingency upon which said notice was based shall continue to exist and Tenant is not diligently proceeding to cure same, Landlord, at its option, may terminate this Lease, and upon such termination Tenant will quit and surrender the Premises to Landlord, but Tenant shall nonetheless remain liable under the terms and conditions hereof as herein provided.

If Tenant shall default in the payment of the Basic Rent or Additional Rent and if such default shall continue to five (5) days after notice thereof from Landlord, Landlord may immediately thereafter terminate this Lease but Tenant shall nonetheless remain liable under the terms and conditions hereof as herein provided.

Upon any termination of this Lease, Landlord may immediately or at any time thereafter reenter the Premises and remove all persons and all or any property therefrom either by summary dispossess proceedings or by any suitable action or proceedings at law and may repossess said Premises together with all additions, alterations and improvement thereto, without such reentry and repossession working a forfeiture or waiver of the Basic Rent and additional rent to be paid and the covenants to be performed by Tenant during the full term hereof. In the event of termination of this Lease by reason of the occurrence of any of the events described in this Article, or in the event of the termination of this Lease by summary dispossess proceedings or under provisions of law now or at any time hereafter in force by reason of or based upon or arising out of a default under or breach of this Lease on the part of Tenant, or upon Landlord's recovering possession of the Premises in any circumstances whatsoever, whether with or without legal proceedings, by reason of or based upon or arising out of a default under or breach of this Lease

on the part of Tenant, Landlord may, at its option, at any time and from time to time relet the Premises, or any part or parts thereof, for the account of Tenant or otherwise, and receive and collect the rents therefor, applying the same first to the payment of such expenses as Landlord may have incurred in recovering possession of the Premises, including the legal expenses and reasonable attorneys' fees and expenses of such recovery, and including all expenses of putting the same into good order or condition or preparing or altering the same for rerental and all other expenses, commissions and charges paid, assumed or incurred by Landlord in reletting the Premises or in connection with a termination of this Lease by reason of Tenant's default and then to the fulfillment of the covenants of Tenant hereunder. Any such reletting herein provided for may be, at Landlord's option, for the remainder of the term of this Lease or for a longer or shorter period and/or for a higher or lower rent and/or with the granting of concessions. In any such case and whether or not the Premises, or any part thereof be relet, Tenant shall pay to Landlord the Basic Rent, additional rent and all other charges required to be paid by Tenant pursuant to this Lease up to the time of such termination of this Lease or of such recovery of possession of the Premises by Landlord, as the case may be, together with such expenses as Landlord may incur for attorneys' fees, brokerage fees and the cost of putting the Premises in good order or for preparing same for rerental, and thereafter Tenant covenants and agrees, if required by Landlord, to pay Landlord until the expiration date of the term of this Lease, as herein provided, as and for liquidated damages the equivalent of the amount of all the Basic Rent reserved herein, additional rent and all other charges required to be paid by Tenant, less the monthly net avails of reletting, if any, and the same shall be due and payable by Tenant to Landlord on the several rent days herein specified, that is to say, upon each of such rent days, Tenant shall pay to Landlord the amount of the deficiency then existing. Such liquidated damages shall be computed on a monthly basis and there shall be added to the said deficiency such expenses as Landlord may incur in connection with reletting, such as legal expenses, attorneys' fees, brokerage, advertising, and for keeping the Premises in good order or for preparing the same for reletting. Nothing herein contained shall imply or impose upon Landlord any duty to relet the Premises in order to mitigate damages. Landlord shall be entitled to retain any overage received as a result of its reletting of the Premises and Tenant shall have no interest therein.

No expiration or termination of the Lease term pursuant to Sections 1,2,3 or 6 of this Article or by operation of law, or otherwise (except as expressly provided herein), and no repossession of the Premises or any part thereof pursuant to Section 4 of this Article, or otherwise, shall relieve Tenant of its liabilities and obligations hereunder, all of which shall survive such expiration, termination or repossession.

All sums paid by Landlord and all necessary and incidental costs and expenses incurred by Landlord in connection with the performance of any act by Landlord after Tenant default, together with interest computed thereon at the rate which shall be two (2%) percent per annum in excess of the prevailing interest rate announced by _____ or any successor bank, as its prime or base rate, ("Prime"), which interest rate is to be adjusted as Prime fluctuates from time to time (or the maximum legal rate of interest then prevailing, whichever shall be less), from the date of making of such expenditure by Landlord shall be deemed additional rent hereunder and, unless otherwise expressly provided, shall be payable to Landlord upon demand or at the option of Landlord, may be added to Basic Rent or additional rent then due or thereafter becoming due under this Lease, and Tenant covenants to pay any such sum or sums, with interest as aforesaid, and Landlord shall have, in addition to any other right or remedy, the same rights and remedies in the event of nonpayment thereof by Tenant as in the case of default by Tenant in the payment of Basic Rent.

If this Lease shall terminate by reason of the occurrence of any default of Tenant or any contingency mentioned in this Article, Landlord shall at its option and election be entitled, notwithstanding any other provision of this Lease, or any present or future law, to recover from Tenant or Tenant's estate (in lieu of all claim against Tenant relating to unpaid Basic Rent or additional rent), as damages for loss of the bargain and not as a penalty, a lump sum which at the time of such termination of this Lease equals the then present worth of the Basic Rent, such lump sum being discounted to the date of termination at the rate of six (6%) percent per annum, or the maximum amount which may be allowed by statute or rule of law, whichever is less. Alternatively, Tenant shall pay to Landlord the Basic Rent and additional rent required to be paid by Tenant up to the time of such termination, and thereafter until the end of what would have been the Term in the absence of termination less the rentals received pursuant to any reletting. Tenant also shall be liable to Landlord for, and shall pay to as and for liquidated and agreed damages, for Tenant's default, the Landlord's costs and expenses in performing any obligations of Tenant and Landlord's cost and expenses incurred in connection with any reletting. If the Premises or any part thereof shall be relet by the Landlord for a period including the unexpired term of this Lease or any part thereof, before the presentation of proof of such liquidated damages to any court, commission, or tribunal, the amount of rent reserved on such reletting shall be deemed to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting. Nothing herein contained shall limit or prejudice Landlord's right to prove and obtain as liquidated damages arising out of such breach or termination the maximum amount to be allowed by or under any such statute or rule of law which may govern the proceedings in

which such damages are to be proved whether or not such amount be greater, equal to, or less than the amount of the excess of the Basic Rent over the rental value referred to above.

No receipt of payment by Landlord from Tenant, after the termination of this Lease, as herein provided, shall reinstate, continue to extend the term or operate as a waiver of the right of Landlord to recover possession of the Premises, it being agreed that, upon termination, any and all payments collected shall be on account of Tenant's obligations hereunder.

Tenant hereby expressly waives the service of notice of intention to reenter the Premises as provided for in any statute, or the necessity to institute legal proceedings to that end, and also waives any and all right or redemption in case Tenant shall be dispossessed by a court. The terms "enter," "reenter," "entry," or "reentry," as used in this Lease are not restricted to their technical legal meaning.

ARTICLE 21. ABANDONMENT OF TRADE FIXTURES OR OTHER PROPERTY

If after default in payment of Basic Rent or Additional Rent or violation of any other provision of this Lease, or upon the expiration of this Lease or upon an abandonment of the Premises by Tenant, the Tenant moves out or is dispossessed, Tenant shall not be permitted to remove any trade fixtures or other property from the Premises until said default or violation is cured. Should said default or violation not be cured within one month of its occurrence, and/or upon abandonment of the Premises said fixtures shall become the property of Landlord. In the event Tenant does not remove any of its trade fixtures Landlord shall have the right to remove and dispose of same or store same and charge the Tenant the cost thereof.

ARTICLE 22. STRICT PERFORMANCE

The failure of either party to insist upon strict performance of any of the covenants or conditions of this Lease or to exercise any option herein conferred in any one or more instances, shall not be construed as a waiver or relinquishment for the future of any such covenants, conditions or options, but the same shall be and remain in full force and effect.

ARTICLE 23. REENTRY OF LANDLORD

In the event that the relation of the Landlord and Tenant may cease or terminate by reason of the reentry of the Landlord under the terms and covenants contained in this Lease by the ejectment

of the Tenant by summary proceedings or otherwise, or after the abandonment of the Premises by the Tenant, it is hereby agreed that the Tenant shall remain liable for all unpaid sums covering the balance of said term and shall pay said amounts promptly.

ARTICLE 24. CONDEMNATION

If the entire Building shall be acquired or condemned by eminent domain proceedings for any public or quasipublic use or purpose, then and in that event, the term of this Lease shall cease and terminate from the date of title vesting in such proceeding or agreement. If only a portion of the Building shall be so acquired or condemned, this Lease shall cease and terminate at Landlord's option. If any portion of the Premises is taken and as a result Tenant is unable to conduct its business at the Premises, Tenant may elect to cancel this Lease within 90 days after such taking by giving notice to that effect to Landlord. If the option is not exercised by an equitable adjustment of the rent payable by Tenant for the remaining portion of the Premises shall be made. In the event of termination hereunder, Tenant shall have no claim against Landlord for the value of any unexpired term of the Lease. Tenant shall have no claim against Landlord, other than the adjustment of rent as hereinabove mentioned, or be entitled to any portion of any amount that may be awarded as damages or paid as a result of such proceedings or as the result of any agreement made by the condemning authority with Landlord.

Tenant may make a claim in a separate proceeding for its moving expenses and the taking of Tenant's improvements, personal property and fixtures belonging to Tenant provided such does not diminish Landlord's award.

ARTICLE 25. DELAY IN PERFORMANCE

The obligation of Tenant to pay rent hereunder and perform all of the other covenants and agreements hereunder on the part of Tenant to be performed shall not be affected, impaired or excused because Landlord is unable to supply or is delayed in supplying any service expressly or impliedly to be supplied or is unable to make or is delayed in making any repairs, additions, alterations or decorations or is unable to supply or is delayed in supplying any equipment or fixtures if Landlord is prevented or delayed from so doing by reason of governmental preemption in connection with a National Emergency declared by the President of the United States or in connection with any rule, order or regulation of any department or subdivision thereof or of any governmental agency or by reason of the inability to obtain any materials, services or financing

or by reason of war, invasion, rebellion or other emergency or by reason of sabotage, strikes, labor disputes, civil commotion, fire or other casualty, Acts of God or causes beyond Landlord's reasonable control.

ARTICLE 26. LIMITATION OF LANDLORD'S LIABILITY

The term "Landlord" as used in this Lease, so far as covenants and/or obligations on the part of Landlord are concerned, shall be limited to mean and include only the owner or owners at the time in question of the fee of the Premises and in the event of any transfer or transfer of the title to such fee Landlord herein named (and in the case of any subsequent transfers or conveyances, the then grantor) shall be automatically freed and relieved from and after the date of such conveyance or transfer of all liability for the performance of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed, provided that any funds in the hands of such Landlord or the then grantor at the time of such transfer, in which Tenant has an interest, shall be turned over to the grantee and any amount then due and payable to Tenant by Landlord or the then grantor under any provisions of this Lease, shall be paid to Tenant, it being intended hereby that the covenants and obligations contained in this Lease on the part of Landlord shall, subject as aforesaid, be binding on Landlord, its successors and assigns, only during and in respect of their respective successive periods of ownership.

Anything contained in this Lease to the contrary notwithstanding, Tenant agrees that it shall look solely to the estate and property of Landlord in the Premises and the Building for the collection of any judgment requiring the payment of money by Landlord or requiring the Lease in the event of any default or breach by Landlord with respect to any of the terms, covenants or conditions of this Lease to be observed and/or performed by Landlord (subject always, however, to the prior rights of any mortgagee of the Premises and the Building), and no other assets of Landlord whatsoever shall be subject to levy, execution or other procedures for the satisfaction of Tenant's remedies.

Without in any manner limiting the generality of the foregoing, it is specifically understood and agreed by and between the parties hereto that no officer, director, stockholder or agent of any corporate entity landlord shall have personal or individual liability pursuant hereto nor shall any partner of a partnership Landlord have any personal or individual liability pursuant hereto nor shall the individual proprietor of any individual proprietorship landlord have any personal or individual liability pursuant hereto.

ARTICLE 27. DELIVERY OF POSSESSION

Unless otherwise provided in this Lease, the Premises will be delivered to Tenant as soon as any improvements to the Premises to be completed by Landlord have been completed and the parties will cooperate with one another to expedite the completion of said improvements.

ARTICLE 28. INSURANCE

A. Throughout the term hereof, Tenant shall, at its own cost and expense, provide and keep in force the following types of insurance:

(a) Commercial General Liability Insurance written on an "occurrence" basis insuring both Landlord and Tenant, as their interests may appear, against claims for death and bodily injury in or about the Premises in amounts of $_____ for bodily injury and $_____ for property damage. The aforesaid insurance shall be increased upon the reasonable request of the Landlord to maintain customary levels during the term of the Lease;

(b) Fire and extended coverage insurance covering the Tenant against loss or damage by fire or other risks in an amount not less than one hundred (100%) percent of the full replacement cost of all furnishings, equipment, trade fixtures, personal property, and other contents of the Premises;

(c) Workers' compensation insurance and employer's liability insurance covering employees and persons in an amount no less than required by the laws of the State of New Jersey;

(d) All policies will be issued by insurance companies authorized to do business in New Jersey and have a rating of Best's insurance Guide A and (vii) or better.

B. Tenant shall give Landlord a certificate of insurance issued by the insurance company for each policy required to be maintained under the Lease to be furnished to Landlord prior to Tenant's occupancy of the Premises.

C. Landlord shall not be liable for any damage by fire or other casualty included in the insurance coverage required to be maintained pursuant to this Lease or maintained by Tenant, no matter how caused, it being understood Tenant will look solely to its insurance company for reimbursement.

D. All insurance carried by Tenant as to the Premises shall provide that the insurer waives all rights of subrogation against Landlord or any of its agents, servants or employees.

ARTICLE 29. COMMISSION

Tenant represents that it has not contacted or dealt with any real estate broker, agent or salesman or persons regarding the within lease who is entitled to a commission and agrees that should any broker, agent or sales person make claim to a commission in connection with this transaction as a result of acting on Tenant's behalf Tenant shall save and hold harmless Landlord from any such claim or shall, at Tenant's cost and expense defend against any such claims.

ARTICLE 30. INDEMNIFICATION OF LANDLORD

Tenant agrees to protect, defend, indemnify and save harmless Landlord and its agents, servants and employees against and from any and all claims arising from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed, pursuant to the terms of the Lease or any act of negligence of Tenant, or any of its agents, contractors, servants, employees or licensees, or arising from any accident, injury or damage whatsoever caused to any person (other than through the fault of Landlord or its agents) occurring during the term of this Lease or in respect thereto, and from and against all costs, expenses and liabilities incurred in respect thereto or about any such claim or act or proceeding brought thereon; and in case any action or proceeding be brought against Landlord or its agents, servants or employees by reason of any such claim, Tenant upon notice from Landlord covenants to resist or defend such action or proceeding by counsel reasonably satisfactory to Landlord at Tenant's sole cost and expense.

ARTICLE 31. SALE OF PREMISES

In the event of any sale of the Property the provisions of this Lease shall remain in full force and effect and the successor shall succeed to the rights and obligations hereunder of Landlord.

ARTICLE 32. OPERATING COSTS

Tenant for each lease year during the Term shall pay, as additional rent, _____% (said percentage is hereinafter referred to as Tenant's "Proportionate Share") of "operating costs" due and payable with respect to the Building and Property of which it is a part.

Landlord's "operating costs" shall be those of operating and maintaining the Building and Property in a manner deemed by Landlord reasonable and appropriate for the best interests of the tenants in the Building, including without limitation, the following:

1. All costs and expense directly related to the Office Building of operating, repairing, lighting, cleaning, insuring, removing snow, ice and debris, policing and regulating traffic in the area immediately adjacent to the Office Building and depreciation of machinery and equipment used for such operation.

2. All costs and expense of replacing, repairing and maintaining paving, parking areas, curbs, walkways, landscaping (including replanting and replacing flowers and other planting but not the initial landscaping and plantings to be made by Landlord), drainage and lighting facilities in the Building and area immediately adjacent thereto.

3. Sewer and water, including water used in fire prevention equipment.

4. Window cleaning and janitor services, including janitor equipment and supplies, and all costs of garbage and trash removal.

5. Maintenance and repair of elevators, rest rooms, lobbies, hallways and other common areas of the Building.

6. Painting, decoration and carpeting of all common areas in the Building.

7. Insurance costs.

8. The cost of utilities including but not limited to electricity used in the common areas of the Building and appurtenant facilities.

9. Supplies and materials used in the Building.

10. All other expenses which Landlord has as an expense of maintaining, operating or repairing the Building and any pertinent facilities.

Within 60 days after the end of each lease year including the last lease year of the term or renewal term, as the case may be, Landlord shall furnish a statement to Tenant in the amount of operating costs due and payable for the lease year. Tenant's liability for its Proportionate Share for such year shall be due in full as soon as the bill therefor is received. It is understood that all additional costs as set forth shall be maintained on a lease year basis.

In each lease year the estimated operating expenses as defined herein shall be prorated and added to the rental. The operating expenses shall be estimated by Landlord and paid by Tenant in twelve (12) equal monthly installments during each lease year along with the Basic Rent due monthly under this Lease and shall be due and payable at the same time as said monthly payments. When the actual operating expenses are calculated at the end of each lease year, any increase due to Landlord above the estimated monthly payments shall be paid to Landlord or if there has been an overpayment by Tenant based upon the estimated monthly payments same shall be refunded to Tenant for the lease year in question. This covenant shall survive the expiration or termination of the Lease.

ARTICLE 33. REAL ESTATE TAXES

(a) Tenant will during the Term pay its Proportionate Share of Real Estate Taxes as defined herein assessed against the Building and the Property of which it is a part during the Term of this Lease.

"Real Estate Taxes" will include: (1) any form of tax or assessment (including any so-called "special" assessment), license fee, license tax, business license fee, business license tax, commercial rental tax, levy, charge, penalty, or tax, imposed by any authority having the direct power to tax, including any city, county, state, or federal government, or any school, lighting, water, drainage, or other improvement or special district, against the Premises, the Building, or Property; (2) any tax on Landlord's right to rent the Premises or against Landlord's business of leasing the Premises; and (3) any assessment, tax, fee, levy, or charge in substitution, partially or totally, of or in addition to any assessment, tax, fee, levy, or charge previously included within the definition of Real Estate Taxes that may be imposed by governmental agencies for services such as fire protection, street, sidewalk and road maintenance, refuse removal, and for other governmental services formerly provided without charge to property owners or occupants. All new and increased assessments, taxes, fees, levies, and charges will be included within the definition of Real Estate Taxes for purposes of this Lease. "Real Estate Taxes" will not include Landlord's federal or state income, franchise, inheritance, or estate taxes.

(b) Tenant shall pay to the Landlord with the monthly Basic Rent one-twelfth (1/12th) of the estimated annual Real Estate Taxes. As soon as such information is available, Landlord will furnish Tenant a written statement showing the Real Estate Taxes for the calendar year. Within fifteen (15) days following such statement, Tenant will pay Landlord its Proportionate Share as defined in this Article of the actual Real Estate Taxes for the subject calendar year. Tenant will thereafter commence payment to the Landlord of one-twelfth (1/12th) of the actual Real Estate Taxes by adding that amount to the regular monthly Basic Rent installments. The installments will continue in said amount until Landlord gives Tenant the next written notice calculating the actual Real Estate Taxes for future calendar years, to which the same procedures for payment will apply. If the total payment by Tenant to Landlord for any calendar year is found at year end to vary from the actual Real Estate Taxes as Tenant's Proportionate Share, Tenant will pay Landlord any deficiency upon notice of the actual amount, and Landlord will credit any excess to the next succeeding installments becoming due. Any such excess in the last year of this Lease will be refunded by Landlord to Tenant within thirty (30) days after the expiration of the Lease, but only if there is no Tenant default and Tenant has vacated the Premises.

Even though the Term of this Lease has ended and Tenant has vacated the Premises, when the final determination is made of Tenant's Proportionate Share of Real Estate Taxes for the calendar year in which this Lease ends, Tenant will pay any increase due within thirty (30) days after delivery of a statement.

ARTICLE 34. TENANT UTILITIES

Tenant shall have utilities which are separately metered for the Premises put in its name. Tenant shall pay utilities separately metered for the Premises directly to the utility companies. [Note: Identify utilities to the Premises.]

ARTICLE 35. LANDLORD'S SERVICES

Landlord shall furnish the services for which the Building is equipped, as set forth herein below, to the extent that then existing facilities for such services permit, except that heat and air conditioning and electricity for common areas, if any, shall only be required to be furnished between the hours of 8:00 A.M. and 6:00 P.M. Monday through Friday (Saturdays, Sundays and Holidays excluded), and when, in the sole judgment of Landlord, the state of the weather requires.

Landlord shall furnish, supply and maintain the following: (a) heat for common areas (b) water (c) window cleaning (d) electricity for lighting or air conditioning for common area (e) air conditioning system, including operating and maintenance for common areas (f) janitorial services for common areas (g) snow and ice removal and (h) refuse removal. This shall not limit Tenant's obligation to pay for a portion of said services as provided elsewhere in this Lease.

Tenant shall furnish its own janitorial services for the Premises and remove its refuse to a location specified by Landlord.

Landlord reserves the right to suspend temporarily any service for the purpose of inspection, repair or replacement or improvement of facilities for the same. In the event of any cessation of any service herein provided, Landlord agrees to use its best efforts to restore the same as promptly as possible; provided, however, that failure to furnish any service hereunder shall not be construed as a constructive eviction of Tenant, shall not justify Tenant in failure to perform any of Tenant's obligations under this Lease, and shall not give Tenant any claim against Landlord for damages for failure to furnish such service. Tenant shall have access to the Building seven (7) days a week, 24 hours a day. In the event that in connection with said access Tenant requires HVAC or electric for its space beyond that which otherwise would be provided by Landlord after normal business hours Tenant shall pay the direct cost of said services to the extent that they are clearly and separately identifiable. Landlord will notify Tenant from time to time as to what the extra hour usage will be. The amount set by Landlord shall be the same until subsequently changed by Landlord.

ARTICLE 36. NOTICES

Any notice to Landlord shall be by written notice sent by Registered or Certified Mail in a sealed, postpaid envelope, addressed to the Landlord at the address set forth at page 1 and to Landlord's mortgage, if so requested by Landlord or the mortgagee. Any notice to Tenant shall be by written notice sent by Registered or Certified Mail in a sealed, postpaid envelope, addressed to _____ _____.

The above addresses may be changed at any time hereafter by giving notice in the manner provided.

ARTICLE 37. PRORATION OF RENT

In the event that the Tenant's occupancy commences other than the first day of a month, Tenant shall, together with the first payment during the Lease, pay to the Landlord $_____ per day for each day preceding the first full calendar month of the term of this Lease.

ARTICLE 38. QUIET ENJOYMENT

Landlord covenants that the said Tenant on paying the said yearly rent, and performing the covenants contained in this Lease, shall and may peacefully and quietly have, hold and enjoy the said Premises for the term aforesaid, provided however, that this covenant shall be conditioned upon the retention of title to the Premises by the Landlord.

ARTICLE 39. COVENANTS TO BIND PARTIES

It is further understood and agreed, subject to limitation on assignment contained herein, that the covenants and agreements herein contained are binding on the parties hereto and upon their respective successors, heirs, executors, administrators and assigns.

It is further expressly agreed that the words used in the singular shall include words in the plural where the text of this instrument so requires.

ARTICLE 40. WAIVER OF SUBROGATION

Tenant waives all right of recovery against Landlord, its agents, servants or employees, for any loss, damage or injury of any nature whatsoever to property for which Tenant is insured. Tenant shall obtain from its insurance carrier waivers of subrogation rights under its policies which shall be included with the terms of the policies and will furnish evidence of such waiver upon request.

ARTICLE 41. MECHANIC'S LIENS

Tenant shall not suffer or permit any mechanic's lien to be filed against the fee of the Premises, nor against the Tenant's leasehold interest therein by reason of work, labor services or materials supplied or claimed to have been supplied to Tenant or anyone holding the Premises or any part thereof through or under Tenant and agrees to indemnify Landlord against such liens. If any such mechanic's lien shall at any time be filed against the Premises, Tenant shall within 15 days after

notice of the filing thereof, cause the same to be discharged of record; provided, however, that the Tenant shall have the right to contest the amount or validity, in whole or in part, of any such lien by appropriate proceedings but in such event, Tenant shall notify Landlord in writing and if requested by Landlord shall promptly bond such lien with a surety company satisfactory to Landlord. Tenant shall prosecute such proceedings with all due diligence and dispatch.

Nothing herein contained shall be construed as consent on the part of Landlord to subject the estate of the Landlord to liability under the Mechanic's Lien Law of the State of New Jersey, it being expressly understood that the Landlord's estate shall not be subject to such liability.

ARTICLE 42. CERTIFICATES BY TENANT

Tenant agrees at any time and from time to time upon not less than 15 days' notice by Landlord to execute, acknowledge and deliver to Landlord a statement in writing certifying (1) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modification), (2) whether or not there are then existing any offsets or defenses against the enforcement of any of the terms, covenants or conditions hereof upon the part of Tenant to be performed (and if so specifying the same), and (3) the dates to which the Basic Rent and other charges have been paid in advance, if any, it being intended that any such statement delivered pursuant to this Section may be relied upon by any prospective purchaser or any existing or prospective mortgagee of the fee of the Premises or any assignee of any such mortgagee.

ARTICLE 43. CUMULATIVE REMEDIES NO WAIVER NO ORAL CHANGE

The specific remedies to which Landlord may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Landlord may be lawfully entitled in case of any breach or threatened breach by Tenant of any provision of this Lease. The failure of Landlord to insist in any one or more cases upon the strict performance of any of the covenants of this Lease, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment for the future of such covenant or option. A receipt by Landlord of Basic Rent or additional rent or any other sums with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver, change, modification or discharge by either party hereto of any provision in this Lease shall be deemed to have been made or shall be effective unless expressed in writing and signed by both Landlord

and Tenant. In addition to the other remedies in this Lease provided, Landlord and Tenant shall be entitled to the restraint by injunction of the violation, or attempted or threatened violation of any of the covenants, conditions or provisions of this Lease or to a decree compelling performance of any of such covenants, conditions or provisions.

ARTICLE 44. CHANGE OF TERMS

In the event that a prospective mortgagee of the Premises shall request a change in the language or terms of the Lease, or the execution of any paper in connection there with, the Tenant shall agree to such change provided the same shall not materially and adversely affect rights of the Tenant under this Lease.

ARTICLE 45. ATTORNMENT

Tenant shall, if requested by a first mortgagee of the Premises at any time, or in the event of any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by the Landlord covering the Premises, attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease.

ARTICLE 46. APPLICABLE LAW

This Lease shall be governed by and construed under the laws of the State of New Jersey.

ARTICLE 47. HOLDING OVER

In the event that the Tenant shall remain in the Premises after the expiration of the term of this Lease without having executed a new written lease with the Landlord, such holding over shall not constitute a renewal or extension of this Lease. The Landlord may, at its option, elect to treat the Tenant as one who has not removed at the end of its term, and thereupon be entitled to all the remedies against the Tenant provided by law in that situation, or the Landlord may elect, at its option, to construe such holding over as a tenancy from month to month, subject to all the terms and conditions of this Lease except as to duration thereof, and the monthly Basic Rent and additional rent shall be two (2) times the monthly Basic Rent and additional rent payable under this Lease in the last year of the term of this Lease.

ARTICLE 48. PARKING

Subject to the provisions of this Article the Tenant shall be permitted in common with other tenants in the Building the use of _____ parking spaces [Specify Location]. The Landlord reserves the right in its sole discretion to designate assigned parking spaces for tenants of the Building and from time to time to make reasonable rules and regulations as in its judgment may be desirable for the safety, care and cleanliness of the parking lot and other common areas and for the preservation of good order therein, and when so made and notice thereof given to Tenant, shall have the same force and effect as if originally made part of this Lease.

ARTICLE 49. MEMORANDUM AND RECORDING

This Lease shall not be recorded under penalty of damages and forfeiture. At the request of either party, the other party shall execute a memorandum of lease setting forth a description of the Premises and the term.

ARTICLE 50. UTILITY EASEMENTS

Unless such easements reduce Tenant's usable space, Landlord shall have the right to grant easements and/or utilize areas of the Premises for the installation of utilities provided, however, that the use of said easement areas for said purposes do not substantially interfere with the operation of Tenant's business. Tenant shall not be entitled to any compensation or abatement of rent in regard thereto.

ARTICLE 51. RULES AND REGULATIONS

Tenant, its employees, agents, servants, licensees and visitors agree to comply with rules and regulations with respect to the Premises and Office Building which Landlord may prescribe from time to time. Landlord shall have the right to make reasonable additions and amendments thereof, and Tenant, its employees, agents and servants, agree to comply with such additions and amendments after notice from Landlord.

ARTICLE 52. TENANT IMPROVEMENTS

The Landlord shall make the leasehold improvements indicated on Exhibit "B" hereof. All other improvements, if any, shall be the responsibility of Tenant. Tenant shall file its plans with Landlord.

ARTICLE 53. MORTGAGEE

The Tenant agrees to timely supply such financial information and such other documentation as any mortgagee may request in respect of the Tenant or its occupancy of the Premises.

ARTICLE 54. FINANCING STATEMENTS

The Tenant shall not grant a security interest in any fixtures installed in the Premises or in any way execute any financing statement which in any way would be a lien on the Premises or Property or fixtures.

ARTICLE 55. DUTIES TO MORTGAGEE

The Tenant agrees as follows:

(i) The Tenant shall provide an estoppel certificate to Mortgagee without cost upon request from time to time,

(ii) Any person succeeding to the Landlord's interest in this Lease shall not be bound by any payment of rent for more than one month in advance; and

(iii) The Tenant hereunder shall give any Mortgagee at least thirty (30) days' prior written notice of its purported termination of the Lease due to a default of Landlord hereunder.

ARTICLE 56. RENEWAL TERM

Provided Tenant shall not be in default beyond applicable grace and notice periods hereunder either at the time of the exercise of the option herein accorded or at any time thereafter prior to commencement of the Renewal Term as herein described, Tenant shall have the right to renew the term for one successive _____ year period which Renewal Term shall commence on the first day following expiration of the original term ("Renewal Term"). All of the terms and conditions for the demise of the Premises for the Renewal Term shall be identical to those herein contained, except with respect to the Basic Rent. During the Renewal Term, Tenant shall pay Basic Rent as set forth in Article 2 hereof.

The time for Tenant's exercise of the option is of the essence. Tenant's right to renew this Lease as set forth above shall be voidable by Landlord if:

(1) the written notice exercising the option of renewal to Landlord is not received by Landlord on or before the date which is nine (9) months prior to the expiration date of the Term; or

(2) prior to the first day of the Renewal Term, there occurs a default beyond applicable grace and notice periods under this Lease; or

(3) Tenant is not in possession of the Premises pursuant to the terms hereof at the time of the exercise of the option and at all times thereafter during the Term.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals the day and year first above written.

By: _____

By: _____

"EXHIBIT "A"
Location of Premises

"EXHIBIT "A-1"
Location of Property

"EXHIBIT "B"
Landlord's Work

FORM 6
LANDLORD'S REGISTRATION STATEMENT

TO: Clerk of New Brunswick

Pursuant to the New Jersey Landlord Act, N.J.S.A. 46:8-27 et seq. , I hereby file the following registration statement with your office for the property located at 100 Main Street in the City of New Brunswick and County of Middlesex:

1. Name and address of owner of property:

   Larry Landlord

   234 Oak Avenue, New Brunswick, New Jersey

2. Name and address of owner or rental agent:

   same

3. If record owner of property is a corporation,

   a. Name and address of registered agent of the corporation:

   N/A

   b. Name and address of officers of the corporation:

   N/A

4. Name of person located in the county in which the property is located who is authorized by the owner of the property to accept and sign a receipt for notices from tenants and to accept service of process:

   Larry Landlord

Form 6 Continued: Landlord's Registration Statement

5. Name and address of managing agent (if any):

N/A

6. Name and address (including apartment number) of maintenance employee:

Larry Landlord

234 Oak Avenue, New Brunswick, New Jersey

7. Name, address and telephone number of emergency representative of the owner or managing agent to be available 24 hours per day:

Larry Landlord

732-555-7777

8. Name and address of all holders of recorded mortgages:

Middlesex County Bank, New Brunswick

9. Name and address where tenants may obtain crime insurance applications through the Federal Crime Insurance Program, Title VI of the Housing and Urban Development Act of 1970:

Larry Landlord, 234 Oak Avenue, New Brunswick, New Jersey

Date: _____ By: _____

FORM 7
NOTICE FOR OWNER-OCCUPIED PREMISES TO COMPLY WITH SECURITY DEPOSIT LAW**

Date: July 16, 2018

From: Tom & Tammy Tenant
Your tenants at
100 Main St., Apt 2D
New Brunswick, NJ

To: Larry Landlord, Landlord or Managing Agent

Address: 100 Main Street, Apt. 1D
New Brunswick, NJ

Dear Larry Landlord:

The Security Deposit Law of New Jersey (N.J.S.A. 46:8-19 *et seq*.) requires that a landlord of owner-occupied premises must comply with the provisions of the Security Deposit Law when a tenant in an owner-occupied dwelling notifies his/her landlord in writing to comply with this law.

The law provides that the tenant's security must be deposited in an interest-bearing account in a New Jersey Bank and that the interest must be paid to the tenant or credited to the tenant's rent on the anniversary of the lease.

You, as landlord, must inform the tenant in writing within 30 days of your receipt of this notice, of the amount of the tenant's security deposit and the name and address of the bank in which it is deposited.

Thank you.

_____
Tenant's Signature

** This notice is applicable only when the property is owner-occupied. If the owner does not occupy the property, the landlord must automatically comply with the Security Deposit Law.

FORM 8
NOTICE TO APPLY SECURITY DEPOSIT TO RENT FROM TENANT

Date: July 10, 2018

From: Tom & Tammy Tenant
Your tenants at
100 Main St., Apt 2D
New Brunswick, NJ

To: Larry Landlord, Landlord or Managing Agent

Address: 100 Main Street, Apt. 1D
New Brunswick, NJ

My security deposited with you is in the amount of $1,200.00, as shown by my receipt dated March 1, 2001.

This is to notify you to apply my security deposit to cover rent due for the month(s) of June and 1/12 of July 2018.

I am entitled to apply my security deposit to rent under New Jersey Statute 46:8-19 because you have failed to give me written notice stating the name and address of a banking institution where the security is deposited.

_____
Tenant's Signature

FORM 9
NOTICE TO APPLY SECURITY DEPOSIT TO RENT FROM TENANT'S ATTORNEY

Date: July 16, 2018

Larry Landlord
100 Main Street, Apt. 1 D
New Brunswick, NJ 08901

Dear Mr. Landlord:

My clients, Tom and Tammy Tenant, your tenants at 100 Main Street, Apt. 2D, New Brunswick, New Jersey, have authorized me to inform you that in as much as you have not informed them in writing of the name and address of the banking institution or savings and loan association in which their security money has been place and the sum so placed, they wish to exercise their rights under Chapter 195, Laws of New Jersey, 1973, (N.J.S.A. 46:8-19 *et seq*.) to have both the security money and the interest that was or should have been earned thereon to be applied on account of rent as follows:

$800.00 to rent for the month of June 2018; $400.00 to rent for the month of July 2018, balance to be due $400.00 on July 1, 2018.

_____
Attorney for Tenants

Certified Mail # _____
Return Receipt Requested

The following clauses are samples of alternative applications of the security deposit.

$ _____ to rent for the month/week of _____, 2018 (current period).

$ _____ to rent for the month/week of _____, 2018 (following period).

$ _____ to rent for the month/week of _____, 2018 (prior period(s)).

FORM 10
NOTICE TO CEASE

TO: Tom and Tammy Tenant, Tenant(s).

1. **Present Lease.** You now rent Apt. 2D located at 100 Main Street, New Brunswick, NJ, as Tenant(s).

2. **Warning.** Please read this NOTICE TO CEASE carefully. If you do not immediately cease (stop) doing the acts complained of, you may be EVICTED. This means you may be forced to leave.

3. **Acts Complained of.** According to New Jersey Law (N.J.S.A. 2A:18-61.1) you may be evicted for the following reasons:

   - For being a disorderly tenant pursuant to N.J.S.A. 2A:18-61.1(b). Specifically, you have insisted on making excess noise between the hours of 11:00 p.m. and 7:00 a.m. Other tenants in the building have complained of this noise on several occasions, including March 18th and 19th and March 25th and 26th. The noise level between the above hours should be kept to a minimum so as not to disturb other tenants. The noise is caused by playing the stereo excessively loud and by throwing heavy objects.
   - For breaching the landlord's rules and regulations pursuant to N.J.S.A. 2A:18-61.1(d), which were made a part of the lease at the beginning of the lease term. You have recently obtained a dog without the written permission of the landlord. The rules and regulations which are a part of your lease specifically address pets. A tenant is not permitted to have a pet without the written permission of the landlord.
   - For habitually paying rent late pursuant to N.J.S.A. 2A:18-61.1(j). The lease indicates that the rent is due on the first of each and every month during the lease term. A payment is considered late if it is not received by the fifth of the month. For the months of April, May and June, you have not paid your rent when due. In fact, the rent for April was not received until May 2, 2018; the rent for May was received June 3, 2018; and the rent for the month of June was not yet received.

Dated: June 27, 2018

FORM 11
NOTICE OF RENT INCREASE

TO: _____ Tenant(s).

1. **PRESENT LEASE.** You now rent _____ located at _____ as Tenant(s).

2. **PURPOSE OF NOTICE.** Your landlord wants to increase your rent. In order to do this your Landlord must terminate (end) your lease and offer you a new lease at an increase in rent. You landlord may also make other reasonable changes in your lease.

3. **TERMINATION OF LEASE.** Your present lease is terminated as of _____, 20 _____. You must quit and vacate the property as of that date (date of termination). This means you must move out and deliver possession to me, your landlord.

4. **RENT.** You may rent this property after the date of termination for $_____ per month. Your rent is payable in advance, on the first day of every month.

5. **OTHER CHANGES IN YOUR LEASE.**
   a. Term of lease: Month to Month
   b. Security deposit

6. **ACCEPTANCE.** If you remain in possession of this rental property after the termination date, it will mean that you accept and agree to this rent increase and all other changes to your lease.

7. This offer of renewal notwithstanding, the landlord reserves any claim or cause of action it has against the tenant under any prior lease term including but not limited to claims under N.J.S.A. 2A:18-61.1

DATED: _____,20 _____

_____
Landlord

By _____

FORM 12
NOTICE TO QUIT AND DEMAND FOR LEASE CHANGES

NOTICE OF LEASE RENEWAL

TO: Tom and Tammy Tenant, Tenant

Re: Apartment 2D
100 Main Street
New Brunswick, NJ

The term of your lease dated March 1, 2018 under which you now occupy the above premises, will expire February 28, 2019.

You must notify the Landlord, in writing, no later than 90 days before your lease expires, whether you agree to renew the lease for an additional term of one year:

1. At a rent equal to:

   _____ The present rent.

   _____ The increased rent specified in the "Notice to Quit and Notice of Increased Rent," below.

2. _____ With the reasonable changes contained in the lease annexed to this notice. If you do not reply to this notice in time, you must vacate the premises when the term expires.

NOTICE TO QUIT AND NOTICE OF INCREASED RENT

On February 28, 2019, you are to quit and vacate the above premises now occupied by you as Tenant. Demand is hereby made that you deliver possession of the premises to the Landlord on that date.

From March 1, 2018 to February 28, 2019, the rent for the premises will be $10,200.00, payable in equal monthly payments of $850.00 each, on the first day of each month.

This offer of renewal notwithstanding, the landlord reserves any claim or cause of action if has against the tenant under any prior lease term including but not limited to claims under N.J.S.A. 2A:18-61.1.

Dated: November 18, 2018

You may use the "Tenant's Response" attached to respond to this Notice. If a lease accompanies this Notice please sign all copies and return them with this Tenant's Response. The Landlord will return a completely signed copy to you.

Form 12 Continued: Notice To Quit And Demand For Lease Changes

TENANT'S RESPONSE

TO: Larry Landlord, LANDLORD of the above premises:

_____ We hereby AGREE to renew the lease described above, at the rent specified in the Notice for an additional year, with the reasonable changes in the lease annexed to this Notice.

_____ We DO NOT wish to renew the lease described above and will vacate the premises on the above expiration date.

_____

, Tenant

_____

, Tenant

I CERTIFY THAT on November 18, 2018 I sent the above notices to the Tenant.

_____

, Landlord

FORM 13
NOTICE TO QUIT SETTING FORTH GROUNDS FOR EVICTION

NOTICE TERMINATING LEASE

TO: Tom and Tammy Tenant, Tenant(s).

1. **Present Lease.** You now rent Apartment 2D located at 100 Main Street, New Brunswick, NJ as Tenant(s).

2. **Termination of Lease.** Your lease is TERMINATED (ended) as of August 31, 2018.

3. **Demand for Possession**. You must leave and vacate this rented property on or before that date (date of termination). This means you must move out and deliver possession to me, your Landlord.

4. **Reason.** Your lease is terminated because*

* You were served a Notice to Cease on June 27, 2018, complaining of excessive noise on the following dates:

May 1, between the hours of 11:00 p.m. and 7:00 a.m.
May 3, between the hours of 1:00 a.m. and 3:00 a.m.
May 17, between the hours of 2:30 a.m. and 6:00 a.m.
May 28, between the hours of 12:00 a.m. and 4:00 a.m.
June 4, between the hours of 1:30 a.m. and 4:30 a.m.
June 11, between the hours of 5:00 a.m. and 9:00 a.m.
June 17, between the hours of 11:00 p.m. and 4:00 a.m.

To date, you have failed to stop the excessive noise thus interfering with the other tenants' quiet enjoyment of the premises.*

* You were served a Notice to Cease on June 27, 2018, complaining of your obtaining a dog. Your lease specifically prohibits a tenant from keeping a pet. To date, you have not found a new home for your dog.

Form 13 Continued: Notice to Quit Setting Forth Grounds for Eviction

* You were served a Notice to Cease on June 27, 2018, complaining of your habitually late payment of rent. Rent for the months of March, April, May and June were over two weeks late. To date, you have failed to change your habit of making late payment of rent.

Dated: July 29, 2018

_____
Landlord

By _____

* This Notice must specify in detail the cause of the termination of the lease.

* Specifically, the landlord continues to receive complaints of excessive noise. Complaints have been received as follows from your neighbors in apartment 2C and 2E concerning loud music and banging:

July 1, between the hours of 11:00 p.m. and 7:00 a.m.
July 10, between the hours of 2:00 a.m. and 4:00 p.m.
July 20, between the hours of 12 midnight and 3:00 a.m.

FORM 14
DEMAND FOR POSSESSION

August 31, 2018

To: Tom and Tammy Tenant:

You hare hereby notified to quit, vacate and surrender to me possession and I hereby demand possession of that part of my land described as Apartment 2D located at 100 Main Street, New Brunswick, NJ, which, until the 29th day of July 2018, was under lease to you from me, such lease having terminated, as of August 31, 2018.

_____

Owner

FORM 15
TENANCY SUMMONS AND RETURN OF SERVICE

TENANCY SUMMONS AND RETURN OF SERVICE (R. 6:2-1)

Plaintiff or Plaintiff's Attorney Information:
Name:_____
Address: _____
_____
Phone: _____

_____
_____
Plaintiff(s)

versus

_____
Defendant (s)

Defendant Information:
Name:_____
Address: _____
_____
Phone: _____

Superior Court of New Jersey
Law Division, Special Civil Part
_____**County**
_____
_____
_____

Docket Number: LT - _____
(to be provided by the court)

Civil Action
SUMMONS
LANDLORD/TENANT

____Nonpayment
____Other

NOTICE TO TENANT: The purpose of the attached complaint is to permanently remove you and your belongings from the premises. If you want the court to hear your side of the case you must appear in court on this date and time: _____ at _____ ☒ a.m. ☒ p.m., or the court may rule against you. REPORT TO: _____.

If you cannot afford to pay for a lawyer, free legal advice may be available by contacting Legal Services at _____. If you can afford to pay a lawyer but do not know one, you may call the Lawyer Referral Services of your local county Bar Association at _____.

You may be eligible for housing assistance. To determine your eligibility, you must immediately contact the welfare agency in your county at _____, telephone number _____.

If you need an interpreter or an accommodation for a disability, you must notify the court immediately.

Si Ud. no tiene dinero para pagar a un abogado, es posible que pueda recibir consejos legales gratuitos si se comunica con Servicios Legales (Legal Services) al _____. Si tiene dinero para pagar a un abogado pero no conoce ninguno puede llamar a Servicios de Recomendación de Abogados (Lawyer Referral Services) del Colegio de Abogados (Bar Association) de su condado local al_____.

Es posible que pueda recibir asistencia con la vivienda si se comunica con la agencia de asistencia publica (welfare agency) de su condado al _____, telefono _____.

Si necesita un interprete o alguna acomodación para un impedimento fisico, tiene que notificárselo inmediatamente al tribunal.

Date: _____ _____
Clerk of the Special Civil Part

Form 15 Continued: Tenancy Summons and Return of Service

COURT OFFICER'S RETURN OF SERVICE (FOR COURT USE ONLY)

Docket Number: _____ Date: _____ Time: _____

WM ___ WF ___ BM ___ BF ___ OTHER ___ HT ___ WT ___ AGE _____ MUSTACHE _____ BEARD _____ GLASSES _____

NAME: _____ RELATIONSHIP: _____

Efforts Made to Personally Serve _____

_____

Description of Premises if Posted _____

_____

I hereby certify the above to be true and accurate: _____

Special Civil Part Officer

FORM 16
VERIFIED COMPLAINT — NONPAYMENT OF RENT

Appendix XI-X Verified Complaint - Nonpayment of Rent

NOTICE: This is a public document, which means the document as submitted will be available to the public upon request. Therefore, do not enter personal identifiers on it, such as Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number, or active credit card number.

Plaintiff or Filing Attorney Information:

Name _____

NJ Attorney ID Number _____

Address _____

_____

Telephone Number _____

Superior Court of New Jersey
Law Division, Special Civil Part
_____ County
Docket Number: LT _____

Civil Action

Verified Complaint
Landlord/Tenant

☐ Non-payment of Rent
☐ Other (Required Notices Attached)

_____,
Name of Plaintiff(s)/Landlord(s),
v.

_____,
Name of Defendant(s)/Tenant(s).

Address of Rental Premises: _____.

Tenant's Phone Number: _____.

1. The owner of record is _____.
(name of owner)
2. Plaintiff is the owner or (check one) ☐ agent, ☐ assignee, ☐ grantee or ☐ prime tenant of the owner.
3. The landlord ☐ did ☐ did not acquire ownership of the property from the tenant(s).
4. The landlord ☐ has ☐ has not given the tenant(s) an option to purchase the property.
5. The tenant(s) now reside(s) in and has (have) been in possession of these premises since _____, (date)
under (check one) ☐ written or ☐ oral agreement
6. ☐ Check here if the tenancy is subsidized pursuant to either a federal or state program or the rental unit is public housing.
7. The landlord has registered the leasehold and notified tenant as required by *N.J.S.A.* 46:8-27.
8. The amount that must be paid by the tenant(s) for these premises is $_____, payable on the _____ day of each ☐ month or ☐ week in advance.

Complete Paragraphs 9A and 9B if Complaint is for Non-Payment of Rent

FORM 16 Continued: Verified Complaint – Nonpayment of Rent

9A. There is due, unpaid and owing from tenant(s) to plaintiff/landlord rent as follows:

$ _____ base rent for _____ (specify the week or month)
$ _____ base rent for _____ (specify the week or month)
$ _____ base rent for _____ (specify the week or month)
$ _____ late charge* for _____ (specify the week or month)
$ _____ late charge* for _____ (specify the week or month)
$ _____ late charge* for _____ (specify the week or month)
$ _____ attorney fees*
$ _____ other* (specify) _____

$ 0.00 TOTAL

* The late charges, attorney fees and other charges are permitted to be charged as rent for purposes of this action by federal, state and local law (including rent control and rent leveling) and by the lease.

9B. **The date that the next rent is due is** _____.
(date)

If this case is scheduled for trial before that date, the total amount you must pay to have this complaint dismissed is $ 0.00.
(Total from line 9A)

If this case is scheduled for trial on or after that date, the total amount you must pay to have this complaint dismissed is $ _____.
(Total from line 9A plus the amount of the next rent due)

These amounts do not include late fees or attorney fees for Section 8 and public housing tenants. Payment may be made to the landlord or the clerk of the court at any time before the trial date, but on the trial date payment must be made by 4:30 p.m. to get the case dismissed.

Check Paragraphs 10 and 11 if the Complaint is for other than, or in addition to, Non-Payment of Rent. Attach All Notices to Cease and Notices to Quit/Demands For Possession.

10. ☐ Landlord seeks a judgment for possession for the additional or alternative reason(s) stated in the notices attached to this complaint. **State Reasons**:

_____
_____
_____
_____
(Attach additional sheets if necessary.)

11. ☐ The tenant(s) has (have) not surrendered possession of the premises and tenant(s) hold(s) over and continue(s) in possession without the consent of landlord.

WHEREFORE, plaintiff/landlord demands judgment for possession against the tenant(s) listed above, together with costs

Dated: _____

_____
(Signature of Filing Attorney or Landlord Pro Se)

_____
(Printed or Typed Name of Attorney or Landlord Pro Se)

Landlord Verification

1. I certify that I am the ☐ landlord, ☐ general partner of the partnership, or ☐ authorized officer of a corporation or limited liability company that owns the premises in which tenant(s) reside(s).

2. I have read the verified complaint and the information contained in it is true and based on my personal knowledge.

3. The matter in controversy is not the subject of any other court action or arbitration proceeding now pending or contemplated and no other parties should be joined in this action except (list exceptions or indicate none):

   _____.

4. I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b).

5. The foregoing statements made by me are true and I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

At the trial plaintiff will require:

An interpreter ☐ Yes ☐ No Indicate language _____

An accommodation for a disability ☐ Yes ☐ No Required accommodation _____

Dated: _____

_____
(Signature of Landlord, Partner or Officer)

_____
(Printed Name of Landlord, Partner or Officer)

FORM 17
SUMMARY DISPOSSESSION — COMPLAINT FOR NON-PAYMENT OF LAWFULLY INCREASED RENT

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Larry Landlord, Plaintiff,	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART
vs.	LANDLORD/TENANT DIVISION
	Docket No.
Tom Tenant and Tammy Tenant, Defendants.	Civil Action
	COMPLAINT (NON-PAYMENT OF RENT)

The plaintiff, residing at 234 Oak Avenue, New Brunswick, New Jersey say(s):

1. The defendants entered into occupancy and possession of Apartment 2D in the property of the plaintiff known as 100 Main Street, in the City of New Brunswick, County of Middlesex, New Jersey, under a written agreement made between the plaintiff and the defendants on February 25, 2018, whereby the plaintiff rented said premises to defendants for a term of one year beginning March 1, 2018, at the annual rental of $9,600.00 payable in twelve equal payments on the first of each month in advance.
2. On November 18, 2017, the plaintiff caused to be served upon the defendants a written notice to quit and demand for possession effective February 28, 2018, which notice extended to the defendants an option to remain in possession but at an increased rent of $10,200.00 per year. A true copy of said notice is annexed hereto.
3. The increase in rent is not unconscionable and is not in violation of any laws or municipal ordinances governing rent increases.

Form 17 Continued: Summary Dispossession — Complaint for Non-Payment of Lawfully Increased Rent

4. The defendant(s) held over and remained in possession from and after March 1, 2018, and there is due, unpaid and owing from the defendants $1,700.00 for rent as follows:

March	$850.00
April	$850.00

and any additional rent that may be due at the time of hearing.

5. Said rent has not been paid nor has possession of the premises been surrendered by the defendants to the plaintiff, but defendants hold over and continue in possession without the consent of the plaintiffs.

*6. The provisions of N.J.S.A. 46:8-27 *et seq*. have been complied with by the plaintiff .

I certify that the matter in controversy is not the subject of any other action or arbitration proceeding, now or contemplated, and that no other parties should be joined in this action. R. 4:5-1.

Judgment is demanded for possession of the premises together with costs.

Dated:

_____

Attorney(s) for Plaintiff(s)

*Delete if not applicable

FORM 18
SUMMARY DISPOSSESSION — COMPLAINT WHEN TENANT HOLDS OVER

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Larry Landlord, Plaintiff,	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART
vs.	LANDLORD/TENANT DIVISION
	Docket No.
Tom Tenant and Tammy Tenant, Defendants.	Civil Action
	COMPLAINT (HOLDOVER TENANT)

The plaintiff, residing or located at 234 Oak Avenue, New Brunswick, New Jersey says:

1. The defendants are now in occupancy and possession of Apartment 2D in the property of the plaintiff known as 100 Main Street in the City of New Brunswick, County of Middlesex, New Jersey, under a written agreement made between plaintiff and defendants on February 25, 2018, whereby plaintiff rented said premises to the defendants for a term of one beginning March 1, 2018, at the annual rental of $9,600.00 payable in twelve equal payments on the 1st day of each month in advance.

2. On July 29, 2001, the plaintiff caused to be served upon the defendants a written notice terminating said tenancy and demanding possession of said premises on August 31, 2018. A true copy of the said notice is annexed hereto.

Form 18 — Continued: Summary Dispossession – Complaint When Tenant Holds Over

3. The tenancy was terminated upon the following ground(s):

   - The defendants' disorderly conduct in making excessive noise between the hours of 11:00 p.m. and 7:00 a.m.
   - The defendants' violation of reasonable rules and regulations in that they obtained a dog without written permission from the landlord and failed to find a new home for the dog after a written Notice to Cease was served.
   - The defendants' habitual late payment of rent.

4. On June 27, 2018, prior to service of the aforementioned notice, the plaintiff caused to be served upon the defendants a written Notice to Cease with which the defendants failed to comply. A true copy of the said notice is annexed hereto.

5. Possession of the premises has not been surrendered by the defendants to the plaintiff, but the defendants hold over and continue in possession without the consent of the plaintiff.

6. The provisions of N.J.S.A. 46:8-27 *et seq*. have been complied with by the plaintiff.

I certify that the matter in controversy is not the subject of any other action or arbitration proceeding, now or contemplated, and that no other parties should be joined in this action. R. 4:5-1

Judgment is demanded for possession of the premises together with costs.

Dated:

_____

Attorney for Plaintiff

FORM 19
SUMMARY DISPOSSESSION — COMPLAINT FOR DISORDERLY CONDUCT

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Larry Landlord, Plaintiff,	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART
vs.	LANDLORD/TENANT DIVISION
	Docket No.
Tom Tenant and Tammy Tenant, Defendants.	Civil Action
	COMPLAINT FOR DISORDERLY CONDUCT

The Plaintiff, Larry Landlord, residing at 234 Oak Avenue, City of New Brunswick, County of Middlesex, and State of New Jersey, says:

1. The plaintiff is the owner of the premises at 100 Main Street in the City of New Brunswick, County of Middlesex and State of New Jersey, more particularly described as follows: Apartment 2D, 100 Main Street, New Brunswick, New Jersey 08901

2. The defendants, Tom and Tammy Tenant are now in possession of the above described premises under a written lease between the plaintiff and the defendants, by virtue of which lease the premises were let and demised to the defendants for the term of one year, commencing the 1st day of March 2018, at a yearly rental of $9,600.00 payable $800.00 per month on the 1st day of each month, in advance. A copy of said lease is annexed hereto and is specifically made a part of this complaint.

Form 19 Continued: Summary Dispossession — Complaint for Disorderly Conduct

3. The defendants entered into possession of the above described premises on the 1st day of March 2018, and continue to remain in possession although the term of his tenancy expired on the 31st day of August 2018.

4. On the 1st day of March 2018, and every day thereafter, the defendants have conducted themselves in such a disorderly manner as to disturb the peace and quiet of other tenants of the plaintiff living in the same building owned and leased by the plaintiff, in that the defendants continually make excessive noise between the hours of 11:00 p.m. and 7:00 a.m., more specifically described as follows:

   a. The defendants play their stereo at a volume far in excess of that necessary to hear the music. The volume is so loud that their floor (the tenant below's ceiling) and windows vibrated. This music is played during the nighttime hours, disturbing other tenants in the building.

   b. The defendants sound as if they are throwing heavy objects around the apartment, banging the walls and dropping heavy items on the floor. Such conduct occurs during the nighttime hours disturbing other tenants in the building.

5. On the 29th day of July, 2018, the plaintiff gave notice in writing to the defendants terminating the tenancy and demanding delivery of the possession of the premises by personal service. A copy of said notice is annexed hereto and is made a part of this complaint.

6. The defendants have failed and refused to deliver the possession of the premises to the plaintiff and continue to remain in possession thereof, without the consent or permission of the plaintiff.

WHEREFORE, the plaintiff demands judgment for possession of the premises against the defendants, together with the costs of this action.

Dated:

_____

Attorney for Plaintiff

FORM 20
SUMMARY DISPOSSESSION — COMPLAINT WHERE TENANT DAMAGES PREMISES

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Larry Landlord, Plaintiff,	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART
vs.	LANDLORD/TENANT DIVISION
	Docket No.
Tom Tenant and Tammy Tenant, Defendants.	Civil Action
	COMPLAINT FOR DAMAGE TO PREMISES

The Plaintiff, Larry Landlord, residing at 234 Oak Avenue, City of New Brunswick, County of Middlesex, and State of New Jersey, says:

1. The plaintiff is the owner of the premises at 100 Main Street, in the City of New Brunswick, County of Middlesex, and State of New Jersey, more particularly described as follows: Apartment 2D, 100 Main Street, New Brunswick, New Jersey

2. The defendants, Tom and Tammy Tenant, are now in possession of the above described premises under a written lease between the plaintiff and the defendants, by virtue of which lease the premises were let and demised to the defendants for the term of one year, commencing the 1st day of March 2018, at a yearly rental of $9,600.00, payable $800.00 per month on the 1st day of each month, in advance. A copy of said lease is annexed hereto and is specifically made a part of this complaint.

Form 20 Continued: Summary Dispossession – Complaint Where Tenant Damages Premises

3. The defendants entered into possession of the above described premises on the 1st day of March 2018, and continue to remain in possession although the term of their tenancy expired on the 31st day of July 2018.

4. On the 4th day of July 2018, the defendants willfully damaged and injured said premises by

   a. Throwing objects through their windows;

   b. Lighting fireworks in the apartment causing burns to the carpet and floor.

5. On the 7th day of July 2018, the plaintiff gave notice in writing to the defendant terminating the tenancy and demanding delivery of the possession of the premises by personal service. A copy of said notice is annexed hereto and is made a part of this complaint.

6. The defendants have failed and refused to deliver the possession of the premises to the plaintiff and continue to remain in possession thereof, without the consent or permission of the plaintiff.

WHEREFORE, the plaintiff demands judgment for possession of the premises against the defendant, together with the costs of this action.

Dated:

_____

Attorney for Plaintiff

FORM 21
COMPLAINT FOR VIOLATION OF RULES AND REGULATIONS

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Larry Landlord, Plaintiff,	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART
vs.	LANDLORD/TENANT DIVISION
	Docket No.
Tom Tenant and Tammy Tenant, Defendants.	Civil Action
	COMPLAINT FOR VIOLATION OF LANDLORD'S RULES AND REGULATIONS

The Plaintiff, Larry Landlord, residing at 234 Oak Avenue, City of New Brunswick, County of Middlesex, and State of New Jersey, says:

1. The plaintiff is the owner of the premises at 100 Main Street, in the City of New Brunswick, County of Middlesex, and State of New Jersey, more particularly described as follows: Apartment 2D, 100 Main Street, New Brunswick, New Jersey

2. The defendants, Tom and Tammy Tenant, are now in possession of the above-described premises under a written lease between the plaintiff and the defendants, by virtue of which lease the premises were let and demised to the defendants for the term of one year, commencing the 1st day of March 2018, at a yearly rental of $9,600.00, payable $800.00 per month on the 1st day of each month, in advance. A copy of said lease is annexed hereto and is specifically made a part of this complaint.

Form 21 Continued: Summary Dispossession – Complaint for Violation of Rules and Regulations

3. The defendants entered into possession of the above described premises on the 1st day of March 2018, and continue to remain in possession although the term of their tenancy expired on the 31st day of July 2018.

4. The defendant has been and is constantly violating the rules and regulations of the plaintiff as owner governing said premises, a copy of which rules and regulations the plaintiff has caused to be conspicuously placed on said premises; and more particularly the defendant has been and is violating Rule 10 prohibiting tenants from throwing articles out of the windows of the premises, by throwing, or causing to be thrown, garbage from their window on the second floor. A Notice to Cease was sent on April 30, 2001, complaining of this violation of Rule 10 and for excessive noise between the hours of 11:00 p.m. and 7:00 a.m. during the months of February and March.

5. On the 30th day of June 2018, the plaintiff gave notice in writing to the defendant terminating the tenancy and demanding delivery of the possession of the premises by personal service. A copy of said notice is annexed hereto and is made a part of this complaint.

6. The defendants have failed and refused to deliver the possession of the premises to the plaintiff and continue to remain in possession thereof, without the consent or permission of the plaintiff.

WHEREFORE, the plaintiff demands judgment for possession of the premises against the defendant, together with the costs of this action.

_____

Attorney for Plaintiff

FORM 22
COMPLAINT IN ACTION BY LANDLORD AGAINST TENANT FOR MONEY DAMAGES FOR BREACH OF COVENANT TO REPAIR

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Larry Landlord, Plaintiff, vs. Tom Tenant and Tammy Tenant, Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART Docket No. Civil Action COMPLAINT FOR BREACH OF COVENANT

The Plaintiff, Larry Landlord, residing at 234 Oak Avenue, in the City of New Brunswick, County of Middlesex, and State of New Jersey, says:

1. On the 1st day of March 2018, the plaintiff leased to the defendants for a term of one year from that date, the premises known as 100 Main Street, Apartment 2D, in the City of New Brunswick, County of Middlesex, and State of New Jersey.

2. The defendants covenanted in said lease that they would, during the term, at their own expense, keep the premises in good repair and, at the expiration of the term, leave the premises in as good condition as they received it, reasonable wear and tear excepted.

3. The defendants occupied the premises and during the term of said lease, caused and allowed the following conditions to occur and remain in a state of disrepair.

Form 22 Continued: Complaint in Action by Landlord Against Tenant for Money Damages for Breach of Covenant to Repair

4. By reason of the defendants' breach of the aforesaid covenant, the subject premises has suffered damage and injury as follows:

    a. The window in the kitchen is broken.

    b. The oven does not work.

    c. There are burn marks in the carpet in the living room.

    d. The door to the cabinet in the bathroom is missing.

WHEREFORE, the plaintiff demand judgment on this count against the defendant for $ _____ together with costs of suit.

Dated:

_____

Attorney for Plaintiff

FORM 23
NOTICE TO LANDLORD OF INTENT TO FILE COMPLAINT TO RECOVER SECURITY DEPOSIT

March 31, 2018

Dear Larry Landlord:

My clients, Tom and Tammy Tenant, who were tenants of yours at 100 Main Street, Apartment 2D, New Brunswick, New Jersey, have authorized me to request that you return their security deposit in the amount of $1,200.00 plus interest in the amount of $24.00 that was or should have been earned on the deposit.

It is more than 30 days since my clients have moved from your building and you have not yet returned their security deposit or sent an itemized list of expenses incurred. My clients have a right to sue you for double the amount of the security deposit together with accrued interest, costs of the lawsuit and reasonable attorney's fees.

If you promptly return the sum of $1,224.00 which represents the deposit and interest and thus save my clients the inconvenience and burden of suing you, my clients will waive their right to sue you for double the amount of the deposit and other damages. This offer is made without prejudice to my clients' rights should you decide to reject the offer.

Your payment, in the form of a bank check or certified funds, should be made payable to Tom and Tammy Tenant and mailed to 123 First Avenue, New Brunswick, New Jersey 08901.

If I do not hear from you within 10 days from the date of this letter, I will assume that you have determined not to settle this matter and will advise my clients to proceed with their rights and remedies as set forth in the Security Deposit Law of this State.

_____

Attorney for Tenant

FORM 24
COMPLAINT TO RECOVER SECURITY DEPOSIT

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Tom Tenant and Tammy Tenant, Plaintiffs, vs. Larry Landlord, Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART Docket No. Civil Action COMPLAINT

The Plaintiffs, Tom Tenant and Tammy Tenant, residing at 987 Walnut Street, in the Township of Dover, County of Ocean, and State of New Jersey, say:

1. The plaintiffs were tenants of the defendant at 100 Main Street, Apartment 2D, New Brunswick, New Jersey, on a written lease at a rental of $800.00 per month.

2. Pursuant to said lease, the plaintiffs deposited $1,200.00 with the defendant as a security deposit.

3. More than thirty days have elapsed since the termination of the plaintiffs' tenancy.

4. The defendant has not returned the balance of said security deposit and accrued interest despite the plaintiffs' demand.

5. The defendant has never served the plaintiffs with written notice of itemized deductions from said security deposit.

WHEREFORE the plaintiff demand judgment on this count against the defendant in the sum of the security deposit plus interest accrued during the term of the tenancy, together with interest and costs of suit.

Dated:

Attorney for Plaintiff

FORM 25
COMPLAINT FOR MONEY DAMAGES BY TENANT AGAINST LANDLORD FOR BREACH OF COVENANT TO REPAIR

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Tom Tenant and Tammy Tenant, Plaintiffs, vs. Larry Landlord, Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART Docket No. Civil Action COMPLAINT FOR BREACH OF COVENANT

The Plaintiffs, Tom Tenant and Tammy Tenant, residing at 987 Walnut Street, in the Township of Dover, County of Ocean, and State of New Jersey, say:

1. On the 1st day of March 2018, the defendant by a writing leased to the plaintiffs the premises known as 100 Main Street, Apartment 2D, in the City of New Brunswick, and State of New Jersey, for a term of one year at an annual rental of $9,600.00.

2. Said lease contains a covenant by the defendant to keep the premises in repair. A copy of said covenant is attached to and made a part of this complaint.

3. The plaintiff entered into possession of said premises under said lease.

FORM 25 Continued: Complaint for Money Damages by Tenant Against Landlord for Breach of Covenant to Repair

4. The defendant has failed to perform said covenant, as follows:

   a. The defendant failed to repair the broken steps on the staircase leading to the second floor after repeated notice to the defendant.

   b. The defendant has failed to tack the carpet on the staircase to the floor.

5. As a result of the defendant's failure and refusal to perform said covenant, the plaintiff has suffered damage and injury.

WHEREFORE, the plaintiff demands judgment against the defendant on this count for damages and costs of this action.

Dated:

_____

Attorney for Plaintiff

FORM 26
ORDER TO SHOW CAUSE FOR COMPLAINT FOR UNLAWFUL ENTRY AND DETAINER

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Tom Tenant and Tammy Tenant, Plaintiffs, vs. Larry Landlord, Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART LANDLORD/TENANT DIVISION Docket No. Civil Action ORDER TO SHOW CAUSE AND AD INTERIM RESTRAINTS

Application being made to the Court by plaintiffs, Tom Tenant and Tammy Tenant, and it appearing from the annexed verified complaint and supporting certified statements that defendant has distrained and/or converted plaintiffs' personal property and it appearing that plaintiffs are suffering from immediate irreparable harm thereby;

It is on this _____ day of _____, 2018,

ORDERED, that the defendant show cause before this Court on the day of _____, 2018 at _____ a.m., or as soon thereafter as the parties may be heard, why the defendant should not be compelled to return plaintiffs' personal property; and it is further

ORDERED, that sending a return date and determination herein, the defendant and all others acting in concert with him are restrained and prohibited from denying the plaintiffs immediate possession of their personal property; and it is further

ORDERED, that the plaintiffs may enlist the assistance of the New Brunswick Police Department in the enforcement of this Order; and it is further

Form 26 Continued: Order to Show Cause for Complaint for Unlawful Entry and Detainer

ORDERED, that the defendant serve upon the plaintiffs whose name and address appear above, either (1) an acknowledgement of service hereof, or (2) an appearance, or (3) an answer to the annexed complaint within 20 days after service of the complaint exclusive of the date of service. If the defendant fails to answer or appear in accordance with Rule 4:4-6, judgment by default may be rendered for the relief demanded in the complaint. The defendant shall file an appearance or answer and proof of service thereof in duplicate with the Clerk of the Special Civil Part of Middlesex County, New Jersey, in accordance with the Rules of the Special Civil Practice and Procedure; and it is further

ORDERED, that a copy of this Order and Complaint be served upon the defendant personally or by certified mail, return receipt requested within 7 days thereof.

_____

J .S.C.

FORM 27
VERIFIED COMPLAINT FOR UNLAWFUL ENTRY AND DETAINER

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Robert Renter, Plaintiff, vs. Larry Landlord, Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART LANDLORD/TENANT DIVISION Docket No. Civil Action VERIFIED COMPLAINT FOR UNLAWFUL ENTRY AND DETAINER

The plaintiffs, Robert Renter who now resides at 1011 Vauxhall Street, in the Township of

Dover, County of Ocean and State of New Jersey, by way of complaint say:

1. The plaintiff entered into an oral lease for a month-to-month tenancy at the premises known as 100 Main Street, Apartment 2A, New Brunswick, New Jersey.
2. The defendant is the owner of the premises known as 100 Main Street, Apartment 2A, New Brunswick, New Jersey.
3. On or about February 20, 2018, the plaintiff was locked out of his apartment, pursuant to court process, with all of the plaintiff's personal possessions inside.
4. Subsequent to the lockout, the plaintiff has consistently requested the defendant to return personal property, but the defendant has refused to return plaintiff's personal property, demanding rent and fees before he will release any of the plaintiff's belongings.
5. The defendant has distrained the plaintiff's personal property in violation of N.J.S.A. 2A:33-1, *et seq*.

Form 27 Continued: Verified Complaint for Unlawful Entry and Detainer

6. The plaintiff has been deprived of his property without the process of law, in violation of the 14th Amendment of the United States Constitution.

7. The defendant has no right to the possession of the plaintiff's personal property and by distraining the same from the plaintiff, the defendant has committed an unlawful conversion.

WHEREFORE, the plaintiff demands judgment on the complaint:

A. Ordering the return of the plaintiff's personal property;

B. Awarding the plaintiff damages in the amount of twice the value of the goods distrained, together with the costs of this action, pursuant to N.J.S.A. 2A:33-1, *et seq*.

C. Awarding incidental and consequential damages resulting from the defendant's conversion of the plaintiff's property.

D. Any other relief the Court deems appropriate and necessary.

VERIFICATION

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated:

_____

Attorney for Plaintiff

FORM 28
CERTIFICATION IN SUPPORT OF ORDER TO SHOW CAUSE AND AD INTERIM RESTRAINTS FOR UNLAWFUL ENTRY AND DETAINER

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Robert Renter, Plaintiff, vs. Larry Landlord, Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART LANDLORD/TENANT DIVISION Docket No. Civil Action CERTIFICATION IN SUPPORT OF ORDER TO SHOW CAUSE AND AD INTERIM RESTRAINTS

I, Robert Renter, residing at 1011 Vauxhall Road in the Township of Dover, County of Ocean and State of New Jersey, make this certification in support of my application for relief. I was locked out of my apartment pursuant to court process. I was not represented at the time of the lockout and my personal property was confiscated by my landlord and has not been returned.

1. The defendant has put all my personal belongings in storage or some other place of which I have no knowledge. The property being withheld is as follows:

   a. All my personal belongings which were in Apartment 2A at 100 Main Street, New Brunswick, New Jersey, including bedroom furniture, living room furniture, dining room furniture, kitchen appliances and goods, clothing, and stereo system.

2. I have continuously attempted to regain my personal belongings since my apartment was padlocked.

Form 28 Continued: Certification in Support of Order to Show Cause and Ad Interim Restraints for Unlawful Entry and Detainer

3. I have suffered and will continue to suffer hardships because everything that I own has been kept from me. I have a great need for my belongings that are being held by the defendant for his own gain.

4. In view of the above, I respectfully request that the Court exercise its inherent powers over its process, the illegal restraints, and grant me relief immediately.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated:

Robert Renter

FORM 29
ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Robert Renter, Plaintiff, vs. Larry Landlord, Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART LANDLORD/TENANT DIVISION Docket No. Civil Action ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER

This matter being opened to the court by Lori Lawyer, Attorney of Record for the plaintiff, Robert Renter, upon application for an Order to Show Cause,

And it appearing from the verified complaint filed herein that the plaintiff is a tenant of the defendant's at the premises located at 100 Main Street, Apartment 2A, New Brunswick, New Jersey, that the defendant has failed to provide heat to plaintiff's apartment and that the defendant has caused the water to plaintiff's apartment to be turned off, and that the plaintiff may suffer immediate, substantial and irreparable harm if temporary relief is not granted; it is on this _____ day of _____ 2018,

ORDERED that the defendant show cause on the _____ of _____, 2018 at _____ a.m. or as soon thereafter as the parties or their respective counsel may be heard, why the defendant should not be enjoined from further interfering with plaintiff's possession and enjoyment of his apartment pending disposition of the within action; and it is further

ORDERED that the defendant immediately restore the heat and water to the plaintiff's apartment and refrain from any further interference with the plaintiff's possession and enjoyment of his apartment pending the outcome of this Order to Show Cause hearing; and it is further

Form 29 Continued: Order to Show Cause and Temporary Restraining Order

ORDERED that the defendant shall have leave to move for the dissolution or modification of the restraint in the preceding paragraph on two (2) days notice to this Court and to plaintiff's attorneys whose name and office address appear above; and it is further

ORDERED that the defendant is required to serve upon the attorney for the plaintiff, whose name and office address appears above, an answer or answers to the annexed Verified Complaint within twenty (20) days after service of the Order to Show Cause and Verified Complaint upon them, exclusive of the day of service. Defendant shall promptly file his answer and proof of service in duplicate with the Clerk of the Special Civil Part pursuant to the rules of civil practice and procedure. If the defendant fails to so serve and file his answer, judgment by default may be rendered against the defendant for the relief demanded in the verified complaint; and it is further

ORDERED that a copy of this Order to Show Cause, together with a copy of the Verified Complaint be served on the defendant or his attorney personally or by certified mail, return receipt requested, within _____ days of this Order or if such certified mail be refused or unclaimed then by ordinary mail within _____ days of this Order.

_____

J.S.C.

FORM 30
VERIFIED COMPLAINT

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Robert Renter, Plaintiff, vs. Larry Landlord, Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART LANDLORD/TENANT DIVISION Docket No. Civil Action VERIFIED COMPLAINT

The plaintiff, Robert Renter, residing at 100 Main Street, Apartment 2A, New Brunswick, New Jersey, by way of Verified Complaint, says:

FIRST COUNT

1. The plaintiff is a tenant at the premises known as 100 Main Street, Apartment 2A, located in New Brunswick, New Jersey.
2. The plaintiff has been living in said premises since March 1, 2018.
3. The defendant is the owner and landlord of said premises.
4. The plaintiff pays rent of $850.00 pursuant to an oral month-to-month lease.
5. Said rent includes charges for heat and water which are billed to the defendant.
6. The defendant has provided no heat or hot water since September 30, 2018.
7. The defendant has failed to provide the plaintiff with adequate cold water service.
8. In spite of the defendant's knowledge of the uninhabitable conditions of said premises, he has failed to repair same.
9. The landlord, the defendant herein, is and has been since September 30, 2018, in breach of the warranty of habitability whereby he has failed to meet the continuing obligations to maintain an adequate standard of habitability in the premises.
10. Plaintiff is unable to find another apartment for himself.

Form 30 Continued: Verified Complaint

11. The reasonable value of the aforesaid premises has diminished due to the failure of the landlord to maintain and repair same as required by the warranty of habitability.
12. The lack of heat and hot water and inadequate cold water has caused the plaintiff to suffer immediate, substantial and irreparable injury, including mental anguish, pain and suffering.

WHEREFORE, the plaintiff demands judgment on this count:

a. For a preliminary injunction and a permanent injunction to prevent the defendant from denying the plaintiff heat and hot water.
b. For a preliminary injunction and a permanent injunction to prevent the defendant from denying the plaintiff adequate cold water.
c. Damages and costs of suit and reasonable attorney's fees.
d. Such other relief as the Court deems appropriate or necessary.

SECOND COUNT

1. The plaintiff repeats the allegations of paragraphs 1 through 12 of the First Count of the complaint and makes them a part hereof as though fully set forth herein.
2. The aforesaid actions of the defendant was done recklessly, wantonly, willfully and maliciously.

WHEREFORE, the plaintiff demands judgment for punitive damages and costs of suit and reasonable attorney's fees as to this Count.

_____

Attorney for the Plaintiff

VERIFICATION

1. I am the plaintiff in the within action.
2. I have read the Verified Complaint in this action and the facts as alleged are true to the best of my knowledge, information and belief .

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated:

_____

Robert Renter

FORM 31
NOTICE OF MOTION TO TRANSFER SUMMARY DISPOSSESS ACTION

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Larry Landlord, Plaintiff, vs. Tom Tenant and Tammy Tenant, Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART LANDLORD/TENANT DIVISION Docket No. Civil Action NOTICE OF MOTION FOR TRANSFER OF SUMMARY DISPOSSESS ACTION

TO: Larry Landlord
234 Oak Avenue
New Brunswick, New Jersey

PLEASE TAKE NOTICE that on _____, 20 _____, at _____ a.m. or as soon thereafter as counsel may be heard, the undersigned attorney for the defendants shall apply to the above-named court at 1 Kennedy Square, New Brunswick, New Jersey for an Order to Transfer the above captioned action from the Special Civil Part — Landlord-Tenant Division to the Law Division of the Superior Court.

The undersigned makes the within Motion for Transfer pursuant to N.J.S.A. 2A:18-60 and R. 6:4-l (g).

PLEASE TAKE FURTHER NOTICE that the undersigned submits the within Motion pursuant to R. 1:6-2, enclosing a proposed form of Order and relying upon the attached Memorandum of Law and Certification, as well as Oral Argument to be presented.

Counsel hereby requests oral argument pursuant to R. 1:6-2(d).

Dated:

_____
Attorney for Defendants

*** The attorney must submit a Memorandum of Law with the Notice of Motion.

FORM 32
ORDER FOR TRANSFER OF SUMMARY DISPOSSESS ACTION

Lori Lawyer
123 First Avenue
New Brunswick, New Jersey 08901
732-555-8888
Attorney for Plaintiff

Larry Landlord, Plaintiff, vs. Tom Tenant and Tammy Tenant, Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — MIDDLESEX COUNTY SPECIAL CIVIL PART LANDLORD/TENANT DIVISION Docket No. Civil Action ORDER FOR TRANSFER OF SUMMARY DISPOSSESS ACTION

This matter having been presented to the Court by Lori Lawyer, Attorney for the Defendants, and Plaintiff appearing, and the Court having heard and considered the pleadings and arguments of counsel and the proceedings had herein, it is on this _____ day of _____ , 20 ____ .

ORDERED that the above-captioned matters be and hereby are transferred from the Special Civil Part, Landlord-Tenant Division, to the Law Division of the Superior Court.

_____
J.S.C.

FORM 33
WARRANT OF REMOVAL

Docket No.: _____

Plaintiff's Name
Plaintiff(s) - Landlord(s)
- vs -
Defendant's Name
Defendant(s) - Tenant(s)
(Address -- 1st Line)
(Address -- 2nd Line)
City, NJ 00ZIP

Superior Court of New Jersey
Law Division, Special Civil Part
Landlord/Tenant Section, Any County
(Court Address -- 1st Line)
(Court Address -- 2nd Line)
City, NJ 00ZIP
Phone No. (XXX) XXX-XXXX

WARRANT OF REMOVAL

To: Name of Court Officer
(Special Civil Part Officer)

You are hereby commanded to dispossess the tenant and place the landlord in full possession of the premises listed above. Local police departments are authorized and requested to provide assistance, if needed, to the officer executing this warrant.

To: Name of Defendant
(Tenant(s))

You are to remove all persons and property from the above premises within three days after receiving this warrant. Do not count Saturday, Sunday and holidays in calculating the three days. If you fail to move within three days, a court officer will thereafter remove all persons from the premises at any time between the hours of 8:30 a.m. and 4:30 p.m. on or after _____ (month) _____ (day), _____ (year). Thereafter, your possessions may be removed by the landlord, subject to applicable law (N.J.S.A. 2A:18-72 *et seq*.). The 3 day provision applicable to residential tenants does not apply to commercial property. Commercial tenants may be evicted at the time the warrant is served.

It is a crime for a tenant to damage or destroy a rental premises to retaliate against a landlord for starting an eviction proceeding in court and in addition to imposing criminal penalties the court may require the tenant to pay for any damage.

You may be able to stop this warrant and remain in the premises temporarily if you apply to the court for relief. You may apply for relief by delivering a written request to the Clerk of the Special Civil Part and to the landlord or landlord's attorney. Your request must be personally delivered and received by the Clerk within three days after this warrant was served or you may be locked out. Before stopping this warrant, the court may include certain conditions, such as the payment of rent.

You may also be eligible for housing assistance or other social services. To determine your eligibility, you must contact the welfare agency in your county at _____(address)_____, telephone number (XXX) XXX-XXXX.

Only a court officer can execute this warrant. It is illegal and a disorderly person's offense for a landlord to padlock or otherwise block entry to a rental premises while a tenant who lives there is still in legal possession. A landlord can only do these things in a distraint action involving non-residential premises. If your property has been taken or you have been locked out or denied use of the rental premises by anyone other than a court officer who is executing a warrant of removal you can contact the Special Civil Part Clerk's Office for help in (a) requesting an emergency order to return your property and/or put you back into your home; and/or (b) filing a lawsuit requesting a judgment for money.

If you do not have an attorney, you may call the Lawyer Referral Service at (XXX) XXX-XXXX. Si Ud. puede pagar los servicios de un abogado, pero no conoce a ninguno, puede llamar a las oficinas del Servicio de Recomendacion de Abogados del Colegio de Abogados de su Condado. Telefono: (XXX) XXX-XXXX. If you cannot afford an attorney, you may call _____ Legal Services at (XXX) XXX-XXXX. Si Ud. no puede pagar un abogado, puede llamar a Servicios Legales: (XXX) XXX-XXXX.

Form 33 Continued: Warrant of Removal

To: Landlord XXXXX XXXXX
Address: XXXXXXXXXXX
City, NJ 00ZIP
Telephone: (XXX) XXX-XXXX

A person commits a disorderly person's offense if he or she does any of the following things after being warned by a law enforcement officer or other public official that they are illegal: (1) illegally evicts a residential tenant without a warrant of removal issued by a court or the consent of the tenant; or (2) refuses to immediately let the tenant who was evicted this way back into the premises to live there. A person who is convicted of an offense under this section more than once within a five-year period is guilty of a crime of the fourth degree.

"Illegal eviction" means to enter onto or into the rental premises and hold it by:

(1) any kind of violence including threatening to kill or injure the tenant;
(2) words, circumstances or actions which are clearly intended to incite fear, apprehension or a sense of danger in the tenant;
(3) putting the personal property or furniture of the tenant outside;
(4) entering peacefully and then, by force or threats, putting the tenant out;
(5) padlocking or changing the locks;
(6) shutting off vital services such as heat, electricity and water or causing them to be shut off; or
(7) any means other than a court officer executing a warrant of removal issued by a court.

To: Law Enforcement Officers

Tenants evicted without a warrant of removal are entitled to reenter and reoccupy the premises and shall not be considered trespassers or chargeable with any offense provided that a law enforcement officer is present at the time of reentry. It is the duty of the officer to prevent the landlord or anyone else from obstructing or hindering the reentry and re-occupancy of the dwelling by a tenant who was evicted without a warrant of removal executed by a court officer.

Date: _____ Witness: _____
(Judge)

_____
Name of Clerk, Clerk of the Special Civil Part

==========

Certification of Service and Execution of Warrant of Removal

I hereby certify that I (check as applicable) __ served __ executed this warrant of removal as follows:

Date First Served: _____ Method of Service: _____
If Unserved, Why: _____ Must Vacate By: _____
Date and Time Executed: _____ Date Executed Warrant Posted: _____
Date Executed Warrant Served on Tenant: _____ Date Executed Warrant Served on Landlord: _____
Mileage Charge for Execution: $_____ Additional Services Charge: $_____
Additional Services Performed: _____

_____
Signature of Special Civil Part Officer

_____
Printed or Typed Name of Officer

FORM 34
ORDER TO SHOW CAUSE FOR STAY OF EXECUTION OF WARRANT OF REMOVAL

Plaintiff,	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — HUDSON COUNTY SPECIAL CIVIL PART
vs.	LANDLORD/TENANT DIVISION
	Docket #LT
Defendants,	Civil Action
	ORDER TO SHOW CAUSE

This matter having come before the court on the application of Defendant/s-tenant/s for relief following the entry of a [default] [default judgment] [judgment following trial], and the court having considered the application for relief, and [on notice to Plaintiff/Landlord (or Plaintiff's attorney of record)] [Plaintiff or Plaintiff's attorney having appeared] and the court having considered any objection thereto, and finding good cause for this Order, it is on this _____ day of _____ , 20 _____.

Ordered that:

1. On _____ 20 _____ at _____ a.m./p.m. Plaintiff show cause before this court why the [default] [judgment] previously entered in this matter should not be vacated, or why other appropriate relief should not be granted.
2. All further proceedings in this action are hereby immediately stayed, pending the further Order of this court, and, until such further Order, the landlord and the court's officers shall make reasonable efforts to keep or restore defendants in possession of the subject premises.
3. Defendant/s-tenant/s shall deposit $ _____ no later than _____ with the clerk of this court and/or bring to court the balance of all rent due on the date shown in paragraph #1. If the tenant does not have the full amount of rent finally determined to be due to the Plaintiff, this Order may be vacated, the judgment and warrant reinstated, and the lockout (eviction) may be completed two business days later, unless otherwise agreed by the Plaintiff.
4. This Order shall not be effective until Defendant has served a copy of this Order on the Plaintiff, Plaintiff's attorney, or Plaintiff's agent (property manager, superintendent, or the like) personally, or by "Fax".
5. Plaintiff may apply to the court to modify or dissolve this Order, or to accelerate the return date, by giving written notice of the application therefor to [Defendant] [Defendant's attorney] personally or by "Fax", at least two business days before the date for the acceleration hereof.
6. [Other]

_____

J.S.C.

FORM 35
CERTIFICATION BY TENANT IN SUPPORT OF APPLICATION FOR ORDER TO SHOW CAUSE

CERTIFICATION FOR RELIEF: DOCKET #LT _____

INSTRUCTIONS TO TENANTS: COMPLETE ALL 7 QUESTIONS TRUTHFULLY AND TO THE BEST OF YOUR ABILITY. THIS PAGE WILL BE ATTACHED TO AN ORDER TO SHOW CAUSE OR FOR ORDERLY REMOVAL. YOU MAY HAVE TO MAKE A DEPOSIT AS STATED IN PARAGRAPH 3 OF THE ORDER AND THAT MONEY ON DEPOSIT MAY BE PAID TO THE LANDLORD EVEN IF YOU ARE EVICTED. YOU MUST SERVE A COPY OF THE ORDER ON YOUR LANDLORD OR PROPERTY MANAGER, IM MEDIATELY AFTER THE JUDGE SIGNS THE ORDER. FOR LEGAL HELP, YOU MAY CONTACT AN ATTORNEY OR LEGAL SERVICES. THE CLERK'S OFFICE WILL GIVE YOU ADDRESSES AND PHONE NUMBERS.

CERTIFICATION OF TENANT (Print your name) _____

_____

(Print your address and phone or beeper number)

1. Judgment for possession has been entered against me/us in this action: YES ____NO ____
2. A Warrant for Removal has been issued and I may be locked out after: (date)
3. At the hearing of this action, I did ___ did not ___ appear (if you did not appear, say why):

_____

4. My family residing with me consists of (how many in your family): _____
5. The reason that judgment should not be entered or that the eviction should be stopped is because (explain why):

_____

6. My monthly/weekly rent is $ _____, and I owe $ _____. I have $ _____ to deposit with the court today.
7. I hereby certify that before coming to Court today, I notified the landlord (or the landlord's lawyer) that I was going to make this application. (Explain how you notified the landlord or lawyer and what they said):

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

_____ _____

DATE YOUR SIGNATURE

FORM 36
ORDER FOR ORDERLY REMOVAL

Plaintiff,	SUPERIOR COURT OF NEW JERSEY LAW DIVISION — HUDSON COUNTY SPECIAL CIVIL PART
vs.	LANDLORD/TENANT DIVISION
	Docket #LT
Defendants,	Civil Action
	ORDER FOR ORDERLY REMOVAL (FULL ACCESS)

This matter having come before the court on the application, and at the request, of Defendant/s tenant/s for relief following the entry of a judgment for possession and the service of a warrant for the removal of the defendant/s, and the court having considered the application for relief, and [on notice to Plaintiff/Landlord (or Plaintiff's attorney of record)] [Plaintiff or Plaintiff's attorney having appeared] and the court having considered any objection thereto, and finding good cause for this Order, it is on this _____ day of _____ , 20 _____.

Ordered that:

1. TENANT'S REQUEST #1: The execution of the Warrant of Removal is hereby stayed until _____ a.m./p.m. on _____ 20 ___ and that the Defendant/s Tenant/s be permitted full access and use of the subject premises until such time and date so that the Defendant/s Tenant/s may arrange to move and voluntarily, peacefully, and in an orderly way remove all personal property belonging to Defendant/s Tenant/s.

   A) Defendant/s Tenant/s shall have no further right to access (enter), use or in any way occupy the subject premises after the time and date stated in paragraph #1, and this Order shall be the final Order in this case (subject only to the Plaintiff/Landlord's compliance herewith and the entry of a validly obtained judgment for possession),

   B) If Defendant/s Tenant/s have not removed all personal property belonging to the tenant by the time and date stated in paragraph #1, any such personal property remaining in the premises shall conclusively be deemed to have no value and the Plaintiff/Landlord shall have the right to destroy or otherwise dispose of such property,

Form 36 Continued: Order for Orderly Removal

2. TENANT'S ALTERNATE REQUEST #2: The execution of the Warrant of Removal is hereby stayed until _____ a.m./p.m. on _____ 20 ____ and that the Defendant/s Tenant/s be permitted full access and use of the subject premises until such time and date.

   A) After the time and date stated in paragraph #2, although the Defendant/s Tenant/s shall have no right to dwell in the subject apartment, the Plaintiff Landlord shall be responsible for the tenant/s personal property according to the New Jersey "Abandoned Property Act" (N.J.S.A. 2A:18-72 and following) and shall give the notices required by that Act or be subject to the penalties stated therein.

3. Plaintiff/Landlord may apply to this court for an Order to modify or rescind this Order by giving Defendant/s Tenant/s at least two (2) days' written notice of Plaintiff/Landlord's intent to apply for such rescission or modification.

_____

J .S.C.

FORM 37
CERTIFICATION BY LANDLORD'S ATTORNEY

NOTICE: This is a public document, which means the document as submitted will be available to the public upon request. Therefore, do not enter personal identifiers on it, such as Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number, or active credit card number.

Filing Attorney Information or Pro Se Litigant:
Name _____
NJ Attorney ID Number _____
Address _____
_____
Telephone Number _____

_____,
Plaintiff,
v.
_____,
Defendant.

Superior Court of New Jersey
Law Division, Special Civil Part
_____ County
Docket Number: LT _____
Landlord-Tenant Division

Certification by Landlord's Attorney

1. I am the attorney for the landlord in this matter and make this certification pursuant to *Rule* 6:6-3(b) or *Rule* 6:6-4.

2. The landlord has asserted that the tenant has failed to pay rent now due and owing in this matter.

3. I have reviewed the applicable federal, state, and local law and the written lease between the parties, and in my opinion the changed and fees sought, other than the base rent, are permitted to be included in the rent for purposes of this action.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: _____

_____
Signature

_____
Print Name

FORM 38
AFFIDAVIT OF PROOF AND NON-MILITARY SERVICE BY LANDLORD

YOU MUST COMPLETE THIS PART:

NAME OF LANDLORD OR ATTORNEY: _____

ADDRESS & PHONE #: _____

_____

Plaintiff,

vs.

Defendant,
_____

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION — SPECIAL CIVIL PART
_____ COUNTY
LANDLORD/TENANT DIVISION

YOU SHOULD COMPLETE PART A, PART B, OR BOTH, IF BOTH APPLY. CROSS OUT ANY PARAGRAPHS THAT DO NOT APPLY. PART C APPLIES TO ALL CERTIFICATIONS:

A. [WHEN THE EVICTION IS BASED ON UNPAID RENT]

1. The tenant has failed to pay rent now due and owing in the amount of $ _____.

   That amount consists of basic rent of $ _____, late charges of $ _____, legal fees relating to this action for eviction of $ _____, filing fees and costs of $ _____ and other (specify) _____.

2. All of the items listed above are included in the lease agreement as rent.

3. All of those items are permitted by applicable federal, state and local laws (including rent control or rent leveling, if applicable) to be included in the rent for the purposes of this action.

B. [WHEN THE EVICTION IS BASED ON OTHER GROUNDS]

1. Eviction is sought because _____.

2. I have attached a copy of all notices that have been served on the defendant.

3. These notices were served on the tenant (check one or more) ____ by ordinary mail, ____ by certified mail, ____ personally, on the _____ day of _____.

4. All of the facts stated in the notices are true.

FORM 38 Continued: Affidavit of Proof and Non-Military Service by Landlord

C. IN ALL CASES:

1. I have complied with the registration requirements of N.J.S.A. 46:8-27 *et seq*.
2. The tenant did not transfer ownership to me and I have not given the tenant an option to buy the property.
3. The tenant is not in the military service of the United States nor any of its allies, nor is the premises being used for dwelling purposes of the spouse, a child or other dependent of a person in the military service of the United States.

I, THE LANDLORD, CERTIFY THAT THE FOREGOING STATEMENTS MADE BY ME ARE TRUE. I AM AWARE THAT IF ANY OF THE FOREGOING STATEMENTS MADE BY ME ARE WILLFULLY FALSE, I AM SUBJECT TO PUNISHMENT.

_____ _____

DATE (PRINT NAME BELOW), LANDLORD

FORM 39
CONSENT TO ENTER JUDGMENT (TENANT REMAINS)

APPENDIX XI-V C CONSENT TO ENTER JUDGMENT (TENANT REMAINS)

Plaintiff	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: SPECIAL CIVIL PART _____ COUNTY
v.	LANDLORD-TENANT DIVISION
Defendant	DOCKET #LT **CONSENT TO ENTER JUDGMENT (TENANT TO STAY IN PREMISES)**

THE TENANT AND LANDLORD HEREBY AGREE THAT:

1. The Tenant shall pay to the Landlord $_____, which the Tenant admits is now due and owing and **AGREES TO THE IMMEDIATE ENTRY OF A JUDGMENT FOR POSSESSION**.

2. The Tenant shall pay the amount shown in paragraph 1 as follows:

   a. $_____ immediately, which the Landlord admits receiving.

   b. The Tenant shall pay the rest of the amount shown in paragraph 1 as follows:

3. The Tenant also agrees to pay $_____ each month as required by the rental agreement, in addition to the payment required in paragraph 1, until this settlement agreement is over.

4. All payments made during the term of this agreement shall be applied first to the rents that become due after today, and then they shall be applied to pay the balance of the arrears stated in paragraph 1. If the Tenant makes all payments required in paragraph 2b of this agreement, the Landlord agrees not to request a warrant of removal. If the Tenant does not make all payments required in paragraph 2b of this agreement, the Tenant agrees that the Landlord, with notice to the tenant, may file a certification stating when and what the breach was and that a warrant of removal may then be issued by the clerk. **THIS MEANS THAT IF THE TENANT FAILS TO MAKE ANY PAYMENT THAT IS REQUIRED IN PARAGRAPH 2b OF THIS AGREEMENT, THE TENANT MAY BE EVICTED AS PERMITTED BY LAW AFTER THE SERVICE OF THE WARRANT OF REMOVAL.**

5. This agreement shall end when the Tenant has paid the full amount of rent stated in paragraph 1 and then the judgment shall be vacated and the complaint shall be dismissed.

DATE: _____

_____ Landlord's Attorney

_____ Tenant's Attorney

_____ Landlord

_____ Tenant

NOTE: THE CERTIFICATION BY LANDLORD AND THE CERTIFICATION OF LANDLORD'S ATTORNEY (IF THE LANDLORD HAS AN ATTORNEY) ARE ATTACHED HERETO.

FORM 40
CONSENT TO ENTER JUDGMENT FOR POSSESSION (TENANT VACATES)

Plaintiff	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: SPECIAL CIVIL PART _____COUNTY
v.	LANDLORD-TENANT DIVISION DOCKET # LT - _____
Defendant	**CONSENT TO ENTER JUDGMENT (TENANT REQUIRED TO VACATE)**

THE TENANT AND LANDLORD HEREBY AGREE THAT:

1. The Tenant **AGREES TO THE IMMEDIATE ENTRY OF A JUDGMENT FOR POSSESSION AND THAT THE WARRANT OF REMOVAL MAY ISSUE AND BE SERVED UPON THE TENANT AT THE LANDLORD'S REQUEST, AS PERMITTED BY LAW. THE LANDLORD AGREES THAT THE WARRANT OF REMOVAL CANNOT BE EXECUTED (NO EVICTION) UNTIL _____ ("THE MOVE OUT DATE"), UNLESS THE TENANT FAILS TO COMPLY WITH PARAGRAPH 2(B).**

2. Check one of the following:

   A. _____ The Tenant shall pay no money, or

   B. _____ The Tenant shall pay $ _____, as follows:

_____

_____

3. A. If the Tenant does not make all payments required in paragraph 2(B) of this Agreement, the Tenant agrees that the Landlord, with notice to the Tenant, can file a certification stating when and what the breach was and that the warrant of removal can then be executed upon, as permitted by law, prior to the agreed upon MOVE OUT DATE.

   B. **EVEN IF THE TENANT DOES MAKE ALL PAYMENTS REQUIRED IN PARAGRAPH 2(B), TENANT STILL AGREES TO MOVE NO LATER THAN _____. IF THE TENANT DOES NOT MOVE BY THAT DATE, LANDLORD CAN HAVE THE TENANT EVICTED, AS PERMITTED BY LAW. THE 30 DAY PERIOD TO EXECUTE UPON A WARRANT OF REMOVAL IS AGREED BETWEEN THE LANDLORD AND TENANT TO BE EXTENDED TO INCORPORATE THE MOVE OUT DATE.**

DATE: _____

_____ Landlord's Attorney

_____ Tenant's Attorney

_____ Landlord

_____ Tenant

NOTE: THE CERTIFICATION BY LANDLORD AND THE CERTIFICATION OF LANDLORD'S ATTORNEY (IF THE LANDLORD HAS AN ATTORNEY) ARE ATTACHED HERETO.

FORM 41
RELEASE OF A LEASE

Whereas, on the first day of March 2018, a certain lease was entered into by and between Larry Landlord, party of the first part, as lessor and Tom Tenant and Tammy Tenant, party of the second part, as lessee, covering the following described premises situated in the City of New Brunswick, County of Middlesex, and State of New Jersey, to wit: 100 Main Street, Apartment 2D said lease extending for a term of one year from said date, and whereas it is the desire of the parties thereto to cancel and release said lease, now therefore in consideration of the lessor's discharging the lessee (as lessor hereby does) from all the covenants and obligations contained therein, the said lessee does hereby release and surrender all of their right, title and interest in and to the above described lease and premises, effective the 30th day of September 2018, and the said Larry Landlord, lessor, does hereby accept said release and surrender and hereby consents and agrees to the cancellation of said lease.

_____
Tom Tenant

_____
Tammy Tenant

_____
Larry Landlord

In Witness Whereof the said parties have hereunto set their hands at _____ this the _____ day of _____ , 20 _____.

State of New Jersey,)
) ss.

County of

Be it remembered, that on this _____ day of _____ , 20 _____, personally appeared before me, the subscriber, _____, who I am satisfied is the grantor named in the within instrument; and I having first made known unto him the contents thereof, he acknowledged that he signed, sealed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

_____
Notary

FORM 42
CERTIFICATION BY LANDLORD

YOU MUST COMPLETE THIS PART:
NAME OF LANDLORD OR ATTORNEY: _____
ADDRESS & PHONE#: _____

_____

_____
Plaintiff,

vs.

_____
Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SPECIAL CIVIL PART
_____ COUNTY
LANDLORD-TENANT DIVISION

Docket No. LT-_____
Civil Action

CERTIFICATION BY LANDLORD

THE LANDLORD SHOULD COMPLETE PART A OR PART B OR BOTH (IF BOTH APPLY). CROSS OUT ANY PARAGRAPHS IN THOSE PARTS THAT DO NOT APPLY IN THIS CASE. PART C APPLIES TO ALL CASES AND MUST BE COMPLETED.

A. WHEN THE EVICTION IS BASED ON UNPAID RENT

1. The tenant has failed to pay rent now due and owing in the amount of $_____ . That amount consists of basic rent of $_____, late charges of $_____, legal fees *relating to this action for eviction* of $_____, filing fees and costs of $_____, and other (specify) _____.
2. All of the items listed above are included in the lease agreement as rent.
3. All of those items are permitted by applicable federal, state and local laws (including rent control or rent leveling, if applicable) to be charged as rent for purposes of this action.

B. WHEN THE EVICTION IS BASED ON OTHER GROUNDS

Eviction is sought because _____
_____
_____

C. IN ALL CASES:

1. I have attached a copy of all notices that have been served on the tenant.
2. These notices were served on the tenant (check one or more) _____ by ordinary mail, _____ by certified mail, _____ personally, on _____.
3. All of the facts stated in the notices are true.
4. If I proceeded without an attorney, I certify that I own the property in my own name or in the name of a general partnership of which I am a partner.
5. I have complied with the registration requirements of N.J.S.A. 46:8-27 *et seq*.
6. The tenant did not transfer ownership to me and I have not given the tenant an option to buy the property.
7. The tenant is not in the military service of the United State nor any of its allies, nor is the premises used for dwelling purposes of the spouse, a child or other dependent of a person in the military service of the United States.

I, THE LANDLORD, CERTIFY THAT THE FOREGOING STATEMENTS MADE BY ME ARE TRUE. I AM AWARE THAT IF ANY OF THE FOREGOING STATEMENTS MADE BY ME ARE WILFULLY FALSE, I AM SUBJECT TO PUNISHMENT.

DATE: _____ _____
(PRINT NAME BELOW) LANDLORD

_____

FORM 43
NOTICE TO RESIDENTIAL TENANTS OF RIGHTS DURING FORECLOSURE

A FORECLOSURE ACTION HAS BEEN FILED CONCERNING *(INSERT ADDRESS OF PROPERTY)*, AND THE OWNERSHIP OF THE PROPERTY MAY CHANGE AS A RESULT.

UNTIL OWNERSHIP OF THE PROPERTY CHANGES OR YOU ARE OTHERWISE INFORMED BY THE COURT OR THE MORTGAGE HOLDER, YOU SHOULD CONTINUE TO PAY RENT TO THE LANDLORD OR TO A RENT RECEIVER, IF ONE IS APPOINTED BY THE COURT. YOU SHOULD KEEP RECEIPTS OR CANCELED CHECKS OF YOUR RENT PAYMENTS. IF YOU ARE NOT SURE HOW OR WHERE TO PAY RENT, SAVE YOUR RENT MONEY SO THAT YOU WILL HAVE IT WHEN THE OWNER DEMANDS IT. NONPAYMENT OF RENT IS GROUNDS FOR EVICTION.

FORECLOSURE ALONE IS GENERALLY NOT GROUNDS TO REMOVE A BONA FIDE RESIDENTIAL TENANT. TENANTS WHO WANT TO STAY IN THEIR HOMES CAN BE REMOVED ONLY THROUGH A COURT PROCESS. WITH LIMITED EXCEPTIONS, THE NEW JERSEY "ANTI-EVICTION ACT" PROTECTS RESIDENTIAL TENANTS' RIGHTS TO REMAIN IN THEIR HOME. THIS LAW INCLUDES PROTECTION FOR TENANTS WHO DO NOT HAVE WRITTEN LEASES.

IT IS UNLAWFUL FOR ANYONE TO TRY TO FORCE YOU TO LEAVE YOUR HOME OUTSIDE THE COURT PROCESS, INCLUDING BY SHUTTING OFF UTILITIES OR FAILING TO MAINTAIN THE PREMISES.

[Note: Appendix XII-K adopted November 17, 2009 to be effective immediately.]

FORM 44
LETTER TO TENANT CONCERNING REMOVAL OF PROPERTY

SCHENCK PRICE SMITH & KING, LLP
ATTORNEYS AT LAW
~ Founded 1912 ~

Serving Our Clients and Community For Over 100 Years

BRIAN R. LEHRER
Admitted in NJ and DC
Direct Line: 973-540-7352
Email: brl@spsk.com

220 Park Avenue
PO Box 991
Florham Park, NJ 07932
Telephone: 973-539-1000
Fax: 973-540-7300

www.spsk.com

!

August 14, 2018

Via Regular & Certified Mail, RRR

John Smith
1 Main Street
Anytown, NJ

Re: _____
File No. _____

Dear Mr. Smith:

With regard to the above-captioned matter, please be advised that there is property located on the premises. Pursuant to N.J.S.A. 2A:18-73 and 74, you are hereby notified of the following:

(1) The property is considered abandoned and must be removed from the premises within thirty (30) days after delivery of this notice or thirty-three (33) days after the date of mailing whichever comes first or the property will be sold or otherwise disposed of; and

(2) If the abandoned property is not removed, the landlord may sell the property at a public or private sale or otherwise dispose of it if the landlord reasonably determines that the value of the property is so low that the cost of storage and conducting a public sale would probably exceed the amount that would be realized from the value of the sale; or

(3) The landlord may sell the items of value and destroy or otherwise dispose of the remaining property.

Kindly advise as soon as you can.

Very truly yours,

SCHENCK, PRICE, SMITH & KING, LLP

By: _____
Brian R. Lehrer

FORM 45
WRIT OF POSSESSION

_____
Plaintiff

_____
Address

_____
City, State, Zip Code

_____
Plaintiff

v.

_____
Defendant

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SPECIAL CIVIL PART
_____COUNTY

DOCKET NO. _____

CIVIL ACTION

WRIT OF POSSESSION

Do Not Write Below This Line – For Court Use Only

THE STATE OF NEW JERSEY TO THE SHERIFF OF _____ COUNTY:

WHEREAS, on _____, 20__, by a certain judgment of the Superior Court of New Jersey, Law Division, Special Civil Part, _____ County, in a cause therein pending, wherein _____ is (are) the Plaintiff(s) and _____ is (are) the Defendant(s), it was ordered and adjudged that the Plaintiff(s) recover the possession of the lands and premises, with appurtenances, described in the Complaint from the Defendant(s) which premises are located at:

_____
Street Address

_____
City, State, Zip Code

the possession of which the Defendant(s) have unlawfully deprived the Plaintiff(s), as appears to us of record.

Therefore, you are hereby COMMANDED without delay, to restore Plaintiff(s) to possession of his/her/their property; and return this writ to the Clerk of Special Civil Part within 14 days of its issuance.

WITNESS, the Honorable _____, Judge of the Superior Court at _____, this _____ day of _____, 20__.

Certification of Execution of Writ for Possession

Date and Time Executed: _____

_____
Signature of Sheriff's Officer

_____
Printed or Typed Name of Officer

APPENDIX

SAMPLE RENT CONTROL ORDINANCE

B

Chapter 260 – RENT CONTROL[1]

Footnotes:

--- (1) ---

History— Adopted by the Council of the City of Jersey City February 7, 1986 by Ord. No. C-14A. Amendments noted where applicable.

Cross reference— Condominium conversion, Ch. 128; fees and charges, Ch. 160; housing accommodations, Ch. 188; multiple dwellings, Ch. 218; property maintenance, Ch. 254.

§ 260-1. – Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AVAILABLE FOR RENT TO TENANTS—Fit for habitation as defined by the statutes, codes and ordinances in full force and effect in the State of New Jersey, County of Hudson and City of Jersey City, and occupied or unoccupied and offered for rent.

BASE RENT—The legal rent charged or actually received by the landlord for the rental of a housing space as of January 11, 1983; or if not occupied at that date the "base rent" shall be that actually charged to and received from the previous tenant, plus any increases under § 260-3 of this chapter or the ordinance to which this is an amendment, or if insufficient evidence is available from which the Rent Leveling Administrator or Board can determine the legal rent charged or actually received as provided above, then the Rent Leveling Administrator and Board have the power to determine the legal "base rent" by considering the legal base rent of other units, subject to the provisions of this chapter, which are comparable in size, location and facilities to the subject unit.

[Amended 4-27-1989 by Ord. No. C-944]

CAPITAL IMPROVEMENT—A permanent improvement that adds to value or substantially extends the useful life of the landlord's property and can be claimed by the landlord for depreciation on his or her federal tax returns. Specifically excluded are ordinary repairs, maintenance and conversion to heat/hot water units for individual apartments where the cost of providing the heat/hot water service is transferred from the landlord to the tenant.

CONSUMER PRICE INDEX—The consumer price index (all items, base year 1967 = 100) for the region of the United States of which Jersey City is a part, published periodically by the United States Department of Labor, Bureau of Labor Statistics.

DWELLING—Any building or other structures containing housing spaces rented or offered for rent to one or more tenants consisting of a household or family as defined in this Chapter. A dwelling includes buildings or structures that are exempt from the restrictions of rent increases mandated under this Chapter.

[Amended 10-24-12 by Ord. No. 12-137; 6-28-2017 by Ord. No. 17-080]

A. Exempt from this definition are:

(1) Dwellings with four or less housing spaces.

(2) Low rent public housing developments.

(3) Licensed hotels or motels and commercial and industrial space.

(4) Newly constructed dwellings with 25 or more dwelling units located within a redevelopment area as defined in Section 5 of the Redevelopment Agencies Law, N.J.S.A. 40:55C-5(o), for which the City Council has approved a redevelopment plan, in accordance with Section 17 of the Redevelopment Agencies Law, N.J.S.A. 40:55C-17. [2]

(5) All buildings or structures, hotels, motels or guesthouses which are converted from any previous use as a nonpermanent dwelling to use as a dwelling on or after October 1, 1983. For the purpose of this exemption, a building shall be deemed converted for use as a dwelling on the date on which the certificate of occupancy for dwelling use is issued.

B. Any new dwelling or housing spaces being rented for the first time for the initial rental only.

EQUITY IN REAL PROPERTY INVESTMENT—The actual cash contribution of the purchaser at the time of closing of Title and any principal payments to outstanding mortgages subsequent to acquisition of title by the purchaser.

FAIR RETURN—The percentage of return on equity of real property investment. The amount of return shall be measured by the net income before depreciation. A "fair return" on the equity investment in real property shall be considered to be 6% above the maximum passbook demand deposit savings account interest rate available in the municipality. The 6% is provided to reflect the higher risk 3% and lesser liquidity 3% of real property investment in comparison to savings accounts investments.

HOUSING SPACE—Includes that portion of a dwelling rented or offered for rent for living and dwelling purposes with all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such portion of the real property.

JUST CAUSE FOR EVICTION—That the landlord recovered possession of a housing space or dwelling for one of the reasons outlined in state law (N.J.S.A. 2A:18-53 as amended or N.J.S.A. 2A:18-61.1 et seq.).

LANDLORD REGISTRATION STATEMENT—A statement to be completed and filed with the Bureau of Rent Leveling pursuant to § 260-2 E, F and G by all owner(s) and landlord(s) of housing spaces and/or dwellings in the City of Jersey City. [Added 10-24-12 by Ord. No. 12-137]

LIVING AREA—The amount of total rentable space applicable to any given housing space, measured either in terms of rooms or square footage.

RENT—Any price for the use of a housing space. It includes any charge, no matter how set forth, paid by the tenant for the use of any service in connection with the housing space. Security deposits and charges for accessories, such as boats, mobile homes and automobiles, not used in connection with the housing space shall not be construed as "rent". No charges shall be permitted for late rent, whether termed a late rental fee or interest on rent paid late, in excess of Thirty-Five ($35.00) Dollars, returned check fees in excess of Thirty-Five ($35.00) Dollars, or any other similar charges.

[Amended 2-27-02 by Ord. No. 02-017]

RENTAL STATEMENT—The statement a landlord shall be required to sign and deliver to each tenant at the inception of the tenancy, identifying the name and address of the landlord and his or her agent, if any, identifying the name, address and telephone number of the superintendent, if any, providing a twenty-four-hour emergency telephone number for the landlord or his or her agent, describing the housing space rented, the related services and equipment involved (whether or not including use of basement, garage, clothesline, washing equipment, utilities, heat, hot water, garbage removal, repairs, maintenance and the like) as of January 11, 1973; and the base rental as of the date of the inception of the tenancy; and the rent of the prior tenant and notification of the existence of the rent registration law.

SERVICE—The provision of light, heat, hot water, maintenance, painting, elevator service, air conditioning, storm windows, screens, superintendent service and any other benefit, privilege or facility connected with the use or occupancy of any dwelling or housing space.

SERVICE SURCHARGE—An additional charge over and above the rental due for new or additional services.

SUBSTANTIAL COMPLIANCE WITH APPLICABLE HEALTH AND MAINTENANCE CODES—The housing space and dwelling are free from the major health, safety and fire hazards as well as in compliance with heat and hot water and sanitary requirements. Compliance is to be determined with the aid of appropriate city and state regulatory agencies based upon current code inspection reports which shall be not less than six months old at the time of the initial hearing on a rent increase application under § 260-10, Hardship rental increases, and § 260-5, Capital improvements.

[Amended 3-13-1986 by Ord. No. C-183]

Footnotes:

--- (2) ---

Editor's Note: N.J.S.A. 40:55C-5(o) and 40:55C-17 were repealed by L. 1992, c. 79, § 59. For current provisions, see N.J.S.A. 40A:12A-1 et seq.

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§ 260-2. – Rent leveling; landlord registration statement; answering devices.

[Amended 10-24-12 by Ord. No. 12-137]

A. Establishment of rents between a landlord and tenant in housing space in dwellings to which this chapter is applicable shall hereafter be determined by the provisions of this amended section.

B. Any rental increase at a time other than at the expiration of a lease or termination of a periodic lease shall be void. Any rental increase in excess of that authorized by the provisions of this chapter shall be void.

C. All rents for rental of housing space and services in dwellings to which this chapter is applicable are hereby controlled at the base rent level received by the landlord as of January 11, 1973, and no rental increases shall be hereinafter demanded, paid or accepted, except as provided in this chapter.

D. Any rent increase imposed after January 11, 1973, the date of expiration of federal rent controls, to the extent that such increase is in excess of that which is permitted by this chapter, is hereby declared to be null and void and such excess rent shall be refunded or credited by the landlord forthwith.

E. Existing leases and options to renew shall not be affected by this chapter but no new leases shall be executed or performed except as provided in this chapter, and the base rent level in leased housing space shall be the rental in effect at the expiration of the lease.

F. Landlord Registration Statement Requirement.

[Added 6-14-1995 by Ord. No. 95-050; 10-24-2012 by Ord. No. 12-137]

(1) Every owner and/or landlord shall within 90 days following the effective date of this subsection or the creation of the first tenancy in any dwelling containing five (5) or more housing spaces, whether or not subject to the restrictions of rent increases under this Chapter, file a landlord registration statement with the Bureau of Rent Leveling containing the following information:

(a) The name and address of the record owner or owners of the dwelling and the record owner or owners of the rental business if not the same person.

(b) If the record owner is a corporation, the name and address of the registered agent and corporate officers of the corporation.

(c) If the address of any record owner or owners is not located in the County of Hudson, the name and address of a person who resides in the County of Hudson or has an office in the County of Hudson and is authorized to accept notices from tenants and to issue receipts for notices from tenants and to accept service of process on behalf of the record owner or owners.

(d) The name and address of the managing agent of the dwelling, if any.

(e) The name and address, including the dwelling unit, apartment or room number of the superintendent, janitor, custodian or any other individual employed by the record owner or managing agent to provide regular maintenance service, if any.

(f) The name, address and telephone number of any individual representative of the record owner or managing agent who may be called at any time in case of an emergency affecting the dwelling or any housing space within the dwelling, including such emergencies as the failure of any essential service or system, and who has the authority to make emergency decisions concerning the building and any repair to the building or expenditure in connection with the building.

(g) A list of the base monthly rents of each housing space, by apartment or room number, within the dwelling as of January 1, 1983.

(2) Between January 1 and March 3 of each calendar year, all owners and/or landlords of dwellings shall file with the Bureau of Rent Leveling a new landlord registration statement for each dwelling owned. An owner and/or landlord who purchases a dwelling on or after April 1 of any year shall also file a landlord registration statement within seven (7) days of purchase. Owner(s) and/or landlord(s) entitled to an increase in the base rent as a result of improving vacant housing space shall immediately file an amended landlord registration statement.

G. Within 30 days following the effective date of this subsection and at the time of the creation of a new tenancy, every landlord subject to this chapter shall provide each occupant or tenant in his or her dwelling a written statement containing all of the information required to be filed with the Bureau of Rent Leveling in accordance with Subsection F. Commencing 30 days following the effective date of this subsection, this information shall be posted at all times in the lobby, hallway or other conspicuous place within the dwelling. If any information contained in the statement changes, the landlord shall inform each occupant or tenant of the change in writing within 30 days and correct the information posted within seven days after the change.

[Added 6-14-1995 by Ord. No. 95-050]

H. From November 1 through March 31 of each year, the telephone numbers of the record owner, any individual representative of the record owner, the managing agent and the corporate officers, if the owner is a corporation, shall be equipped with an answering device capable of receiving and recording messages from any tenant calling with regard to maintenance. Owners have 30 days from the effective date of this act to comply with this requirement.

[Added 2-11-1988 by Ord. No. C-674]

§ 260-3. – Allowable increases. [Amended 3-13-1986 by Ord. No. C-183]

A. At the expiration of a lease or at the termination of a lease of a periodic tenant, no landlord may request or receive a percentage increase in rent which is greater than 4% or the percentage difference between the consumer price index three months prior to the expiration or termination of the lease and three months prior to the commencement of the lease term, whichever is less. For a periodic tenant or for a tenant whose lease term shall be less than one year, said tenant shall not suffer or be caused to pay more than one rent increase in any twelve-month period, commencing 15 months prior to and ending three months prior to, the effective date of the proposed increase, whichever is less.

B. No more than one such cost-of-living rental increase in any one twelve-month period shall be permitted irrespective of the number of different tenants occupying said housing space during said twelve-month period.

C. Vacant space.

[Amended 8-12-1998 by Ord. No. 98-116]

(1) In the event of a vacant housing space, the landlord may raise the rental above the cost-of-living increase without prior application being made to the Bureau of Rent Leveling, and only if he or she has made capital improvements to the housing space. Such capital improvements will entitle the landlord to increase the base rent of the vacant unit by the following amount:

(a) For capital improvements up to $5,000 in value, the vacant unit's monthly base rent shall be increased by $1.35 per $100 of improvement; and

(b) For capital improvements in excess of $5,000, the vacant unit's monthly base rent shall increase by $1.55 per $100 of improvement.

(2) It shall be the sole responsibility of the landlord to register the new rent of any improved unit with the Division of Tenant/Landlord Relations pursuant to § 260-2 of this chapter. No capital improvements shall be recognized under this provision unless they are made in accordance with applicable city codes and the appropriate permits are obtained. It shall be the responsibility of the landlord to document to the Bureau of Rent Leveling and prove the cost of any capital improvements in vacant housing space for which he or she desires to increase the rental.

(3) The landlord seeking a rent increase under this subsection shall pay an application fee of $75 per unit.

D. The landlord shall supply the following information in writing to any new tenant within the first 10 days of a new tenant's tenancy: the name of and rent paid by all tenants who occupied the apartment rented by the new tenant during the prior 12 months. The landlord shall keep a written record of the information described herein. The landlord shall make this record available to the Rent Leveling Administrator or Board upon request.

E. It shall be unlawful for any landlord to charge a tenant for the use of a washing machine, refrigerator, cooking stove, air conditioner or any other appliances wherever such appliances were permitted and allowed by the landlord without extra charge. The use of such appliances shall be considered as included in the former rents. Any such extra charge in such situation shall be considered as an unauthorized increase in rents and shall be unlawful unless approved by the Rent Leveling Board. Any landlord who has heretofore charged for such appliances shall be in violation of this chapter and shall be liable for punishment as such.

F. Any landlord seeking a major capital improvement rent increase based upon a substantial improvement of the dwelling and/or housing space must include in the notice to the tenant a landlord certification that said dwelling and housing space is in substantial compliance as defined by this chapter. All work done on the structure and premises must have been with approval of the appropriate agency or department as evidenced by requisite permits. The completed construction must be in accord with building, fire and other code regulations. A certificate of occupancy, where required by law, and a certificate of code compliance, including a housing inspection report based upon an actual inspection made within six months of the date of the landlord's application, must be produced as evidence. For the

purpose of this section only, "substantial improvement" shall mean that the cost of the capital improvements exceeds 50% of the current assessed value, as adjusted to 100% by the county tax equalization ratio prior to the improvements being made.

(1) If a landlord is determined to be in substantial compliance the increase shall be payable from the date set forth in the original notice of rent increase.

(2) If a landlord is determined not to be in substantial compliance at the time of the hearing, then the Board may grant provisional approval for the capital improvement and rent increase with such approval to be reviewed within six months. In the event that the subject property is brought into substantial compliance within the six-month period, then the provisional approval shall become final.

(3) In the event that the subject property is not brought into substantial compliance within the six-month period, but the owner has within this period made significant progress toward substantial compliance, the provisional approval shall continue with a further review being scheduled within the following three months. If the property is brought into substantial compliance within the additional three months, the provisional approval shall become final.

(4) In the event that the owner has not brought the property into substantial compliance or made significant progress toward substantial compliance within the six-month initial period or fails to bring the property into substantial compliance after being accorded the additional three-month extension, the owner provisional approval shall terminate and any capital improvement rent increase collected shall be immediately refunded to the tenant who paid the increase.

(5) Any capital improvement rent increase approved pursuant to this section shall take effect from the date of determination by the Board upon proper notice as required by the laws of the State of New Jersey.

G. Any landlord seeking a hardship increase shall include with the application an actual inspection report from the local building or property maintenance department based upon an inspection made within six months prior to the application. An application without said inspection report shall be void. The hearing officer may request an inspection if no inspection report is included in such application. The determination of substantial compliance shall be made by the Rent Leveling Board upon reviewing the list of violations, if any, set forth in the inspection report. If there are any objections thereto, then either party may file a complaint with the Board and a hearing shall be scheduled. The Chairperson of the Board shall intervene whenever necessary, upon request of any party to an application, to assure a prompt inspection by the appropriate department.

(1) If a landlord is determined to be in substantial compliance, then the hardship request shall be processed subject to the requirements set forth in § 260-10 of this chapter.

(2) If a landlord is determined not to be in substantial compliance at the time of the hearing on the hardship application, and the Board determines, after hearing, that the application would otherwise be granted, then the Board may grant provisional approval for the hardship application with such approval to be reviewed within six months. In the event that the subject property is brought into substantial compliance within the six-month period, then the provisional approval shall become final.

(3) In the event that the subject property is not brought into substantial compliance within the six-month period but the owner has, within this period, made significant progress toward substantial compliance, the provisional approval shall continue with a further review being scheduled within the following three months. If the property is brought into substantial compliance within the additional three months, the provisional approval shall become final.

(4) In the event that the owner has not brought the property into substantial compliance or made significant progress toward substantial compliance within the six-month initial period or fails to bring the property into substantial compliance after being accorded the additional three-month extension, the owner's provisional approval shall terminate and any rent increase collected shall be immediately refunded to the tenant who paid the increase. In the event that a provisional approval is so terminated, the Board shall dismiss the hardship application. An owner whose application has been so dismissed may reapply for a hardship rental increase. Any reapplication shall be considered an original application under § 260-10.

[Amended 4-23-1987 by Ord. No. C-451]

H. The landlord shall register the rent roll with the Rent Leveling Bureau in order to qualify for any rental increase.

I. If the landlord does not inform or misinforms the tenant concerning the rent paid by the prior tenants or in any manner illegally increases the tenant's rent, the Rent Leveling Bureau shall then accept, hear and adjudicate a compliance of an illegal increase.

J. The landlord shall provide to each tenant a copy of the Truth-In-Renting Statement and subsequent amendments to said statement and be in full compliance with the landlord identity disclosure provision contained within the statement in order to qualify for any rental increase.

§ 260-4. – Procedure for cost-of-living increases.

Any landlord seeking a cost-of-living rental increase shall notify the tenant in writing at least 30 days prior to the effective date of the increase as required by law of the calculations involved in computing the increase, including the consumer price index three months prior to the expiration or termination of the lease and the commencement of the lease term, or for a periodic tenant whose lease term is less than one year, the consumer price index 15 months prior to the effective date of the proposed increase, the allowable percentage increase as per § 260-3 and the allowable rental increase. The notice shall state the tenant's right to contest the increase within six months to the Jersey City Rent Leveling Bureau.

§ 260-5. – Capital improvement and service charge.

A. [Amended 3-11-1992 by Ord. No. 92-013] A landlord may apply to the Bureau of Rent Leveling for a service charge for increased or improved services. The landlord shall submit a written proposal with cost estimates to the Rent Leveling Board prior to performing any major or capital improvement work, showing how the work will affect all dwelling units. The landlord shall include the substance of said proposal in the notice of application to each tenant sent pursuant to Subsection C of this section. The aforesaid notice shall advise the tenants that they have a right to request a hearing before the Rent Leveling Board with respect to the proposed capital improvement work. Final approval by the Board shall not be considered until the capital improvement work has been completed and after the Board has received necessary documentation, at which time a final hearing will be scheduled. The landlord shall compute the average cost of the computed capital improvement or service by the number of years of useful life of the improvement as claimed by the landlord for federal income tax depreciation purposes. The landlord shall propose to apportion the average cost of completed improvement or service per year of useful life among the tenants in the dwelling in accordance with one of the following methods:

(1) If the capital improvement benefits certain housing spaces only, then the cost of those improvements shall be surcharged to only these units.

(2) If the capital improvement benefits all housing spaces but in varying degrees according to the amount of living area of each housing space, then the cost for the improvements shall be charged according to either the number of rooms or the space in proportion to the total rentable area in the dwelling.

(3) If the capital improvement is equally beneficial to all housing spaces regardless of the living area within any housing space, then the cost of the improvements shall be charged according to the number of housing spaces within the dwelling.

B. All work done on the property must be performed with the appropriate proper local approval as evidenced by permits and the completed capital improvements must be in accord with

building, fire, plumbing, electrical and any other code regulations. Before any capital increase is approved, an inspection shall be required to be made by a qualified inspector of the Department of Housing, Economic Development and Commerce together with an inspection by the Office of the Construction Official in order to document the nature of the work performed and that the structure is in substantial compliance. A certificate of occupancy must be secured if required by law. The landlord shall furnish with the application a certification of the true cost of each improvement signed by a qualified inspector and an affidavit by the landlord that the amount claimed in the application is attributable only to the specific building which is the subject of the application.

[Amended 3-11-1992 by Ord. No. 92-013; 8-13-1997 by Ord. No. 97-052]

C. Notice procedure. Prior to any application under this section, the landlord shall serve upon each tenant, by registered or certified mail or personal service of a notice of application filing setting forth the basis for said application, the amount of rental increase or surcharge applied for with respect to that tenant and the calculations involved. A sample copy of such notice shall be filed with the application of the landlord together with an affidavit or certification of service of notice of application upon each tenant. Tenants who request a copy of the complete application shall have one provided by the landlord.

D. Determination. The Rent Leveling Board may grant the landlord a rental surcharge or increase under the provisions of this section. No landlord shall impose upon any tenant a rent surcharge or increase under this section without first obtaining approval from the Rent Leveling Board. It shall be within the discretion of the Board to fix the effective date of any approval of a rental surcharge or increase to be at any reasonable time after determination. A surcharge granted under the provisions of this section shall not be considered rent for purposes of computing cost-of-living rental increases pursuant to §§ 260-2, 260-3 and 260-4. After the landlord has filed his or her application for an increase with all supporting documents and materials, no new material will be considered by the Hearing Officer or Board unless such new material is filed with the Board and notice identifying such new material and setting forth a description of such material is served upon each tenant no later than 10 days prior to the date of the hearing. Tenants who request a copy of the capital improvement file and any new materials submitted to the Board or hearing officer shall have one provided by the landlord at least five days prior to any hearing date.

[Amended 3-13-1986 by Ord. No. C-183]

E. Computations.

(1) A landlord must provide as part of his or her application a completed Rent Leveling Board form indicating the method and term of depreciation of the capital improvements claimed by the landlord.

(2) In the case of all capital improvements, the depreciation period shall be calculated according to its useful life, which in no case shall exceed 10 years for major capital improvements and five years for minor capital improvements.

[Amended 8-12-1998 by Ord. No. 98-116]

(3) In the case of such major capital improvements, the capital improvement charge shall be a part of the permanent base rent.

[Amended 8-12-1998 by Ord. No. 98-116]

(4) Major capital improvements shall consist of a substantial change in the housing accommodations such as would materially increase the rental value in a normal market and which consists of capital improvements to building-wide operating systems, including but not limited to items such as complete plumbing or electrical replacement for the entire building or a complete new roof. Major capital improvements shall also include complete kitchen and bathroom replacements for an individual apartment unit.

(5) In the case of minor capital improvements, the capital improvement charge shall not be a part of the permanent base rent, nor shall any financing costs be included as part of said surcharge.

(6) Minor capital improvements shall consist of all capital improvements not classified as major capital improvements.

(7) A capital improvement increase resulting hereunder shall not exceed 15% of the legal rent for the first year of such increase. Any further amount of increase which would have resulted based upon the landlord's application hereunder shall be apportioned equally over the remaining period of the capital improvement charge.

(8) Except in the case of emergency capital improvements, as defined in Subsection G, a landlord shall be entitled to only one major capital improvement increase in any twelve-month period.

F. The Board, in computing the amount spent for capital improvements, may consider the reasonable value of construction services performed by the owner in the actual capital improvement work. Where allowed, this shall include professional consultation or other similar services of the owner and is limited to actual labor and materials invested by the owner.

G. In the case of emergency major capital improvements a landlord shall not be required to obtain Board approval prior to performing said capital improvement work. The landlord shall be required to obtain Board approval for any capital improvement charge after the capital improvement work has been completed as otherwise provided for capital improvement

charges herein. For purposes of this section, "emergency capital improvement" shall mean a capital improvement made to correct a condition causing immediate and/or imminent danger to the health or safety of occupants of the subject premises, as defined by the Division of Construction Code Official, Department of Public Safety and/or Building Department. The landlord shall notify the Division of Construction Code Official of this condition as soon as possible. [Amended 8-13-1997 by Ord. No. 97-052; [9-11-2013 by Ord. No. 13-081]

§ 260-6. – Exemptions for new dwellings and new housing space and for dwellings vacant as of July 1, 1998. [Amended 4-27-1989 by Ord. No. C-944; 3-13-1996 by Ord. No. 95-111; 8-13-1997 by Ord. No. 97-052; 5-27-1998 by Ord. No. 98-060; 8-12-1998 by Ord. No. 98-116]

A. The owner of a newly constructed dwelling and the owner of newly constructed housing space which is rented for the first time shall not be restricted in the initial rent charged, provided that the owner has registered the rent with the Bureau of Rent Leveling. Except as provided in Subsection C of this section, any subsequent rental increases shall be subject to the provisions of this chapter.

B. Permits as required by law are to be secured from all agencies having control and jurisdiction. All work must adhere to appropriate code standards and must be inspected by all agencies having control and jurisdiction and their approval obtained. A certificate of occupancy must be secured as required by law.

C. In accordance with N.J.S.A. 2A:42-84.1 et seq., L. 1987, c. 153, the provisions of this chapter shall not apply to a new dwelling which is constructed between June 25, 1987, through June 25, 1992, and which is not constructed for occupation by senior citizens, for a period of time not to exceed the period of amortization of any initial mortgage loan obtained for the dwelling, or for 30 years following completion of construction, whichever is less. This exemption applies only where an owner complied with all requirements contained in N.J.S.A. 2A:42-84.1 et seq., including the filing with the municipal construction official required by N.J.S.A. 2A:42-84.4 and the service of a written statement upon the tenant required by N.J.S.A. 2A:42-84.3.

D. Buyers of multifamily dwellings covered by this chapter which are certified by the Division of Tenant/Landlord Relations to be vacant as of July 1, 1998 shall be granted a permanent exemption from the mandates of this chapter for rental units within that dwelling. Officers designated by the Director of the Division of Tenant/Landlord Relations shall be responsible for certifying, in writing, that a dwelling is vacant as of July 1, 1998.

§ 260-7. – Anti-harassment and tenant complaints. [Amended 9-10-1987 by Ord. No. C-553; 8-12-1998 by Ord. No. 98-116]

A. Any tenants desiring to remain in their units may do so without provocation or retaliation from landlords. For the purpose of this section, harassment of tenants shall mean conduct, whether direct or indirect, committed intentionally or negligently, by a landlord or anyone acting on his behalf. These actions include, but are not limited to:

(1) A reduction in the quality of basic service to the health, safety and welfare of the tenants;

(2) Withholding heat or hot water;

(3) Inadequate security;

(4) Intermittent failures;

(5) Bothersome telephone calls or letters;

(6) Frivolous eviction threats or legal proceeding; or

(7) Actions which would cause a reasonable person of like age and physical condition of a tenant to, fear for his or her life, limb, property or home.

B. Investigation/prosecution of harassment complaints. The Housing Municipal Court shall have jurisdiction over such complaints. The city shall assign one of its municipal prosecutors to investigate and/or prosecute complaints involving harassment filed by either tenants or landlords. Any landlord found guilty of violating this section shall be liable for a fine of up to $1,000 and/or imprisonment for a period of up to 90 days and/or a period of community service not exceeding 90 days.

C. Any complaint of an illegal increase or claim to lower rentals must be filed with the Bureau of Rent Leveling no later than two years after the effective date of the disputed increase. This limitations period shall apply to all claims accruing on or after January 1, 1987.

D. Payment of rental increase for two consecutive years shall be construed to be an agreed increase and not subject to the provisions of this chapter except that in the event that the Board determines that the landlord has not served upon the tenant the rental statement set forth in § 260-1, the Board shall waive the two-year limitations period.

E. If at any time after 30 days of a determination by the Rent Leveling Board or Administrator resulting in a refund of moneys to the tenant the landlord has not paid the refund to the tenant, the tenant may deduct the refund from the next rental payment.

F. Rent charges by the landlord shall be reduced or rolled back for any one of the following reasons if so determined by the Rent Leveling Board or Administrator:

(1) For the reasons set forth in § 260-14 of this chapter.

(2) For an unapproved rent increase beyond the annual cost-of-living increase.

G. An individual tenant or group of tenants on behalf of a tenant in the subject premises may file a complaint for a rent rollback based upon the foregoing reasons or any other reason where the value of the housing space is reduced.

H. At the time of any complaint made pursuant to Subsection G, the tenant or group of tenants on behalf of a tenant in the subject premises may request an inspection from the local housing or property maintenance department, which department shall undertake the inspection, submit a report and be available to the Rent Leveling Board at the hearing.

I. Any rent reduction, if granted by the Board, shall remain in effect until the landlord proves to the Board that the deficiency has been corrected.

J. The Board shall adopt guidelines for rent reductions under this section and shall consider the type of deficiency, the cause of deficiency, steps taken to alleviate the deficiency and the severity of the deficiency.

§ 260-8. – Bureau of Rent Leveling. [Amended 8-13-1997 by Ord. No. 97-052]

A. There is established within the Department of Housing, Economic Development and Commerce a Bureau of Rent Leveling, the head of which shall be the Rent Leveling Administrator. The Rent Leveling Administrator shall possess all the qualifications necessary to administer this chapter and the Bureau of Rent Leveling but shall not function as a hearing officer.

B. The Rent Leveling Administrator shall be appointed by and under the direction of the Director of the Department of Housing, Economic Development and Commerce.

§ 260-9. – Powers and duties of the Bureau of Rent Leveling. [ ]

A. The Bureau of Rent Leveling under the direction of the Rent Leveling Administrator shall have the following powers and functions:

(1) To remedy violations of this chapter by adjusting rentals, ordering rebates and bringing appropriate legal charges as provided in this chapter.

(2) To accept complaints from tenants of illegal increases, provided that all claims are sworn to and acknowledged by a person authorized by law to administer oaths.

(3) To accept any applications from landlords for rental increases under the capital improvement and service surcharge provisions of this chapter, provided that all applications are sworn to and acknowledged by a person authorized by law to administer oaths.

(4) To review applications and investigate complaints prior to a final decision being made in any case.

(5) To correct rentals which violate the consumer price index.

(6) To accept and forward to the Rent Leveling Board any applications for hardship rental increases.

B. Any rebate ordered by the Rent Leveling Administrator or Rent Leveling Board shall be considered a penalty against the landlord if said rebate is not made to the tenant within 30 days of the service of a final determination by the Administrator or Board. The tenant may bring an action in Municipal Court for the collection of this penalty after the time allowed as provided in New Jersey Court Rules, 4:70-1.

C. Either party to a case shall have the right to appeal the determination of the Rent Leveling Administrator or Board's hearing officer to the Rent Leveling Board.

D. There is hereby established the schedule of fees for complaints, applications and landlord registration statement to the Rent Leveling Board, which fees shall be payable to the City of Jersey City as provided in Chapter 160, Fees and Charges. [Amended 10-23-1986 by Ord. No. C-321; Amended 10-24-2012 by Ord. No. 12-137]

(1) $125 per housing space for capital improvement to vacant housing spaces.

(2) $20 per housing space for major or minor capital improvements.

(3) $30 per housing space for hardship application.

(4) $10 per housing space for the filing of landlord registration statement for all dwellings with five (5) or more housing spaces, including dwellings that are exempt from the restrictions of rent increases mandated under this Chapter, during each registration event.

(5) $30 per housing space for condominium and cooperative conversions.

(6) $150 per housing space for appeal of a protected tenancy determination.

E. No complaint application or rent roll registration will be deemed filed with the Board unless and until submitted on the Board's official forms and accompanied by all appropriate supporting documents and information and the required filing fees.

§ 260-10. – Hardship rental increases. [Amended 3-13-1986 by Ord. No. C-183]

A. In the event that a landlord cannot meet his or her mortgage payments or operating expenses or does not make a fair return on his or her investment, he or she may apply to the Rent Leveling Board for increased rentals, provided that he or she has owned the building for at least nine months prior to the time he or she applies for an increase.

B. Notice procedure prior to any application under this section to the Board. The landlord shall serve upon each tenant by registered or certified mail or personal service a notice of said

application setting forth the basis for said application, the amount of rental increases applied for with respect to that tenant and the calculations involved. A sample copy of such notice shall be filed with the application of the landlord to the Board, together with an affidavit or certification of service of notice of application upon each tenant. No hearing shall commence earlier than 6:00 p.m. and no hearing shall continue beyond 12:00 midnight.

[Amended 6-26-1991 by Ord. No. MC-334]

C. Determination by Rent Leveling Board. The Board may grant the landlord a rental increase under the provisions of this section. No landlord shall impose upon any tenant an increase in rent under this section without first obtaining approval from the Board. It shall be within the discretion of the Board to fix the effective date of any approved rental increase to commence at a reasonable time as determined by the Board. The Board must decide any hardship case within 60 days from the date of completion of application by the landlord, provided that all necessary and required documentation for said application has been submitted by the landlord to the hearing officer or the Board.

D. After the landlord has filed his or her application for an increase with all supporting documents and materials, no new material will be considered by the hearing officer or Board unless such new material is filed with the Board and notice identifying such new material and setting forth a description of such material is served upon each tenant no later than 10 days prior to the date of the hearing. Tenants who request a copy of the hardship file, and any new materials submitted to the Board or hearing officer, shall have one provided by the landlord at least five days prior to any hearing date.

E. The Board shall deny all or a part of the relief requested where specific findings of fact support the conclusion that the landlord purchase or operations are not reasonable, prudent and/or efficient.

F. The Board shall only include expenses that are reasonable, necessary and usual operating expenses. If an expense is not a usual yearly expense, the Board shall prorate the expense over a reasonable period of time based upon the history of the building and the actual useful life of the expense item. Any expenses connected with repairs and miscellaneous items shall be substantiated with bills and other documents for a twelve-month period prior to the application. No capital improvement or capital expenses shall be considered under this category.

G. Documentation presented by the landlord in the hardship application must include the following:

(1) The title closing statement or other proofs of purchase.

(2) Canceled checks or other proof of payment for all expenses claimed in the hardship application.

(3) All canceled checks or other proof of payment for all expenses claimed in the hardship application.

(4) All invoices, bills or other proof of work performed, supplies purchased and/or equipment purchased as claimed in the hardship application.

(5) A compilation statement of income and expenses relating to the subject property only for the preceding two years or from the date of acquisition of title if the property is owned for less than two years.

(6) Copies of those portions of tax returns relating to the property for the preceding two years or the period of the landlord's ownership if less than two years if filed.

(7) All mortgages and notes.

(8) The deed.

(9) Any other documents sought by the Rent Leveling Board and being relevant to the subject application and necessary to the Board's decisionmaking process.

H. Claimed expenses that are not supported by bills or invoices and canceled checks, money orders or appropriate proof of payment shall not be allowed.

I. If the Board determines that the landlord has withdrawn a part or all of his or her investment through refinancing or through any other means, then said withdrawal shall be deducted from the landlord's equity in real property investment unless used for the subject property.

J. If the Board determines that the landlord has unreasonably or excessively financed the property, then the Board may reasonably adjust the financing expense based upon market rates.

§ 260-11. – Rent Leveling Board established. [Amended 1-9-1986 by Ord. No. C-141; 3-12-1987 by Ord. No. C-429; 1-11-1995 by Ord. No. 94-137]

A. There is created a Rent Leveling Board to assist the administration of this chapter. The Board shall consist of (7) members, all of whom shall be residents of the City of Jersey City. Board members shall be appointed by the Mayor with the consent of the Municipal Council. Two members shall be appointed for one year, three for two years, two for three years; and thereafter, each new member shall serve a term of three years and until his successor has been appointed and qualified.

B. The Mayor may also appoint two alternate members of the Board with the consent of the Municipal Council for a term of one year and until their successors are appointed and qualified. If any vacancy shall occur, other than the expiration of term, it shall be filled by appointments as above-provided for the unexpired term.

C. The members and alternate members of the Board shall, insofar as practicable, as a group, be representative of the affected interests in the city.

D. An alternate member shall be entitled to sit with and participate as a member in any meeting of or hearing before the Board. An alternate member who has attended the full hearing or hearings and all pertinent meetings may participate in the Board's determination during the absence or disqualification of any regular member.

E. No member or alternate member of the Rent Leveling Board shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interests. Members and alternate members may be removed for inefficiency, neglect of duty or malfeasance in office by the Mayor at his discretion after proper hearing. Any Board member or alternate member who is absent for three consecutive Board meetings shall automatically be removed from the Board.

F. All members of the Board must disclose any/all real estate holdings in Jersey City.

§ 260-12. – Powers of Rent Leveling Board.

A. The Rent Leveling Board is granted and shall have and exercise, in addition to other powers herein granted, all powers necessary and appropriate to see that the purposes of this chapter are carried out and executed, including but not limited to the following:

(1) To issue and promulgate such procedural rules and regulations as it deems necessary to implement the purposes of this chapter, which rules and regulations shall have the force of law until revised, repealed or amended from time to time by the Board in the exercise of its discretion, provided that such rules are filed with the City Clerk. The Municipal Council may reject any rules of the Board within 60 days of the issuance of such rule and such rejected rule shall be deemed null and void and be of no force.

(2) To supply information and assistance to landlords and tenants to help them comply with the provisions of this chapter.

(3) To hold appeals hearings and adjudicate appeals from tenants for reduced rental in accordance with provisions of this chapter.

(4) To hold hearings for hardship, capital improvement and rent reduction applications in accordance with the provisions of this chapter.

B. The Board shall give both landlord and tenant reasonable opportunity to be heard before making any determination. All determinations of the Board must be approved as to law and form by the Corporation Counsel prior to release. All Board determinations must be in writing.

C. The Board may designate any one of the following persons as hearing officers to conduct hearings pursuant to this chapter: any one of its members or any person who was employed by the city to the position of hearing officer. Such hearing officer shall, within five days after

the conclusion of the hearing, file a written report with the Board. Said report shall contain the names and addresses of the parties to the hearing, names and addresses of all witnesses other than parties who testified at the hearing, the detailed findings of fact and conclusions of law, a recommended decision and the detailed basis for the recommendation. Attached to the report shall be all documents and papers received in evidence and the tape recording or transcript of the hearing. A copy of the report alone shall be mailed or served upon each party to the hearing. The parties may file written exceptions to the report with the Board. However, no exceptions shall be considered by the Board unless the same has been filed with the Board within 10 days from the date the copy of the report is received by the party submitting the exceptions. The Board shall consider the report and any exceptions to said report and shall render a decision promptly to either adopt, reject or modify the hearing officer's recommended decision.

[Amended 4-23-1987 by Ord. No. C-451]

D. The final decision or order of the Board shall be in writing or stated in the record of the Board's proceedings. Findings of fact, if set forth by reference to the language of this chapter, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. The parties shall be notified either personally or by certified mail of the final decision.

§ 260-13. – Appeal of Board's decision. [Amended 7-19-1991 by Ord. No. McC-340][3]

Both landlord and tenant may appeal the findings of any determination of the Board to a court of competent jurisdiction according to law. The landlord shall provide written notice to each tenant of any such appeal or complaint and shall certify to the Administrator that notice has been given. Failure to so certify in any case shall be a violation of this chapter punishable by a minimum fine of $100 and maximum penalties as provided in Chapter 1, General Provisions, § 1-25.

Footnotes:

--- (3) ---

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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§ 260-14. – Required services; heating systems. [Amended 4-8-1992 by Ord. No. 92-022]

A. During the term of this chapter, the landlord shall maintain the same standards of service, heating, maintenance, furniture, furnishings and equipment in the housing space and dwelling as he or she provided or was required to do by law or lease at the date the lease was entered into.

B. When services, care or maintenance or when the standards of service, heating, maintenance, furniture, furnishings and equipment in the housing space or dwelling are not substantially maintained as specified above, any tenant may apply to the Rent Leveling Board for a decrease in rent. A copy of said application shall be served upon the landlord and all other tenants setting forth, in detail, the reasons for such applications. At least 20 days shall elapse before a hearing thereon can be set.

C. Conversion of a central heating system paid for by the landlord to an individual dwelling heating system unit paid for by the tenant shall be considered a reduction of services. Any landlord who makes such heating conversion shall notify his or her tenants of their entitlement to a rental decrease commensurate with the additional cost to the tenant.

D. The two-year period provided under § 260-7 within which a tenant may apply to the Rent Leveling Board for a decrease in rent based on reduction of service shall not commence until the landlord provides each tenant with written notice of a tenant's entitlement to a rent reduction based on the conversion.

§ 260-15. – Provisions retroactive.

No landlord shall after the effective date of this chapter charge any rents in excess of what he or she was receiving from the effective date of this chapter except for increases as authorized by this chapter; nor shall such landlord charge any rents in excess of what he or she was receiving on January 11, 1973, if such excess is in excess of the rental which is authorized by this chapter.

§ 260-16. – Computations to be rounded off.

In computing rental increases and surcharges as provided under this chapter, all amounts so computed may be rounded off to the nearest dollar in accordance with generally accepted accounting principles.

§ 260-17. – Violations and penalties.[4]

A violation of any provisions of this chapter, including but not limited to the filing with the Rent Leveling Board or the Administrator of any material misstatement of fact, shall be punishable as provided in Chapter 1, General Provisions, § 1-25. A violation affecting more than one tenant shall be considered a separate violation as to each tenant.

Footnotes:

--- (4) ---

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 260-18. – Construal of provisions.

This chapter being necessary for the welfare of the city and its inhabitants shall be liberally construed to effectuate the purposes thereof.

§ 260-19. – When effective; other provisions supplemented.

A. This chapter shall remain in effect until the Council determines, by ordinance, that rent control is no longer necessary in the City of Jersey City and that it is in the public interest to permit the unrestrained operation of the competitive rental market.

B. All provisions of Chapter 218, Multiple Dwellings, of the Jersey City Code as amended and supplemented by this chapter be and they are hereby readopted.

§ 260-20. – Nonoccupant owner registration of dwelling units. [Added 2-11-1988 by Ord. No. C-674]

A. The nonoccupant owner of any dwelling of one to four units which is let or rented for residential use shall file a statement with the Rent Leveling Board registering such unit.

B. The statement shall contain:

(1) The total number of units in each dwelling rented, the address of each dwelling, the number of persons living in each dwelling unit, the number of rooms in each dwelling unit and the square footage of each dwelling unit.

(2) The home address and telephone number where the owner or an agent authorized to act on the owner's behalf with respect to the maintenance of the property can be reached during regular business hours.

(3) The address and telephone number of an agent capable of responding to or relaying emergency notices and messages concerning the dwelling at any time.

C. If the owner is a corporation or entity other than an individual, in addition to the information requested in Subsection B above, the statement shall also contain:

(1) The home address and telephone number of each principal owner as requested above.

(2) The address of the corporation and registered agent.

D. From November 1 through March 31 of each year, each telephone number listed in the registration statement shall be equipped with an answering device capable of receiving and recording messages from any tenant calling with regard to maintenance.

E. Owners shall file an amended statement within seven days of any change in the information required to be filed with the Rent Leveling Board.

F. Owners have 30 days after the effective date of this chapter to comply with its requirements.

APPENDIX

C

TITLE 2A. ADMINISTRATION OF CIVIL AND CRIMINAL JUSTICE

2A:18-53. Removal of tenant in certain cases; jurisdiction

Except for residential lessees and tenants included in section 2 of this act, any lessee or tenant at will or at sufferance, or for a part of a year, or for one or more years, of any houses, buildings, lands or tenements, and the assigns, under tenants or legal representatives of such tenant or lessee, may be removed from such premises by the Superior Court, Law Division, Special Civil Part in an action in the following cases:

a. Where such person holds over and continues in possession of all or any part of the demised premises after the expiration of his term, and after demand made and written notice given by the landlord or his agent, for delivery of possession thereof. The notice shall be served either personally upon the tenant or such person in possession by giving him a copy thereof or by leaving a copy of the same at his usual place of abode with a member of his family above the age of 14 years.

b. Where such person shall hold over after a default in the payment of rent, pursuant to the agreement under which the premises are held.

c. Where such person

1. shall be so disorderly as to destroy the peace and quiet of the landlord or the other tenants or occupants living in said house or the neighborhood, or
2. shall willfully destroy, damage or injure the premises, or
3. shall constantly violate the landlord's rules and regulations governing said premises, provided, such rules have been accepted in writing by the tenant or are made a part of the lease; or
4. shall commit any breach or violation of any of the covenants or agreements in the nature thereof contained in the lease for the premises where a right of re-entry is reserved in the lease for a violation of such covenants or agreements, and shall hold over and continue in possession of the demised premises or any part thereof, after the landlord or his agent for that purpose has caused a written notice of the termination of said tenancy to be served

upon said tenant, and a demand that said tenant remove from said premises within three days from the service of such notice. The notice shall specify the cause of the termination of the tenancy, and shall be served either personally upon the tenant or such person in possession by giving him a copy thereof, or by leaving a copy thereof at his usual place of abode with some member of his family above the age of 14 years.

2A:18-54. Notices and summons; substituted service; service by posting

Where for any reason, any of the notices required by section 2A:18-53 of this title, cannot be served as provided in said section or a summons and complaint cannot be served as in other actions, such notices or summons and complaint may be served upon any person actually occupying the premises, either personally or by leaving same with a member of his family above the age of 14 years, or when admission to the premises is denied or the tenant or occupant and all members of his family above the age of 14 years are absent from the premises, or there is no person actually occupying them, the officer or other person may post or affix a copy of the same upon the door or other conspicuous part of such premises. Such posting shall be deemed to be lawful service.

2A:18-55. Discontinuance upon payment into court of rent in arrears; receipt

If, in actions instituted under paragraph "b" of section 2A:18-53 of this title, the tenant or person in possession of the demised premises shall at any time on or before entry of final judgment, pay to the clerk of the court the rent claimed to be in default, together with the accrued costs of the proceedings, all proceedings shall be stopped. The receipt of the clerk shall be evidence of such payment.

The clerk shall forthwith pay all moneys so received to the landlord, his agent or assigns.

2A:18-56. Proof of notice to quit prerequisite to judgment

No judgment for possession in cases specified in paragraph "a." of section 2A:18-53 of this Title shall be ordered unless:

a. The tenancy, if a tenancy at will or from year to year, has been terminated by the giving of 3 months' notice to quit, which notice shall be deemed to be sufficient; or

b. The tenancy, if a tenancy from month to month, has been terminated by the giving of 1 month's notice to quit, which notice shall be deemed to be sufficient; or

c. The tenancy, if for a term other than at will, from year to year, or from month to month, has been terminated by the giving of one term's notice to quit, which notice shall be deemed to be sufficient; and

d. It shall be shown to the satisfaction of the court by due proof that the notice herein required has been given.

2A:18-57. Judgment for possession; warrant for removal; issuance

If no sufficient cause is shown to the contrary when the action comes on for trial, the court shall issue its warrant to any officer of the court, commanding him to remove all persons from the premises, and to put the claimant into full possession thereof, and to levy and make the costs out of the goods and chattels of the person in possession.

No warrant of removal shall issue until the expiration of 3 days after entry of judgment for possession, except as provided for in chapter 42 of this Title.

2A:18-58. Execution of warrant; use of force

An officer, to whom a warrant is issued by virtue of this article, shall obey the command of and faithfully execute the same, and may, if necessary to the execution thereof, uses such force as may be necessary.

2A:18-59.Review; landlord liable for unlawful proceedings

Proceedings had by virtue of this article shall not be appealable except on the ground of lack of jurisdiction. The landlord, however, shall remain liable in a civil action for unlawful proceedings under this article.

2A:18-59.1. Terminally ill tenants

Notwithstanding the provisions of any other law to the contrary, the Superior Court may authorize and review one year stays of eviction during which the tenant shall be entitled to renew the lease at its term of expiration, subject to reasonable changes proposed to the tenant by the landlord in written notice, whenever:

a. The tenant fulfills all the terms of the lease and removal is sought under subsection a. of 2A:18-53 where a residential tenant holds over after written notice for delivery of possession; and

b. The tenant has a terminal illness which illness has been certified by a licensed physician; and

c. There is substantial likelihood that the tenant would be unable to search for, rent and move to a comparable alternative rental dwelling unit without serious medical harm; and

d. The tenant has been a tenant of the landlord for a least two years prior to the issuance of the stay.

In reviewing a petition for a stay of eviction, the court shall specifically consider whether the granting of the stay of eviction would cause an undue hardship to the landlord because of the landlord's financial condition or any other factor relating to the landlord's ownership of the premises.

2A:18-59.2. Inapplicability of act to hotel, motel or guesthouse rented to transient guest or seasonal tenant or to residential health care facility

This act shall not apply to a hotel, motel or other guest house, or part thereof, rented to a transient guest or seasonal tenant, or a residential health care facility as defined in section 1 of P.L.1953,c.212 (C.30:11A-1).

2A:18-60. Removal of proceedings into Law Division

At any time before an action for the removal of a tenant comes on for trial, either the landlord or person possession may apply to the Superior Court, which may, if it deems it of sufficient importance, order the cause transferred from the Special Civil Part to the Law Division.

2A:18-61. Trial by jury in Law Division

A summary action for the removal of a tenant, commenced in the Special Civil Part but transferred to the Law Division shall be tried before a jury, unless a jury is waived.

2A:18-61.1. Grounds for removal of tenants

No lessee or tenant or the assigns, under-tenants or legal representatives of such lessee or tenant may be removed by the Superior Court from any house, building, mobile home or land in a mobile home park or tenement leased for residential purposes, other than

1. owner-occupied premises with not more than two rental units or a hotel, motel or other guesthouse or part thereof rented to a transient guest or seasonal tenant;

2. a dwelling unit which is held in trust on behalf of a member of the immediate family of the person or persons establishing the trust, provided that the member of the immediate family on whose behalf the trust is established permanently occupies the unit; and

3. a dwelling unit which is permanently occupied by a member of the immediate family of the owner of that unit, provided, however, that exception (2) or (3) shall apply only in cases in which the member of the immediate family has a developmental disability, except upon establishment of one of the following grounds as good cause:

a. The person fails to pay rent due and owing under the lease whether the same be oral or written; provided that, for the purposes of this section, any portion of rent unpaid by a tenant to a landlord but utilized by the tenant to continue utility service to the rental premises after receiving notice from an electric, gas, water or sewer public utility that such service was in danger of discontinuance based on non payment by the landlord, shall not be deemed to be unpaid rent.

b. The person has continued to be, after written notice to cease, so disorderly as to destroy the peace and quiet of the occupants or other tenants living in said house or neighborhood.

c. The person has willfully or by reason of gross negligence caused or allowed destruction, damage or injury to the premises.

d. The person has continued, after written notice to cease, to substantially violate or breach any of the landlord's rules and regulations governing said premises, provided such rules and regulations are reasonable and have been accepted in writing by the tenant or made a part of the lease at the beginning of the lease term.

e.

1. The person has continued, after written notice to cease, to substantially violate or breach any of the covenants or agreements contained in the lease for the premises where a right of reentry is reserved to the landlord in the lease for a violation of such covenant or agreement, provided that such covenant or agreement is reasonable and was contained in the lease at the beginning of the lease term.

2. In public housing under the control of a public housing authority or redevelopment agency, the person substantially violated or breached any of the covenants or agreements contained in the lease for the premises pertaining to illegal uses of controlled dangerous substances, or other illegal activities, whether or not a right of reentry is reserved to the landlord in the lease for a violation of such covenant or agreement, provided that such covenant or agreement conforms to federal guidelines regarding such lease provisions and was contained in the lease at the beginning of the lease term.

f. The person has failed pay rent after a valid notice to quit and notice of increase of said rent, provided the increase in rent is not unconscionable and complies with any an all other laws or municipal ordinances governing rent increases.

g. The landlord or owner

1. seeks to permanently board up or demolish the premises because he has been cited by local or State housing inspectors for substantial violations affecting the health and safety of tenants and it is economically unfeasible for the owner to eliminate the violations;

2. seeks to comply with local or State housing inspectors who have cited him for substantial violations affecting the health and safety of tenants and it is unfeasible to so comply without removing the tenant; simultaneously with service of notice of eviction pursuant to this clause, the landlord shall notify the Department of Community Affairs of the intention to institute proceedings and shall provide the department with such other information as it may require pursuant to rules and regulations. The department shall inform all parties and the court of its view with respect to the feasibility of compliance without removal of the tenant and may in its discretion appear and present evidence;

3. seeks to correct an illegal occupancy because he has been cited by local or State housing inspectors or zoning officers and it is unfeasible to correct such illegal occupancy without removing the tenant; or

4. is a governmental agency which seeks to permanently retire the premises from the rental market pursuant to a redevelopment or land clearance plan in a blighted area. In those cases where the tenant is being removed for any reason specified in this subsection, no warrant for possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.) and P.L.1971, c.362 have been complied with.

h. The owner seeks to retire permanently the residential building or the mobile home park from residential use or use as a mobile home park, provided this subsection shall not apply to circumstances covered under subsection g. of this section.

i. The landlord or owner proposes, at the termination of a lease, reasonable changes of substance in the terms and conditions of the lease, including specifically any change in the term thereof, which the tenant, after written notice, refuses to accept; provided that in cases where a tenant has received a notice of termination pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a protected tenancy status pursuant to section 9 of the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall have the burden of proving that any change in the terms and conditions of the lease, rental or regulations both is reasonable and does not substantially reduce the rights and privileges to which the tenant was entitled prior to the conversion.

j. The person, after written notice to cease, has habitually and without legal justification failed to pay rent which is due and owing.

k. The landlord or owner of a building or mobile home park is converting from the rental market to a condominium, cooperative or fee simple ownership of two or more dwelling units or park sites, except as hereinafter provided in subsection I. of this section. Where the tenant is being removed pursuant to this subsection, no warrant for possession shall be issued until this act has been complied with. No action for possession shall be brought pursuant to this subsection against any senior citizen tenant or disabled tenant with protected tenancy status pursuant to the "Senior Citizens and Disabled Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al), or against a qualified tenant under the "Tenant Protection Act of 1992," P.L.1991, c.509 (C2A:18-61.40 et al), as long as the agency has not terminated the protected tenancy status or the protected tenancy period has not expired.

l.

1. The owner of a building or mobile home park, which is constructed as or being converted to a condominium, cooperative or fee simple ownership, seeks to evict a tenant or sublessee whose initial tenancy began after the master deed, agreement establishing the cooperative or subdivision plat was recorded, because the owner has contracted to sell the unit to a buyer who seeks to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing. However, no action shall be brought against a tenant under paragraph (1) of this subsection unless the tenant was given a statement in accordance with section 6 of P.L.l975, c.311 (C.2A:18-61.9);

2. The owner of three or less condominium or cooperative units seeks to evict a tenant whose initial tenancy began by rental from an owner of three or less units after the master deed or agreement establishing the cooperative was recorded, because the owner seeks to personally occupy the unit, or has contracted to sell the unit to a buyer who seeks to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing;

3. The owner of a building of three residential units or less seeks to personally occupy a unit, or has contracted to sell the residential unit to a buyer who wishes to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing.

m. The landlord or owner conditioned the tenancy upon and in consideration for the tenant's employment by the landlord or owner as superintendent, janitor or in some other capacity and such employment is being terminated.

n. The person has been convicted of or pleaded guilty to, or if a juvenile, has been adjudicated delinquent on the basis of an act which if committed by an adult would constitute an offense under the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. involving the use, possession, manufacture, dispensing or distribution of a controlled dangerous substance, controlled dangerous substance analog or drug paraphernalia within the meaning of that act within or upon the leased premises or the building or complex

of buildings and land appurtenant thereto, or the mobile home park, in which those premises are located, and has not in connection with his sentence for that offense either (1) successfully completed or (2) been admitted to and continued upon probation while completing, a drug rehabilitation program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises, knowingly harbors or harbored therein a person who has been so convicted or has so pleaded, or otherwise permits or permitted such a person to occupy those premises for residential purposes, whether continuously or intermittently, except that this subsection shall not apply to a person harboring or permitting a juvenile to occupy the premises if the juvenile has been adjudicated delinquent upon the basis of an act which if committed by an adult would constitute the offense of use or possession under the said act. No action for removal may be brought pursuant to this subsection more than two years after the date of the adjudication or conviction or more than two years after the person's release from incarceration whichever is the later.

o. The person has been convicted of or pleaded guilty to, or if a juvenile, has been adjudicated delinquent on the basis of an act which if committed by an adult would constitute an offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terrorist threats against the landlord, a member of the landlord's family or an employee of the landlord; or, being the tenant or lessee of such leased premises, knowingly harbors or harbored therein a person who has been so convicted or has so pleaded, or otherwise permits or permitted such a person to occupy those premises for residential purposes, whether continuously or intermittently. No action for removal may be brought pursuant to this subsection more than two years after the adjudication or conviction or more than two years after the person's release from incarceration whichever is the later.

p. The person has been found, by a preponderance of the evidence, liable in a civil action for removal commenced under this act for an offense under N.J.S.2C:20-1 et al. involving theft of property located on the leased premises from the landlord, the leased premises or other tenants residing in the leased premises, or N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terrorist threats against the landlord, a member of the landlord's family or an employee of the landlord, or under the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use, possession, manufacture, dispensing or distribution of a controlled dangerous substance, controlled dangerous substance analog or drug paraphernalia within the meaning of that act within or upon the leased premises or the building or complex of buildings and land appurtenant thereto, or the mobile home park, in which those premises are located, and has not in connection with his sentence for that offense either (1) successfully completed or (2) been admitted to and continued upon probation while completing a drug rehabilitation program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises, knowingly harbors or harbored therein a person who committed such an offense, or otherwise permits or permitted such a person to occupy those premises for residential purposes, whether continuously or intermittently, except that this subsection shall not apply to a person who harbors or permits a juvenile to occupy the premises if the juvenile has been adjudicated delinquent upon the basis of

an act which if committed by an adult would constitute the offense of use or possession under the said "Comprehensive Drug Reform Act of 1987.

q. The person has been convicted of or pleaded guilty to, or if a juvenile, has been adjudicated delinquent on the basis of an act which if committed by an adult would constitute an offense under N.J.S.2C:20-1 et al. involving theft of property from the landlord, the leased premises or other tenants residing in the same building or complex; or, being the tenant or lessee of such leased premises, knowingly harbors therein a person who has been so convicted or has so pleaded, or otherwise permits such a person to occupy those premises for residential purposes, whether continuously or intermittently.

For purposes of this section, (1) "developmental disability" means any disability which is defined as such pursuant to section 3 of P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate family" means a person's spouse, parent, child or sibling, or a spouse, parent, child or sibling of any of them; and (3) "permanently" occupies or occupied means that the occupant maintains no other domicile at which the occupant votes, pays rent or property taxes or at which rent or property taxes are paid on the occupant's behalf. L.1974,c.49,s.2; Amended 1975, c.311, s.l; 1981, c.8, s.l; 1981, c.226, s.13; 1989, c.294, s.1; 1991, c.91, s.68; 1991, c.307; 1991, c.509, s.19; 1993, c.342, s.1; 1995, c.269; 1996, c.131; 1997,c.228,s.l.L.2000, c.113, s.3

2A:18-61.1a. Findings

The Legislature finds that:

a. Acute State and local shortages of supply and high levels of demand for residential dwellings have motivated removal of blameless tenants in order to directly or indirectly profit from conversion to higher income rental or ownership interest residential use.

b. This has resulted in unfortunate attempts to displace tenants employing pretexts, stratagems or means other than those provided pursuant to the intent of State eviction laws designated to fairly balance and protect rights of tenants and landlords.

c. These devices have circumvented the intent of current State eviction laws by failing to utilize available means to avoid displacement, such as: protected tenancies; rights to purchase; rent affordability protection; full disclosures relevant to eviction challenges; and stays of eviction where relocation is lacking.

d. It is in the public interest of the State to maintain for citizens the broadest protections available under State eviction laws to avoid such displacement and resultant loss of affordable housing, which, due to housing's uniqueness as the most costly and difficult to change necessity of life, causes overcrowding, unsafe and unsanitary conditions, blight, burdens on community services, wasted resources, homelessness, emigration from the State and personal hardship, which is particularly severe for vulnerable seniors, the disabled, the frail, minorities, large families and single parents.

e. Such personal hardship includes, but is not limited to: economic loss, time loss, physical and emotional stress, and in some cases severe emotional trauma, illness, homelessness or other irreparable harm resulting from strain of eviction controversy; relocation search and moving difficulties; anxiety caused by lack of information, uncertainty, and resultant planning difficulty; employment, education, family and social disruption; relocation and empty unit security hazards; relocation to premises of less affordability, capacity, accessibility and physical or environmental quality; and relocation adjustment problems, particularly of the blind or other disabled citizens.

a. It is appropriate to take legislative notice of relevant legislative findings adopted pursuant to section 2 of the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C. 2A:18-61.23) and section 2 of the "Prevention of Homelessness Act (1984)," P.L.1984, c.180 (C. 52:27D-281), which, with the findings of this section, have relevance to this 1986 amendatory and supplementary act and P.L.1974, c.49 (C. 2A:1861.1et seq.).

b. This 1986 amendatory and supplementary act is adopted in order to protect the public health, safety and welfare of the citizens of New Jersey.

2A:18-61.1b. Permanent retirement from residential use

If an owner seeks an eviction alleging permanent retirement of the premises from residential use pursuant to subsection h. of section 2 of P.L.1974, c.49 (C. 2A:18-61.1) and if, pursuant to land use law, nonresidential use of the premises is not permitted as a principal permitted use or is limited to accessory, conditional or public use, a rebuttal presumption is created that the premises are not and will not be permanently retired from residential use. Residential premises that are unoccupied, boarded up or otherwise out of service shall not be deemed retired from residential use unless they are converted to a principal permitted nonresidential use. No tenant shall be evicted pursuant to subsection h. of section 2 of P.L.1974, c.49 (C. 2A:18-61.1) if any State or local permit or approval required by law for the nonresidential use is not obtained. Nothing contained in this section shall be deemed to require obtaining a certificate of occupancy for the proposed use prior to an eviction. The detail specified in notice given pursuant to 12 subsection d. of section 3 of P.L.1974, c.49 (C. 2A:18- 61.2) shall disclose the proposed nonresidential use to which the premises are to be permanently retired.

2A:18-61.1c. 5 year restriction

The Department of Community Affairs shall not approve an application for registration of conversion pursuant to "The Planned Real Estate Development Full Disclosure Act," P.L.l974, c.49 (C. 45:22A-21 et seq.) for any premises for a period of five years following the date on which any dwelling unit in the premises becomes vacant after notice has been given that the owner seeks to permanently board up or demolish the premises or seeks to retire permanently the premises from residential use pursuant to subsection g.(I) or h. of section 2 of P.L.1974, c.49 (C. 2A:18-

61.1). Within five days of the date on which any owner provides notice of termination to a tenant pursuant to subsection g.(1) or h. of section 2 of P.L.1974, c.49 (C. 2A:18-61.1), the owner shall provide a copy of the notice to the Department of Community Affairs.

2A:18-61.1d. Maximum authorized rent

In a municipality which has an ordinance regulating rents in effect, if a dwelling unit in the premises becomes vacated after notice has been given that the owner seeks to permanently board up or demolish the premises or seeks to retire permanently the premises from residential use pursuant to subsection g.(1) or h. of section 2 of P.L.1974, c.49 (C. 2A:18-61.1) and if any time thereafter an owner permits the personal occupancy of the premises, the maximum rent authorized for a unit in the premises shall not exceed the rent that would have been authorized for that unit if there had been no vacancy or change of tenancy for the unit. Increased costs which occur during the period of vacancy, which are solely the result of the premises being vacated, closed and reoccupied and which do not add services or amenities not previously provided, or which add new services or amenities whose costs significantly reduce the affordability of the premises, shall not be used as a basis for any rent increase pursuant to any municipal rent regulation provision, fair return or hardship hearing before a municipal rent board or any appeal from such determination. Increased costs of new services and amenities create a rebuttal presumption that they significantly reduce the affordability of the premises, if they result in a doubling of the rent increases otherwise permitted by law during the period of vacancy. Within five days of the date on which any owner provides notice of termination to a tenant pursuant to subsection g.(l) or h. of section 2 of P.L.1974, c.49 (C. 2A:18-61.1), the owner shall provide a copy of the notice to the municipal agency responsible for administering the regulation of rents in the municipality. The owner's notice to the municipal agency shall also include a listing of the current tenants and rents for each dwelling unit in the premises, unless the owner has previously submitted to the municipal agency a listing which is still current.

2A:18-61.1e. Rights of former tenants

If a dwelling unit becomes vacated after notice has been given that the owner seeks to permanently board up or demolish the premises or seeks to retire permanently the premises from residential use pursuant to paragraph (1) of subsection g. or subsection h. of section 2 of P.L.l974. c.49 (C.2A:18-61.1) and if at any time thereafter an owner instead seeks to return the premises to residential use, the owner shall provide the former tenant:

a. Written notice 90 days in advance of any return to residential use or any agreement for possession of the unit by any other party, which notice discloses the owner's intention to return the unit to residential use and all appropriate specifics;

b. The right to return to possession of the vacated unit or, if return is not available, the right to possession of affordable housing relocation in accord with the standards and criteria set forth for comparable housing as defined by section 4 of P.L.l975, c.311 (C.2A:18-61.7); and

c. In the case of a conversion, the right to a protected tenancy pursuant to the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226, (C.2A:l8-61.22 et seq.), or pursuant to the "Tenant Protection Act of 1992," P.L.l991, c.509 (C.2A:18-61.40 et al.), if the former tenant would have at the time of the conversion been eligible for a protected tenancy under either of those acts, had the former tenant not vacated the premises.

The 90-day notice shall disclose the tenant's rights pursuant to this section and the method for the tenant's response to exercise these rights. A duplicate of the notice shall be transmitted within the first five days of the 90-day period to the rent board in the municipality or the municipal clerk, if there is no board. Notwithstanding the provisions of subsection c. of section 3 of P.L.l975, c.311 (C.2A:18-61.6), damages awarded shall not be trebled where possession has been returned in accord with this section; nor shall any damages be awarded as provided for in subsection e. of section 3 of P.L.l975. c.311 (C.2A:18-61.6). An owner who fails to provide a former tenant a notice of intention to return to residential use pursuant to this section is liable to a civil penalty of not less than $2,500.00 or more than $10,000.00 for each offense, and shall also be liable in treble damages, plus attorney fees and costs of suit, for any loss or expenses incurred by a former tenant as a result of that failure. The penalty prescribed in this section shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court, Law Division, Special Civil Part, in the county in which the rental premises are located shall have jurisdiction over such proceedings. Process shall be in the nature of a summons or warrant, shall issue upon the complaint of the Commissioner of the Department of Community Affairs, the Attorney General, or any other person. No owner shall be liable for a penalty pursuant to this section if the unit is returned to residential use more than five years after the date the premises are vacated or if the owner made every reasonable effort to locate the former tenant and provide the notice, including, but not limited to, the employment of a qualified professional locator service, where no return receipt is obtained from the former tenant.

In any action under this section the court shall, in addition to damages, award any other appropriate legal or equitable relief.

2A:18-61.1f. Local ordinances permitted

Nothing contained in this 1986 amendatory and supplementary act shall authorize any civil action to require that dwelling units remain vacant, shall limit any defense or challenge to evictions that is otherwise provided by law or shall prohibit any provision of a local ordinance which is not less restrictive, except as prohibited pursuant to subsection e. of section 3 of P.L.l975. c.311 (C. 2A:18-61.6). Except as provided in subsection e. of section 3 of P.L.1975. c.311 (C. 2A:18-61.6), local ordinances may facilitate the objectives of this 1986 amendatory and supplementary act pertaining to premises where tenants have received notice pursuant to subsection g.(l) or h. of section 2 of P.L. 1974, c. 49 (C. 2A:18-61.l), including, but not limited to, any ordinance intended to:

a. Require owners to obtain and register tenants' current and forwarding addresses;

b. Provide to tenants and former tenants who have received notice of termination pursuant to subsection g.(l) or h. of section 2 of P.L.1974, c.49 (C. 2A:18-61.1) basic information on their relevant rights;

c. Provide a municipal registry for former tenants to file current addresses for receiving notice; and

d. Assist in locating former tenants who become entitled to receive notice pursuant to section 6 of this 1986 amendatory and supplementary act.

2A:18-61.1g. Relocation of displaced tenant; violations, penalty

a. A municipality may enact an ordinance providing that any tenant who receives a notice of eviction pursuant to section 3 of P.L.1974. c.49 (C.2A:18-61.2) that results from zoning or code enforcement activity for an illegal occupancy, as set forth in paragraph (3) of subsection g. of section 2 of P.L.1974, c.49 (C.2A:18-61.1), shall be considered a displaced person and shall be entitled to relocation assistance in an amount equal to six times the monthly rental paid by the displaced person. The owner-landlord of the structure shall be liable for the payment of relocation assistance pursuant to this section.

b. A municipality that has enacted an ordinance pursuant to subsection a. of this section may pay relocation assistance to any displaced person who has not received the required payment from the owner-landlord of the structure at the time of eviction pursuant to subsection a. of this section from a revolving relocation assistance fund established pursuant to section 2 of P.L.1987, c.98 (C.20:4-4.1a). All relocation assistance costs incurred by a municipality pursuant to this subsection shall be repaid by the owner-landlord of the structure to the municipality in the same manner as relocation costs are billed and collected under section 1 of P.L.l983, c.536 (C.20:4-4.1) and section 1 of P.L.1984, c. 30 (C.20:4-4.2). These repayments shall be deposited into the municipality's revolving relocation assistance fund.

c. A municipality that has enacted an ordinance pursuant to subsection a. of this section, in addition to requiring reimbursement from the owner-landlord of the structure for relocation assistance paid to a displaced tenant, may require that an additional fine for zoning or housing code violation for an illegal occupancy, up to an amount equal to six times the monthly rental paid by the displaced person, be paid to the municipality by the owner-landlord of the structure. In addition to this penalty, a municipality, after affording the owner-landlord an opportunity for a hearing on the matter, may impose upon the owner-landlord, for a second or subsequent violation for an illegal occupancy, a fine equal to the annual tuition cost of any resident of the illegally occupied unit attending a public school, which fine shall be recovered in a civil action by a summary proceeding in the name of the municipality pursuant to "the penalty enforcement law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The municipal court and the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalty provided by this section. The tuition cost shall be

determined in the manner prescribed for nonresident pupils pursuant to N.J.S.18A:38-19 and the payment of the fine shall be remitted to the appropriate school district.

d. For the purposes of this section, the owner-landlord of a structure shall exclude mortgages in possession of a structure through foreclosure. For the purposes of this section, a "second or subsequent violation for an illegal occupancy" shall be limited to those violations that are new and are a result of distinct and separate zoning code enforcement activities, and shall not include any continuing violations for which citations are issued by a zoning or code enforcement agent during the time period required for summary dispossession proceedings to conclude if the owner has initiated eviction proceedings in a court of proper jurisdiction.

2A:18-61.1h. Reimbursement to displaced tenant

a. If a residential tenant is displaced because of an illegal occupancy in a residential rental premises pursuant to paragraph (3) of subsection g. of section 2 of P.L.1974, c.49 (C.2A:18-61.1) and the municipality in which the rental premises is located has not enacted an ordinance pursuant to section 3 of P.L.1993, c.342 (C.2A:18-61.1g), the displaced residential tenant shall be entitled to reimbursement for relocation expenses from the owner in an amount equal to six times the monthly rental paid by the displaced person.

b. Payment by the owner shall be due five days prior to the removal of the displaced tenant. If payment is not made within this time, interest shall accrue and be due to the displaced residential tenant on the unpaid balance at the rate of 18% per annum until the amount due and all interest accumulated thereon shall be paid in full.

c. If reimbursement for which an owner is liable is not paid in full within 30 days of removal of the tenant, the unpaid balance thereof and all interest accruing thereon and, in addition thereto, an amount equal to six times the monthly rental paid by the displaced tenant shall be a lien upon the parcel of property on which the dwelling of the displaced residential tenant was located, for the benefit of that tenant. To perfect the lien, a statement showing the amount and due date of the unpaid balance and identifying the parcel shall be recorded with the county clerk or registrar of deeds and mortgages of the county in which the affected property is located, and upon recording, the lien shall have the priority of a mortgage lien. Identification of the parcel by reference to its designation on the tax map of the municipality shall be sufficient for purposes of recording. Whenever the unpaid balance and all interest accrued thereon has been fully paid, the displaced residential tenant shall promptly withdraw or cancel the statement, in writing, at the place of recording.

d. This section shall not authorize the enforcement of a lien for actual reasonable moving expenses with respect to any real property the title to which has been acquired by a municipality and which has been transferred pursuant to a rehabilitation agreement.

e. For the purposes of this section, the owner of a structure shall exclude mortgagees in possession of a structure through foreclosure.

2A:18-61.2 Removal of residential tenants; required notice; contents; service

No judgment of possession shall be entered for any premises covered by section 2 of this act, except in the nonpayment of rent under subsection a. or f. of section 2, unless the landlord has made written demand and given written notice for delivery of possession of the premises. The following notice shall be required:

a. For an action alleging disorderly conduct under subsection b. of section 2, or injury to the premises under subsection c. of section 2, or any grounds under subsection m., n., o. or p. of section 2, three days' notice prior to the institution of the action for possession;

b. For an action alleging continued violation of rules and regulations under subsection d. of section 2, or substantial breach of covenant under subsection e. of section 2, or habitual failure to pay rent, one month's notice prior to the institution of the action for possession;

c. For an action alleging any grounds under subsection g. of section 2, three months' notice prior to the institution of the action;

d. For an action alleging permanent retirement under subsection h. of section 2, 18 months' notice prior to the institution of the action and, provided that, where there is a lease in effect, no action may be instituted until the lease expires;

e. For an action alleging refusal of acceptance of reasonable lease changes under subsection i. of section 2, one month's notice prior to institution of action;

f. For an action alleging any grounds under subsection l. of section 2, two months' notice prior to the institution of the action and, provided that where there is a written lease in effect no action shall be instituted until the lease expires;

g. For an action alleging any grounds under subsection k. of section 2, three years' notice prior to the institution of action, and provided that where there is a written lease in effect, no action shall be instituted until the lease expires;

h. In public housing under the control of a public housing authority or redevelopment agency, for an action alleging substantial breach of contract under paragraph (2) of subsection e. of section 2, the period of notice required prior to the institution of an action for possession shall be in accordance with federal regulations pertaining to public housing leases.

The notice in each of the foregoing instances shall specify in detail the cause of the termination of the tenancy and shall be served either personally upon the tenant or lessee or such person in possession by giving him a copy thereof, or by leaving a copy thereof at his usual place of abode with some member of his family above the age of 14 years, or by certified mail; if the certified letter is not claimed, notice shall be sent by regular mail.

2A:18-61.3. Causes for eviction or non-renewal of lease

a. No landlord may evict or fail to renew any lease of any premises covered by section 2 of this act except for good cause as defined in section 2.

b. A person who was a tenant of a landlord in premises covered by section 2 of P.L.l974, c.49 (C.2A:18-61.1) may not be removed by any order or judgment for possession from the premises by the owner's or landlord's successor in ownership or possession except:

1. For good cause in accordance with the requirements which apply to premises covered pursuant to P.L.1974, c.49 (C.2A:18-61.1 et al.); or
2. For proceedings in premises where federal law supersedes applicable State law governing removal of occupants; or
3. For proceedings where removal of occupants is sought by an authorized State or local agency pursuant to eminent domain or code or zoning enforcement laws and which comply with applicable relocation laws pursuant to the "Relocation Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.), the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.) or section 3 of P.L.1993, c.342 (C.2A:18-61.1g).

Where the owner's or landlord's successor in ownership or possession is not bound by the lease entered into with the former tenant and may offer a different lease to the former tenant, nothing in P.L.l986, c.l38 shall limit that right.

2A:18-61.3a. Mobile home parks; restrictions on "for sale" signs; prohibition

No mobile home park owner or operator may evict a mobile home resident for posting in or on his mobile home a "for sale" sign or similar notice of the private sale of the mobile home. Nor may a mobile home park owner or operator prohibit or unreasonably restrict such posting by any means, including but not limited to, rules and regulations of the mobile home park or written leases or rental agreements between the park owner or operator and mobile home residents.

2A:18-61.4. Waiver of rights by provision in lease; unenforceability

Any provision in a lease whereby any tenant covered by section 2 of this act agrees that his tenancy may be terminated or not renewed for other than good cause as defined in section 2, or whereby the tenant waives any other rights under this act shall be deemed against public policy and unenforceable.

2A:18-61.5. Severability

If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which said judgment shall have been rendered.

2A:18-61.6. Owner liability for wrongful evictions

a. Where a tenant vacates the premises after being given a notice alleging the owner seeks to personally occupy the premises under subsection L. of section 2 P.L.1974, c.49 (C. 2A:18-61.1) and the owner thereafter arbitrarily fails to personally occupy the premises for a total of at least six months, or arbitrarily fails to execute the contract for sale, but instead permits personal occupancy of the premises by another tenant or instead permits registration of conversion of the premises by the Department of Community Affairs pursuant to "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C. 45:22A-21 et seq.), such owner shall be liable to the former tenant in a civil action for three times the damages plus the tenant's attorney fees and costs.

b. If an owner purchases the premises pursuant to a contract requiring the tenant to vacate in accordance with subsection 1. of section 2 of P.L.1974, c.49 (C. 2A:18-61.1) and thereafter arbitrarily fails to personally occupy the premises for a total of at least six months, but instead permits personal occupancy of the premises by another tenant or instead permits registration of conversion of the premises by the Department of Community Affairs pursuant to P.L.1977, c.419 (C. 45:22A-21 et seq.), such owner-purchaser shall be liable to the former tenant in a civil action for three times the damages plus the tenant's attorney fees and costs.

c. If a tenant vacates a dwelling unit after notice has been given alleging that the owner seeks to permanently board up or demolish the premises or to retire permanently the premises from residential use pursuant to subsection g.(1) or h. of section 2 of P.L.1974, c.49 (C. 2A:18-61.1) and instead, within five years following the date on which the dwelling unit or the premises become vacant, an owner permits residential use of the vacated premises, the owner shall be liable to the former tenant in a civil action for three times the damages plus the tenant's attorney fees and costs of suit. An owner of any premises where notice has been given pursuant to subsection g. (1) or h. of section 2 of P.L.l974. c.49 (C. 2A:18-61.1), who subsequently seeks to sell, lease or convey the property to another, shall, before executing any lease, deed or contract for such conveyance, advise in writing the prospective owner that such notice was given and that the owners of the property are subject to the liabilities provided in this subsection and sections 3 and 4 of this 1986 amendatory and supplementary act. Whoever fails to so advise a prospective owner prior to the execution of the contract of sale, lease or conveyance is liable to $10,000.00 for each offense, and shall also be liable in

treble damages, plus attorney fees and costs of suit, for any loss or expenses incurred by a new owner of the property as a result of that failure. The civil penalty prescribed in this subsection shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.). The Superior Court, Law Division, Special Civil Part, in the county in which the rental premises are located shall have jurisdiction over such proceedings. Process shall be in the nature of a summons or warrant, and shall issue upon the complaint of the Commissioner of the Department of Community Affairs, the Attorney General, or any other person.

d. If a tenant vacates a dwelling unit after receiving from an owner an eviction notice (1) purporting to compel by law the tenant to vacate the premises for cause or purporting that if the tenant does not vacate the premises, the tenant shall be compelled by law to vacate the premises for cause; and (2) using a cause that is clearly not provided by law or using a cause that is based upon a lease clause which is contrary to law pursuant to section 6 of P.L.1975, c.310 (C. 46:8-48); and (3) misrepresenting that, under the facts alleged, the tenant would be subject to eviction, the owner shall be liable to the former tenant in a civil action for three times the damages plus the tenant's attorney fees and costs. An owner shall not be liable under this subsection for alleging any cause for eviction which, if proven, would subject the tenant to eviction pursuant to N.J.S. 2A:18-53 et seq. or P.L.1974, c.49 (C. 2A:l8-61.1 et seq.). In any action under this section the court shall, in addition to damages, award any other appropriate legal or equitable relief. For the purposes ofP.L.1974. c.49 (C. 2A:18-61.1 et seq.), the term "owner" includes, but is not limited to, lessee, successor owner and lessee, and other successors in interest.

e. An owner shall not be liable for damages pursuant to this section or section 6 of this 1986 amendatory and supplementary act or subject to a more restrictive local ordinance adopted pursuant to section 8 of this 1986 amendatory and supplementary act if:

1. Title to the premises was transferred to that owner by means of a foreclosure sale, execution sale or bankruptcy sale; and

2. Prior to the foreclosure sale, execution sale or bankruptcy sale, the former tenant vacated the premises after receiving eviction notice from the former owner pursuant to subsection g.(l) or h. of section 2 of P.L.1974, c.49 (C. 2A:18-61.1); and

3. The former owner retains no financial interest, direct or indirect, in the premises. The term "former owner" shall include, but not be limited to, any officer or board member of a corporation which was the former owner and any holder of more than 5% equity interest in any incorporated or unincorporated business entity that was the former owner; and

4. The former tenant is provided notice and rights in accordance with the provisions of section 6 of this 1986 amendatory and supplementary act.

2A:18-61.7. Definitions

As used in this act:

a. "Comparable housing or park site" means housing that is

1. decent, safe, sanitary, and in compliance with all local and State housing codes;
2. open to all persons regardless of race, creed, national origin, ancestry, marital status or sex; and
3. provided with facilities equivalent to that provided by the landlord in the dwelling unit or park site in which the tenant then resides in regard to each of the following:
    a. apartment size including number of rooms or park site size,
    b. rent range,
    c. apartment's major kitchen and bathroom facilities, and
    d. special facilities necessary for the handicapped or infirmed;
4. located in an area not less desirable than the area in which the tenant then resides in regard to each of the following:
    a. accessibility to the tenant's place of employment,
    b. accessibility of community and commercial facilities, and c. environmental quality and conditions; and
5. in accordance with additional reasonable criteria which the tenant has requested in writing at the time of making any request under this act.

b. "Condominium" means a condominium as defined in the "Condominium Act," P.L.l969, c.257 (C. 46:8B-1 et seq.).

c. "Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by said corporation or association, or to lease or purchase a dwelling constructed or to be constructed by said corporation or association.

d. "Mobile home park" means any park, including a trailer park or camp, equipped to handle mobile homes sited on a year-round basis.

2A:18-61.8. Conversion of multiple dwelling into condominium, cooperative or fee simple ownership; notice to and rights to tenants

Any owner who intends to convert a multiple dwelling as defined in P.L.1967. c.76 (C. 55:13A-1 et seq.), other than a hotel or motel, or a mobile home park into a condominium or cooperative, or to fee simple ownership of the several dwelling units or park sites shall give the tenants 60 days' notice of his intention to convert and the full plan of the conversion prior to serving notice, provided for in section 3 P.L.1974, c.49 (C. 2A:18-61.2). A duplicate of the first such 60-day notice and full plan shall be transmitted to the clerk of the municipality at the same time. In the notice of intention to convert tenants shall be notified of their right to purchase ownership in the premises at a specified price in accordance with this section, and their other rights as tenants under this act in relation to the conversion of a building or park to a condominium, cooperative or fee simple ownership. A tenant in occupancy at the time of the notice of intention to convert shall have the exclusive right to purchase his unit, the shares of stock allocated thereto or the park site, as the case may be, for the first 90 days after such notice that such purchase could be made during which time the unit or site shall not be shown to a third party unless the tenant has in writing waived the right to purchase.

2A:18-61.9. Notice to tenant after master deed or agreement to establish cooperative

Any owner who establishes with a person an initial tenancy after the master deed or agreement establishing the cooperative was recorded shall provide to such person at the time of applying for tenancy and at the time of establishing any rental agreement a separate written statement as follows:

"STATEMENT"

THIS BUILDING (PARK) IS BEING CONVERTED TO OR IS A CONDOMINIUM OR COOPERATIVE (OR FEE SIMPLE OWNERSHIP OF THE SEVERAL DWELLING UNITS OR PARK SITES). YOUR TENANCY CAN BE TERMINATED UPON 60 DAYS' NOTICE IF YOUR APARTMENT (PARK SITE) IS SOLD TO A BUYER WHO SEEKS TO PERSONALLY OCCUPY IT. IF YOU MOVE OUT AS A RESULT OF RECEIVING SUCH A NOTICE, AND THE LANDLORD ARBITRARILY FAILS TO COMPLETE THE SALE, THE LANDLORD SHALL BE LIABLE FOR TREBLE DAMAGES AND COURT COSTS."

The parenthesized words shall be omitted or substituted for preceding words where appropriate. Such statement shall also be reproduced as the first clause in any written lease provided to such person.

2A:18-61.10. Removal of tenant to allow conversion to cooperative or condominium; moving expense compensation

Any tenant receiving notice under section 3 g. of P.L.1974, c.49 who is not evicted for any cause under this act other than under section 3 g. shall receive from the owner moving expense compensation of waiver of payment of 1 month's rent.

2A:18-61.11. Comparable housing; offer of rental; stay of eviction; alternative compensation; senior citizens and disabled protected tenancy period

a. Tenants receiving notice under section 3 g. of P.L.1974, c.49 may request of the landlord within 18 full months after receipt of such notice, and the landlord shall offer to the tenant, personally or through an agent, the rental of comparable housing or park site and a reasonable opportunity to examine and rent such comparable housing or park site. In any proceeding under subsection 2 k. of P.L.1974, c.49 instituted following the expiration of notice required under section 3 g. of P.L.1974, c.49 the owner shall prove that a tenant was offered such comparable housing or park site and provided such reasonable opportunity to examine and rent such housing or park site as requested pursuant to this section. The court shall authorize 1-year stays of eviction with reasonable rent increases until such time as the court is satisfied that the tenant has been offered comparable housing or park site and provided a reasonable opportunity to examine and rent such housing or park site as requested pursuant to this section. However, in no case shall more than five such stays be granted.

b. The court shall automatically renew any 1-year stay of eviction in any case where the landlord failed to allege to the court within 1 year of a prior stay that the tenant was offered a reasonable opportunity to examine and rent comparable housing or park site within such prior year.

c. However the court shall not authorize any further stays at any time after one such stay has been authorized when the owner has also provided a tenant with hardship relocation compensation of waiver of payment of 5 months' rent.

d. On or after the effective date of the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c. 226 (C. 2A:18-61.22 et seq.), notwithstanding the provisions of subsection a. of this section, where the court has jurisdiction pursuant to that subsection, whether by virtue of the authorization by the court of a stay of eviction or by virtue of any other proceedings required or instituted pursuant to P.L.1974, c.49(C. 2A:18-61.1 et seq.) or P.L.l975. c.311 (C. 2A:18-61.6. et seq.), or in any action for declaratory judgment, the court may invoke some or all of the provisions of the "Senior Citizens and Disabled Protected Tenancy Act" and grant to a tenant, pursuant to that amendatory and supplementary act, a protected tenancy period upon the court's determination that:

1. The tenant would otherwise qualify as a senior citizen tenant or disabled tenant pursuant to that amendatory and supplementary act, except that the building or structure in which

the dwelling unit is located was converted prior to the effective date of that amendatory and supplementary act; and

2. The granting of the protected tenancy period as applied to the tenant, giving particular consideration to whether a unit was sold on or before the date that the amendatory and supplementary act takes effect to a bona fide individual purchaser who intended personally to occupy the unit, would not be violative of concepts of fundamental fairness or due process. Where a court declines to grant a protected tenancy status, it shall nevertheless order such hardships stays as authorized by subsections a. and b. of this section until comparable relocation housing is provided. The hardship relocation compensation alternative of subsection c. of this section shall not be applicable in this situation.

2A:18-61.12. Rules and regulations

In accordance with the "Administrative Procedure Act" (P.L.1968, c.410 C. 52:14B-1 et seq.), the Department of Community Affairs shall adopt rules and regulations setting forth procedures required to be followed by landlords in providing tenants a reasonable opportunity to examine and rent comparable housing and setting forth procedures and content for information required to be disclosed to tenants regarding such procedures, the rights and responsibilities of tenants under this act, and the plans and proposals of landlords which may affect any tenant in order to maximize tenants' ability to exercise rights provided under this act. Any rules and regulations adopted under this section shall only be applicable to tenants and owners of a building or mobile home park which is being, or is about to be converted from the rental market to a condominium, cooperative or to fee simple ownership of the several dwelling units or park sites, or to any mobile home park being permanently retired from the rental market.

2A:18-61.16a. Rent defined

"Rent" means the amount currently payable by the tenant to the landlord pursuant to lease or other agreement, without regard to any modification thereof by any authorized board or agency, or any court.

2A:18-61.22. Short title

This amendatory and supplementary act shall be known and may be cited as the "Senior Citizens and Disabled Protected Tenancy Act."

2A:18-61.23. Legislative findings and declarations

The Legislature finds that research studies have demonstrated that the forced eviction and relocation of elderly persons from their established homes and communities harm the mental

and physical health of these senior citizens, and that these disruptions in the lives of older persons affect adversely the social, economic and cultural characteristics of communities of the State, and increase the costs borne by all State citizens in providing for their public health, safety and welfare. These conditions are particularly serious in light of the rising costs of home ownership, and are of increasing concern where rental housing is converted into condominiums or cooperatives which senior citizens on fixed limited incomes cannot afford, an occurrence which is becoming more and more frequent in this State under prevailing economic circumstances. The Legislature, therefore, declares that it is in the public interest of the State to avoid the forced eviction and relocation of senior citizen tenants wherever possible, specifically in those instances where rental housing market conditions and particular financial circumstances combine to diminish the ability of senior citizens to obtain satisfactory comparable housing within their established communities, and where the eviction action is the result not of any failure of the senior citizen tenant to abide by the terms of a lease or rental agreement, but of the owner's decision advantageously to dispose of residential property through the device of conversion to a condominium or cooperative.

The Legislature further finds that it is in the public interest of the State to avoid the forced eviction and the displacement of the handicapped wherever possible because of their limited mobility and the limited number of housing units, which are suitable for their needs.

The Legislature further declares that in the service of this public interest it is appropriate that qualified senior citizen tenants and disabled tenants be accorded a period of protected tenancy, during which they shall be entitled to the fair enjoyment of the dwelling unit within the converted residential structure, to continue for such time, up to 40 years, as the conditions and circumstances which make necessary such protected tenancy shall continue.

The Legislature further finds that the promotion of this public interest is possible only if senior citizen tenants and disabled tenants are protected during this period from alterations in the terms of the tenancy or rent increases which are the result solely of an owner's decision to convert.

2A:18-61.24. Definitions

As used in this amendatory and supplementary act:

a. "Senior citizen tenant" means a person who is at least 62 years of age on the date of the conversion recording for the building or structure in which is located the dwelling unit of which he is a tenant, or the surviving spouse of such a person if the person should die after the owner files the conversion recording and the surviving spouse is at least 50 years of age at the time of the filing; provided that the building or structure has been the principal residence of the senior citizen tenant or the spouse for at least one year immediately preceding the conversion recording or the death or that the building or structure is the principal residence

of the senior citizen tenant or the spouse under the terms of a lease for a period of more than one year, as the case may be;

b. "Disabled tenant" means a person who is, on the date of the conversion recording for the building or structure in which is located the dwelling unit of which he is a tenant, totally and permanently unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness, or a person who has been honorably discharged or released under honorable circumstances from active service in any branch of the United States Armed Forces and who is rated as having a 60% disability or higher as a result of that service pursuant to any federal law administered by the United States Veterans' Act; provided that the building or structure has been the principal residence of the disabled tenant for at least one year immediately preceding the conversion recording or that the building or structure is the principal residence of the disabled tenant under the terms of a lease for a period of more than one year. For the purposes of this subsection, "blindness" means central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less;

c. "Tenant's annual household income" means the total income from all sources during the last full calendar year for all members of the household who reside in the dwelling unit at the time the tenant applies for protected tenant status, whether or not such income is subject to taxation by any taxing authority;

d. "Application for registration of conversion" means an application for registration filed with the Department of Community Affairs in accordance with "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.);

e. "Registration of conversion" means an approval of an application for registration by the Department of Community Affairs in accordance with "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.);

f. "Convert" means to convert one or more buildings or structures or a mobile home park containing in the aggregate not less than five dwelling units or mobile home sites or pads from residential rental use to condominium, cooperative, planned residential development or separable fee simple ownership of the dwelling units or of the mobile home sites or pads;

g. "Conversion recording" means the recording with the appropriate county officer of a master deed for condominium or a deed to a cooperative corporation for a cooperative or the first deed of sale to a purchaser of an individual unit for a planned residential development or separable fee simple ownership of the dwelling units;

h. "Protected tenancy period" means, except as otherwise provided in section 11 of this amendatory and supplementary act, the 40 years following the conversion recording for the building or structure in which is located the dwelling unit of the senior citizen tenant or disabled tenant.

2A:18-61.25. Protected tenancy status; conversion of dwelling unit of eligible senior citizen or disabled tenant

Each eligible senior citizen tenant or disabled tenant shall be granted a protected tenancy status with respect to his dwelling unit whenever the building or structure in which that unit is located shall be converted. The protected tenancy status shall be granted upon proper application and qualification pursuant to the provisions of this amendatory and supplementary act.

2A:18-61.26. Administrative agency

The governing body of the municipality may authorize a municipal board, agency or officer to act as its administrative agency for the purposes of this amendatory and supplementary act or may enter into a contractual agreement with a county office on aging or a similar agency to act as its administrative agency for purposes of this amendatory and supplementary act. In the absence of such authorization or contractual agreement, this amendatory and supplementary act shall be administered by a municipal board whose principal responsibility concerns the regulation of residential rents or, if no such board exists, by the municipal clerk.

2A:18-61.27. Notice of Intent to Convert

The owner of any building or structure who, after the effective date of this amendatory and supplementary act, seeks to convert any premises, shall, prior to his filing of the application for registration of conversion with the Department of Community Affairs, notify the administrative agency or officer responsible for administering this amendatory and supplementary act of his intention to so file. The owner shall supply the agency or officer with a list of every tenant residing in the premises, with stamped envelopes addressed to each tenant and with sufficient copies of the notice to tenants and application form for protected tenancy status. Within 10 days thereafter, the administrative agency or officer shall notify each residential tenant in writing of the owner's intention and of the applicability of the provisions of this amendatory and supplementary act and shall provide him with a written application form. The agency's or officer's notice shall be substantially in the following form:

The Department of Community Affairs shall not accept any application for registration of conversion for any building or structure unless included in the application is proof that the agency or officer notified the tenants prior to the application for registration. The proof shall be by affidavit or in such other form as the department shall require.

2A:18-61.28. Eligibility for protected tenancy status

Within 30 days after receipt of an application for protected tenancy status by a tenant, the administrative agency or officer shall make a determination of eligibility. It shall send written

notice of eligibility to each senior citizen tenant or disabled tenant who:

a. Applied therefore on or before the date of registration of conversion by the Department of Community Affairs; and

b. Qualifies as an eligible senior citizen tenant or disabled tenant pursuant to this amendatory and supplementary act; and

c. Has an annual household income that does not exceed an amount equal to three times the county per capita personal income, as last reported by the Department of Labor and Industry on the basis of the U.S. Department of Commerce's Bureau of Economic Analysis data, or $50,000.00, whichever is greater; and

d. Has occupied the premises as his principal residence for at least one year or has a lease on the premise for a period longer than one year.

The department shall adjust the county per capita personal income to be used in subsection c. of this section if there is a difference of one or more years between

1. the year in which the last reported county per capita personal income was based and
2. the last year in which the tenant's annual household income is based. The county per capita personal income shall be adjusted by the department by an amount equal to the number of years of the difference above times the average increase or decrease in the county per capita personal income for three years, including in the calculation the current year reported and the three immediately preceding years.

The administrative agency or officer may require that the application include such documents and information as may be necessary to establish that the tenant is eligible for a protected tenancy status under the provisions of this amendatory and supplementary act and shall require such application to be submitted under oath. The Department of Community Affairs may by regulation adopt forms for application for protected tenancy status and notification of eligibility or ineligibility or adopt such other regulations for the procedure of determining eligibility as it determines are necessary.

2A:18-61.29. Registration of conversion; approval after proof of notice of eligibility to tenants

No registration of conversion shall be approved until the Department of Community Affairs receives proof that the administrative agency or officer has made determinations and notified all tenants who applied for protected tenancy status within the initial 60-day period of their eligibility or lack of eligibility. The proof shall be by affidavit or in such other form as the department may require.

The department may grant registrations of conversion for applications pending on the effective date of this amendatory and supplementary act upon the implementation of a procedure whereby any eligible tenant may make application for protected tenancy status in a manner comparable to that specified in sections 6 and 7 of this amendatory and supplementary act.

2A:18-61.30. Protected tenancy status; applicability after notice of eligibility and filing of conversion recording

Protected tenancy status shall not be applicable to any eligible tenant until such time as the owner has filed his conversion recording. The protected tenancy status shall automatically apply as soon as a tenant receives notice of eligibility and the landlord files his conversion recording. The conversion recording shall not be filed until after the registration of conversion.

2A:18-61.31. Rent increase restrictions

In a municipality which does not have a rent control ordinance in effect, no evidence of increased costs which are solely the result of the conversion, including but not limited to any increase in financing or carrying costs, and which do not add services or amenities not previously provided shall be used as a basis to establish the reasonableness of a rent increase under section 2f. of P.L.1974, c.49 (C. 2A:l8-61.1).

In a municipality which has a rent control ordinance in effect, a rent increase for a tenant with a protected tenancy status, or for any tenant to whom notice of termination pursuant to section 3g. of P.L.1974, c.49 (C. 2A:18-61.2) has been given, shall not exceed the increase authorized by the ordinance for rent controlled units. Increased costs which are solely the result of a conversion, including but not limited to any increase in financing or carrying costs, and which do not add services or amenities not previously provided shall not be passed directly through to these tenants as surcharges or pass-through on the rent, shall not be used as the basis for a rent increase, and shall not be used as a basis for an increase in a fair return or hardship hearing before a municipal rent board or on any appeal from such determination.

2A:18-61.32. Termination of protected tenancy

The administrative agency or officer shall terminate the protected tenancy status immediately upon finding that:

a. The dwelling unit is no longer the principal residence of the senior citizen tenant or disabled tenant; or

b. The tenant's annual household income, or the average of the tenant's annual household income for the current year, computed on an annual basis, and the tenant's annual household

income for the two preceding years, whichever is less, exceeds an amount equal to three times the county per capita personal income, as last reported by the Department of Labor and Industry on the basis of the U.S. Department of Commerce's Bureau of Economic Analysis data, or $50,000.00, whichever is greater.

The department shall adjust the county per capita personal income to be used in subsection b. of this section if there is a difference of one or more years between

1. the year in which the last reported county per capita personal income was based and
2. the last year in which the tenant's annual household income is based. The county per capita personal income shall be adjusted by the department by an amount equal to the number of years of the difference above times the average increase or decrease in the county per capita personal income for three years, including in the calculation the current year reported and the three immediately preceding years.

Upon the termination of the protected tenancy status by the administrative agency or officer, the senior citizen tenant or disabled tenant may be removed from the dwelling unit pursuant to P.L.1974, c.49 (C.2A:18-61.1 et al.), except that all notice and other times set forth therein shall be calculated and extend from the date of the expiration or termination of the protected tenancy period, or the date of the expiration of the last lease entered into with the senior citizen tenant or disabled tenant during the protected tenancy period, whichever shall be later.

If the administrative agency determines pursuant to this section that a tenant is no longer qualified for protected tenancy under this act, the administrative agency shall proceed to determine the eligibility of that tenant under the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), or, in any case in which the administrative agency is not the same as the agency administering that other act in the municipality, refer the case to the appropriate administrative agency for such determination. If the tenant is found to be eligible under the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), his protected tenancy status shall be continued. The protected tenancy status of the tenant shall remain in full force pending such determination.

2A:18-61.33. Termination upon purchase of unit by senior citizen or disabled tenant

In the event that a senior citizen tenant or disabled tenant purchases the dwelling unit he occupies, the protected tenancy status shall terminate immediately upon purchase.

2A:18-61.34. Informing prospective purchaser of act; contract or agreement for sale; clause informing of application of act and acknowledgment by purchaser

Any public offering statement for a conversion as required by "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C. 45:22A-21 et seq.), shall clearly inform the prospective purchaser of the provisions of this amendatory and supplementary act, including, but not limited to, the provisions concerning eviction, rent increases and leases. Any contract or agreement for sale of a converted unit shall contain a clause in 10-point bold type or larger that the contract is subject to the terms of this amendatory and supplementary act concerning eviction and rent increases and an acknowledgement that the purchaser has been informed of these terms.

2A:18-61.35. Fee

A municipality is authorized to charge an owner a fee which may vary according to the size of the building to cover the cost of providing the services required by this amendatory and supplementary act.

2A:18-61.36. Agreement by tenant to waive rights; deemed against public policy and unenforceable

Any agreement whereby the tenant waives any rights under P.L.1981, c.226 (C. 2A:18-61.22 et seq.) on or after the effective date of this 1983 amendatory act shall be deemed to be against public policy and unenforceable.

2A:18-61.37. Severability

If any section, subsection, paragraph, sentence or other part of this amendatory and supplementary act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which said judgment shall have been rendered.

2A:18-61.38. Rules and regulations

The Department of Community Affairs is authorized to adopt such rules and regulations as may be necessary to implement the provisions of this amendatory and supplementary act.

2A:18-61.39. Liberal construction of act

This amendatory and supplementary act shall be liberally construed to effectuate the purposes thereof.

2A:18-61.40. Short title

This act shall be known and may be cited as the "Tenant Protection Act of 1992."

2A:18-61.41. Findings, declarations

The Legislature finds that the provision and maintenance of an adequate supply of housing affordable to persons of low and moderate income in this State has been and is becoming increasingly difficult as a result of economic and market forces which require special public actions or subsidies to counteract. One particularly acute result of this has been the continual increase in the number of displaced or homeless persons who, lacking permanent shelter, require special assistance from public services in this State and in surrounding states in order to remain alive. The Legislature has in the past taken various actions, and is currently considering several measures, to increase the supply of affordable housing in the State. At the same time, it is necessary to protect residential tenants, particularly those of advanced age or disability, or lower economic status, from the effects of eviction from affordable housing in recognition of the high costs, both financial and social, to the public of displacement from affordable housing and of homelessness.

The Legislature has in the past through various enactments recognized that the eviction of residential tenants pursuant to the process of conversion of residential premises to condominiums or cooperatives exacerbates homelessness and makes more difficult the maintenance of an adequate supply of low and moderate income housing. The Legislature, therefore, declares that it is in the public interest to establish a tenant protection program specifically designed to provide protection to residential tenants, particularly the aged and disabled and those of low and moderate income, from eviction resulting from condominium or cooperative conversion.

2A:18-61.42. Definitions

As used in this act:

"Administrative agency" means the municipal board, officer or agency designated, or the county agency contracted with, pursuant to section 6 of this act.

"Annual household income" means the total income from all sources during the last full calendar year, or the annual average of that total income during the last two calendar years, whichever is less, of a tenant and all members of the household who are residing in the tenant's dwelling unit

when the tenant applies for protected tenancy, whether or not such income is subject to taxation by any taxing authority.

"Commissioner" means the Commissioner of Community Affairs.

"Conversion" means conversion as defined in section 3 of "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-23).

"Conversion recording" means the recording with the appropriate county officer of a master deed for a condominium or a deed to a cooperative corporation for a planned residential development or separable fee simple ownership of the dwelling units.

"County rental housing shortage" means a certification issued by the Commissioner of Community Affairs that there has occurred a significant decline in the availability of rental dwelling units in the county due to conversions; provided, however, that the commissioner shall not issue any such certification unless during the immediately preceding 10 year period:

a. aggregate number of rental units subject to registrations of conversion during any three consecutive years in the county exceeds 10,000; and

b. The aggregate number of rental units subject to registrations of conversion in at least one of those three years exceeds 5,000.

"Department" means the Department of Community Affairs.

"Index" means the annual average over a 12-month period beginning September 1 and ending August 31 of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), All Items Series A, of the United States Department of Labor (1957-1959 = 100), for either the New York, NY Northeastern New Jersey or the Philadelphia, PA-New Jersey region, according as either shall have been determined by the commissioner to be applicable in the locality of a property undergoing conversion.

"Protected tenancy period" means, except as otherwise provided in section 11 of this act, all that time following the conversion recording for a building or structure during which a qualified tenant in that building or structure continues to be a qualified tenant and continues to occupy a dwelling unit therein as his principal residence.

"Qualified county" means:

a. Any county with a population in excess of 500,000 and a population density in excess of 8,500 per square mile, according to the most recent federal decennial census; or

b. Any county wherein there exists a county rental housing shortage. "Qualified tenant" means a tenant who is a resident in a qualified county and:

1. Applied for protected tenancy status on or before the date of registration of conversion by the department, or within one year of the effective date of this act, whichever is later;
2. Has occupied the premises as his principal residence for at least 12 consecutive months next preceding the date of application; and
3. Has an annual household income that does not at the time of application exceed the maximum qualifying income as determined pursuant to section 4 of this act, except that this income limitation shall not apply to any tenant who is age 75 or more years or is disabled within the meaning of section 3 of P.L.1981, c.226 (C.2A:18-61.24).

"Registration of conversion" means an approval of an application for registration by the department in accordance with "The Planned Real Estate Development Full Disclosure Act," P.L.1977. c.419 (C.45:22A-21 et seq.).

"Tenant in need of comparable housing" means a tenant who is not a qualified tenant under this act and is not eligible for protected tenancy under the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.).

2A:18-61.43. Maximum qualifying income, adjustment

As of the effective date of this act, maximum qualifying income for the purpose of determining qualified tenant status as defined in section 3 of this act shall be in the case of a household comprising one person, $31,400; two persons, $38,500; three persons, $44,800; four persons, $50,300; five persons, $55,000; six persons, $58,900; seven persons, $62,000; eight or more persons, $64,300. In the case of any application for protected tenancy filed more than one year from the effective date of this act, and upon any occasion when termination of a previously granted protected tenancy is sought pursuant to section 11 of this act upon the grounds set forth in paragraph (2) of subsection a. of that section, these figures shall be adjusted by the percentage change, if any, in the applicable index that has occurred since the effective date of this act.

2A:18-61.44. Protected tenancy, qualification, durations

Each qualified tenant shall be granted a protected tenancy status with respect to his dwelling unit upon conversion of the building or structure in which the unit is located. The protected tenancy status shall be granted upon proper application and qualification pursuant to the provisions of this act.

a. Each qualified tenant in need of comparable housing shall be entitled to remain in his

dwelling unit upon conversion of the building or structure in which the unit is located until the owner of the building or structure has complied with the provisions of P.L.1975, c.311 (C.2A:18-61.7 et al.).

b. Each qualified tenant in need of comparable housing shall be entitled to remain in his dwelling unit upon conversion of the building or structure in which the unit is located until the owner of the building or structure has complied with the provision P.L.1975, c.311 (C.2A:18-61.7 et al.).

2A:18-61.45. Designation of administrative agency

Each municipal governing body in a qualified county shall designate a municipal board, agency or officer to act as its administrative agency for the purposes of this act or may enter into a contractual agreement with an appropriate county to act as its administrative agency for purposes of this act. In the absence of such authorization or contractual agreement, this act shall be administered by the board, agency or officer administering the provisions of the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.) in the municipality.

2A:18-61.46. Notice, etc. required of owner seeking to convert, notice to tenants

The owner of any building or structure in a qualified county who seeks to convert any premises shall notify the administrative agency of that intention prior to filing the application for registration of conversion with the department. The owner shall supply the administrative agency with a list of every tenant residing in the premises, with stamped envelopes addressed to each tenant and with sufficient copies of the notice to tenants and application form for protected tenancy status. Within 10 days thereafter, the administrative agency shall notify each residential tenant in writing of the owner's intention and of the applicability of the provisions of this act and shall provide him with a written application form. The agency's notice shall be substantially in the following form:

The department shall not accept any application for registration of conversion for any building or structure unless included in the application is proof that the administrative agency notified the tenants prior to the application for registration. The proof shall be by affidavit or in such other form as the department shall require. In any municipality where the administrative agency is the same as the agency administering the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), the notices required under that act and this act may be combined in a single mailing.

2A:18-61.47. Determining tenants' qualifications

Within 30 days after receipt of an application for the protected tenancy status authorized under the provisions of this act, the administrative agency shall make a determination of qualification. It shall send written notice of qualification to each tenant who is a resident of the qualified county and:

a. applied on or before the date of registration of conversion by the department, or within one year from the effective date of this act, whichever is later; and,

b. has an annual household income that does not exceed the maximum amount permitted for qualification, or is exempt from that income limitation by reason of age or disability; and,

c. has occupied the premises as his principal residence for at least 12 consecutive months next proceeding the date of application.

The administrative agency shall likewise send a notice of denial, with reasons therefore, to any tenant whom it determines not to be qualified. That notice shall inform the tenant of his right to remain in his dwelling unit until the owner shall have complied with the requirements of P.L.1975, c.311 (C.2A:18-61.7 et al.) and shall include an explanation of the meaning of "comparable housing" as used in that act. The owner shall be notified of those tenants who are determined to be qualified and unqualified. The administrative agency may require that the application include such documents and information as may be necessary to establish the tenant is qualified for a protected tenancy status under the provisions of this act and shall require that such documentation and information be submitted under oath. The commissioner may by regulation adopt uniform forms to used in applying for protected tenancy status, for notifying an applicant of qualification or denial thereof, and conveying to a denied applicant the information concerning his rights to continued tenancy and offer of comparable housing; he may also adopt such other regulations for the procedure of determining qualification as he deems necessary or expedient to the proper effectuation of the provisions and purposes of this act.

2A:18-61.48. Requisites for approval or registration of conversion

No registration of conversion for a building or structure located in a qualified county shall be approved until the department receives proof that the provisions of section 8 of this act have been complied with, and that notification as required in that section has been made to all tenants who filed application for protected tenancy status on or before the application deadline prescribed in the notice given pursuant to section 7 of this act. The proof shall be by affidavit or in such form as the department may require.

2A:18-61.49. Applicability of protected tenancy

The protected tenancy status authorized under the provisions of this act shall not be applicable to any qualified tenant until such time as the owner has filed his conversion recording. The protected tenancy status shall automatically apply as soon as a tenant receives notice of qualification and the landlord files his conversion recording. The conversion recording shall not be filed until after the registration of conversion.

2A:18-61.50. Termination of protected tenancy

a. The administrative agency shall terminate the protected tenancy status authorized under the provisions of this act immediately upon finding that:

1. the dwelling unit is no longer the principal residence of the tenant, or
2. the tenant's annual household income exceeds the maximum amount permitted for qualification.

b. Upon presentation to the administrative agency of credible evidence that a tenant is no longer qualified for protected tenancy status under this act, the administrative agency shall proceed, in accordance with such regulations and procedures as the department shall adopt and prescribe for use in such cases, to investigate and make a determination as to the continuance of that status.

c. Upon the termination of the protected tenancy status by the administrative agency, the tenant may be removed from the dwelling unit pursuant to P.L.1974. c.49 (C.2A:18-61.1 et al.), except that all notice and other times set forth therein shall be calculated and extend from the date of the expiration or termination of the protected tenancy period, or the date of the expiration of the last lease entered into with the tenant during the protected tenancy period, whichever shall be later.

d. Any protection afforded to a person under the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.) shall remain in full force and effect. If the administrative agency determines that a tenant is no longer qualified for protected tenancy under that act, the administrative agency shall proceed to determine the eligibility of that tenant under the "Tenant Protection Act of 1992," P.L.l991 c.509 (C.2A:18-61.40 et al.), or, in any case in which the administrative agency is not the same as the agency administering the "Tenant Protection Act of 1992" in the municipality, shall refer the case to the appropriate administrative agency for such determination. If the tenant is found by such determination to be eligible, his protected tenancy status shall be continued. The protected tenancy status of the tenant shall remain in full force pending such determination.

2A:18-61.51. Tenancy protection terminated by tenant purchase

In the event that a qualified tenant purchases the dwelling unit he occupies, the protected tenancy status afforded under the provisions of this act shall terminate immediately upon purchase.

2A:18-61.52. Costs of conversion no basis for rent increases

a. In the case of a municipality subject to the provisions of this act that does not have a rent control ordinance in effect, no evidence of increased costs that are solely the result of the conversion, including but not limited to any increase in financing or carrying costs, and do not add services or amenities not previously provided shall be used as a basis to establish the reasonableness of a rent increase under subsection f. of section 2 of P.L.1974, c.49 (C.2A:18-61.1).

b. In the case of a municipality subject to the provisions of this act that has a rent control ordinance in effect, a rent increase for a qualified tenant with a protected tenancy status, or for any tenant to whom notice of termination pursuant to subsection g. of section 3 of P.L.l974, c.49 (C.2A:18-61.2) has been given, shall not exceed the increase authorized by the ordinance for rent-controlled units. Increased costs that are solely the result of a conversion, including but not limited to any increase in financing or carrying costs, and do not add services or amenities not previously provided shall not be used as a basis for an increase in a fair-return or hardship hearing before a municipal rent board or on any appeal from such determination.

2A:18-61.53. Public offering statement; requisites

In the case of a building or structure located in a qualified county, the public offering statement for a conversion as required by "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.), shall clearly inform the prospective purchaser of the provisions of this act regarding the protection of qualified tenants and tenants in need of comparable housing. Any contract or agreement for sale of a converted unit shall contain a clause in 10-point bold type or larger that the contract is subject to the terms of this act concerning such tenant protection and an acknowledgement that the purchaser has been informed of these terms.

2A:18-61.54. Municipal fees

A municipality located in a qualified county is authorized to charge an owner a fee, which may vary according to the size of the building to cover the cost of providing the services required by this act.

2A:18-61.55. Tenant waivers, unenforceable

Any agreement whereby the tenant waives any rights under this act shall be deemed to be against public policy and unenforceable.

2A:18-61.56. Actions against qualified tenants, limitations

For one year from the effective date of this act, no action for removal of a qualified tenant shall be instituted, no judgment shall be entered against a qualified tenant based upon a previously instituted action, and no qualified tenant shall be removed from his dwelling unit by a landlord, on the basis of the conversion of the premises. The owner of any residential premises located in a qualified county who, prior to that date, has registered those residential premises for conversion or applied for such registration shall comply with the provisions of this act, and the tenants residing in those premises shall be entitled to the protections extended under this act as if the registration or application for registration had not so occurred prior to that date. However, the provisions of this section shall not apply to any residential unit for which a conversion was registered prior to March 4, 1991 if the unit was sold to a bona fide individual purchaser prior to that date and that purchaser intends to personally occupy the unit as his principal residence.

2A:18-61.57. Removal for good cause

Nothing in this act shall be deemed to prevent a court from removing a tenant, qualified tenant or tenant in need of comparable housing from a dwelling unit located in a qualified county for good cause shown not to be related to conversion of the building or structure to a condominium or cooperative.

2A:18-61.58. Severability

If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which the judgment shall have been rendered.

2A:18-61.59. Rules, regulations

The commissioner is authorized to adopt, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement the provisions of this act, including but not limited to, the prescribing of administrative and notification procedures which integrate the procedural requirements of this act with those of P.L.1981. c.226 (C.2A:18-61.22 et al.) in order to facilitate the efficient administration of both acts.

2A:18-61.60. Tenants' organization permitted to accept billing for utility

Whenever an electric, gas, water or sewer public utility has provided written notice to tenants residing in rental premises of a proposed discontinuance of service and the tenants so notified have indicated a desire to continue service, but the utility has determined that it would not be feasible to bill each tenant individually for the service, the utility shall permit a tenants' organization representing each tenant of the rental premises to accept billing for the utility including the periodic billing for current charges, and a statement of any arrearage which is unpaid by the landlord for service previously supplied by the utility, and shall continue providing the service to the premises provided that payment is received.

2A:18-61.61. Deduction of certain utility costs from rental payment

Whenever a tenants' organization agrees to accept billing for a utility service, the tenants comprising the membership of the organization accepting and paying such billing shall be permitted to deduct from each of their respective rental payments to the landlord of the premises an amount corresponding to the tenant's contribution towards the currently due utility payment and the arrearage, if any, owed by the landlord, provided that any contribution by a tenant to the arrearage shall not exceed 15 percent of the tenant's rental payment which would have been payable to the landlord, but for the contribution.

2A:18-61.62. Issuance of "Notice of Rent Protection Emergency"

The Governor shall be empowered, whenever declaring a state of emergency, to determine whether the emergency will, or is likely to, significantly affect the availability and pricing of rental housing in the areas included in the declaration. If the Governor determines that unconscionable rental practices are likely to occur unless the protections afforded under P.L.2002, c.133 (C.2A:18-61.62 et al.) are invoked, the Governor may issue a "Notice of Rent Protection Emergency" at any time during the declared state of emergency.

2A:18-61.63. Effect of issuance of "Notice of Rent Protection Emergency"

Whenever the Governor declares a state of emergency within certain areas of the State, and issues a "Notice of Rent Protection Emergency," the following shall apply:

a. Within a zone which includes the area declared to be in a state of emergency and, if so indicated in the Notice of Rent Protection Emergency extending a distance not to exceed 10 miles in all directions from the outward boundaries thereof, there shall be a presumption of

unreasonableness given to a notice of increase in rental charges provided subsequent to the date of the declaration by a landlord to a tenant occupying premises which are utilized as a residence, when the proposed percentage increase in rent is greater than twice the rate of inflation as indicated by increases in the CPI for the immediately preceding nine month period. For the purposes of this section, "CPI" means the annual average over a 12-month period beginning September 1 and ending August 31 of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), All Items Series A, of the United States Department of Labor (1957-1959 = 100), for the New York, NY-Northeastern New Jersey region.

b. Within a zone which includes the area declared to be in a state of emergency and, if so indicated in the Notice of Rent Protection Emergency extending a distance not to exceed 10 miles in all directions from the outward boundaries thereof, there shall be a limitation on the amount of rent which may be charged a tenant undertaking a new lease for residential premises during the duration of the declaration of a "Notice of Rent Protection Emergency" made pursuant to section 1 of P.L.2002, c.133 (C.2A:l8-61.62). The amount of rent which may be charged shall be limited to the product of the fair market rental value of the premises prior to the emergency conditions and two times the rate of inflation as determined by the increase in the CPI for the immediately preceding nine month period. For the purposes of this section, "CPI" means the annual average over a 12-month period beginning September 1 and ending August 31 of the Consumer price Index for Urban Wage Earners and Clerical Workers (CPI-W), All items Series A, of the United States Department of Labor (1957-1959 = 100), for New York, NY-Northeastern New Jersey region.

c. In the event that a landlord believes that the limitations on increases in rental charges imposed by a "Notice of Rent Protection Emergency" prevent the landlord from realizing a just and reasonable rate of return on the landlord's investment, the landlord may file an application with the Director of the Division of Consumer Affairs in the Department of Law and Public Safety for the purpose of requesting permission to increase rental charges in excess of the increases otherwise authorized under the "Notice of Rent Protection Emergency". In evaluating such an application, the director shall take into consideration the purposes intended to be achieved by P.L.2002, c.133 (C.2A:18-61.62 et al.) and the "Notice of Rent Protection Emergency" and the amount of rental charges required to provide the landlord with a just and reasonable return. The Director shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purpose of this act.

d. The provisions of subsections a. and b. of this section will serve to supplement, not replace, any existing local, State, or Federal restrictions on rent increases for any dwelling units in residential buildings located within the zone described in subsections a. and b. of this section, and will only apply to those dwelling units where they cause a lowering of the maximum allowable rent increase or of the maximum reasonable rent increase.

e. The provisions of subsections a. and b. of this section shall cease to apply upon the expiration of the state of emergency, or upon the rescission of the either the declaration of the state of emergency or the "Notice of Rent Protection Emergency."

2A:18-61.64. Report of violation, investigations, penalties

a. A tenant or prospective tenant may report a violation of the provisions of P.L.2002, c.l33 (C.2A:18-61.62 et al.) to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. The director shall investigate any complaint within 10 days of receipt of the complaint.

b. If the director determines that a violation of this act has occurred:

1. a penalty may be assessed against the landlord in an amount equal to six times the monthly rental sought to be imposed upon a tenant in contravention of the "Notice of Rent Protection Emergency"; or
2. any penalties for violations of the New Jersey Consumer Fraud Act, P.L.1960, c.39 (C.56:8-1 et al.) may be sought by the director.

c. Notwithstanding the provisions of subsections a. and b. of this section, a tenant shall have the right to petition a court of competent jurisdiction to terminate a lease containing a provision in violation of the provisions of P.L.2002, c.133 (C.2A:18-61.62 et al.).

2A:18-61.65. Violations considered as consumer fraud

Any violation of P.L.2002, c.133 (C. 2A:18-61.62, et al.) shall be considered a violation of the New Jersey Consumer Fraud Act, P.L.1960,c.39 (C.56:8-1 et seq.).

2A:18-66. Judgment; order as to payment; stay of execution

The court may either order the judgment paid to the prevailing party or into court for the use of the prevailing party at a certain date or by specified installments, and may stay the issue of execution and other supplementary process during compliance with its order. Such stay shall at all times be subject to be modified or vacated.

2A:18-71. Costs on vacation of judgment

When a judgment is vacated, the court, in its discretion may award costs not exceeding $10, for or against either party and enter judgment and issue execution therefor.

2A:18-72. Disposal of remaining personal property abandoned by tenant

A landlord of commercial or residential property, in the manner provided by P.L.l999, c.340 (C.2A:18-72 et al.), may dispose of any tangible goods, chattels, manufactured or mobile homes or other personal property left upon a premises by a tenant after giving notice as required by section 2 of P.L.1999, c.340 (C.2A:18-73), only if the landlord reasonable believes under all the circumstances that the tenant has left the property upon the premises with no intention of asserting any further claim to the premises or the property and:

a. A warrant for removal has been executed and possession of the premises has been restored to the landlord; or

b. The tenant has given written notice that he or she is voluntarily relinquishing possession of the premises.

The provision of P.L.l999. c.340 (C.2A:18-72 et al.) shall not apply to the disposal of tenant property left on nonresidential rental property if there is a lease in effect which has been duly executed by all parties which contains specific terms and conditions for the disposal of tenant property.

2A:18-73. Notice to tenant prior to disposition

To dispose of a tenant's property under this act, a landlord shall first give written notice to the tenant, which shall be sent by certified mail, return receipt requested or by receipted first class mail addressed to the tenant, at the tenant's last known address (which may be the address of the premises) and at any alternate address or addresses known to the landlord in an envelope endorsed "Please Forward." "Receipted first class mail" for purposes of this section means first class mail for which a certificate of mailing has been obtained by the sender but does not include certified or registered mail. When the property subject to disposal is a manufactured or mobile home, a copy of the notice required pursuant to this section shall also be sent to the Director of the Division of Motor Vehicles and to any lienholders with security interests in the property which has been recorded with the Division of Motor Vehicles.

2A:18-74. Contents of notice

a. That the property is considered abandoned and must be removed from the premises or from the place of safekeeping, if the landlord has stored the property as provided in section 4 of P.L.1999, c.340 (C.2A:18- 75), by a date as follows:

1. for all property other than manufactured or mobile homes not less than 30 days after delivery of the notice, all not less than 33 days after the date of mailing, whichever comes first, or

2. for property which consists solely of manufactured or mobile homes, not less than 75 days after the delivery of the notice, or not less than 78 days after the date of mailing, whichever comes first, or the property will be sold or otherwise disposed of; and

b. That if the abandoned property is not removed:

1. The landlord may sell the property at a public or private sale; or
2. The landlord may destroy or otherwise dispose of the property if the landlord reasonable determines that the value of the property is so low that cost of storage and conducting a public sale would probably exceed the amount that would be realized from the sale; or
3. The landlord may sell items of value and destroy or otherwise dispose of the remaining property.

c. That in the case of a residential tenant, if the tenant claims the property within the time provided in the notice, the landlord must make the property available for removal by the tenant without payment by the tenant of any unpaid rent.

2A:18-75. Storing abandoned property

After notifying a tenant as required by section 2 and 3 of P.L.1999, c.340 (C.2A:18-73 et seq.) a landlord shall store all goods, chattels, manufactured or mobile homes and other personal property of the tenant in a place of safekeeping and shall exercise reasonable care for the property, except that the landlord may promptly dispose of perishable food and shall allow an animal control agency or humane society to remove any abandoned pets or livestock. A landlord may store a tenant's manufactured dwelling or residential vehicle on the space previously rented, elsewhere on the premises or in a safe location off the premises. A landlord shall be entitled to reasonable storage charges and costs incidental to storage. A landlord may store property in a commercial storage facility, in which case the storage cost shall include the actual storage charge plus the reasonable cost of removal of the property to the place of storage.

2A:18-76. Conditions under which the property is considered abandoned

a. If a tenant responds in writing or orally to the landlord, on or before the day specified in the required notice, that the tenant intends to remove the property from the premises, or from the place of safekeeping if the landlord has stored the property as provided in section 4 of P.L.1999, c.340 (C.2A:18-75), and does not do so within the time specified in the notice or within 15 days after the written response, whichever is later, the tenant's property shall be conclusively presumed to be abandoned.

b. If a lienholder responds in writing to the landlord concerning a security interest in any manufactured or mobile home, and the lienholder indicates an intent to remove the property

from the premises, or from the place of safekeeping, or to pay rent as a condition of leaving the property on the premises, but fails to remove the property or make rental payments within the time specified in the notice or within 15 days after the written response, whichever is later, then the landlord may proceed as if the lienholder had not responded.

c. If no response is received from a tenant or lienholder within the time period provided under section 3 of P.L.l999, c.340 (C.2A:18-74), then the tenant's property shall be conclusively presumed to be abandoned.

2A:18-77. Tenant's reimbursement for storage costs

Upon removal of his property, a tenant shall reimburse the landlord for the reasonable cost of storage for the period the property was in the landlord's safekeeping, including the reasonable cost of removal of the property to a place of storage. A landlord shall not be entitled to reimbursement for storage and removal costs which are greater than the fair market value of such costs in the locale of the rental property. A landlord shall not be responsible for any loss to a tenant resulting from storage of property in compliance with this act unless the loss was caused by the landlord's deliberate or negligent act or omission.

2A:18-78. Disposal of property, options

Property that has been conclusively presumed to be abandoned may be disposed of in any of the following ways:

a. The landlord may sell the property at a public or private sale;

b. The landlord may destroy or otherwise dispose of the property if the landlord reasonably determines that the value of the property is so low that the cost of storage and conducting a public sale would probably exceed the amount that would be realized from the sale; or

c. The landlord may sell certain items and destroy or otherwise dispose of the remaining property, in accordance with subsections a. and b. of this section.

A public or private sale authorized by this section shall be conducted in accordance with the provisions of 12A:9-601 et seq. of the "Uniform Commercial Code".

2A:18-79. Immunity

Nothing in P.L.l999, c.340 (C.2A:18-72 et al.) shall diminish the right of a landlord of a nonresidential property to use distraint when authorized by law.

2A:18-80. Deductions from sale proceeds

A landlord may deduct from the proceeds of any sale the reasonable costs of notice, storage and sale and any unpaid rent and charges not covered by a security deposit. After deducting these amounts, the landlords shall remit to the tenant the remaining proceeds, if any, together with an itemized accounting. If the tenant, after due diligence, cannot be found the remaining proceeds shall be deposited into the Superior Court and, if not claimed within 10 years, shall escheat to the State.

2A:18-81. Compliance with act constitutes complete defense

Compliance in good faith with all the requirements of this act shall constitute a complete defense in any action brought by a tenant against a landlord for loss or damage to personal property disposed of pursuant to this act.

2A:18-82. Noncompliance with act; tenant's recovery

If a landlord seizes and retains a tenant's personal property without complying with this act, the tenant shall be relieved of any liability for reimbursement to the landlord for storage and removal costs and shall be entitled to recover up to twice the actual damages sustained by the tenant.

2A:18-83. Applicability of act

This act shall not be applicable to any unclaimed property which must be disposed of in accordance with the "Uniform Unclaimed Property Act," P.L.1989, c.58 (C.46:30B-l et seq.).

2A:18-84. Nonapplicability to motor vehicles

This act shall not be applicable to abandoned motor vehicles.

LANDLORD/TENANT

BASIC SKILLS

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