

WHAT TENANTS NEED TO KNOW & DO TO PROTECT THEMSELVES IF UNABLE TO PAY RENT

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WHAT SHOULD I DO IF I CANNOT PAY MY RENT DURING THE STATE OF EMERGENCY?

Some landlords may be willing to work with tenants prior to filing for eviction during this public health emergency. Before you get a notice from the landlord, when you know you will have trouble paying the rent, it is always a good idea to talk to the landlord and see if they are willing to work something out. This avoids the trouble of both of you having to go to court.

Look for rental assistance help as soon as possible:

You can see a list of organizations that provide support at <http://www.cabq.gov/coronavirus-information/community-resources-during-covid>.

Contact your landlord and ask to pay what you owe in rent over time by proposing a payment plan. Let the landlord know if you are waiting for unemployment benefits or other funds that you will be receiving.

Is there a moratorium on evictions in New Mexico? Yes, for tenants who are unable to pay their rent. **But, if the landlord files to evict you, the tenant must appear at a court hearing to get those protections from the court.**

WHAT DOES THE MORATORIUM ON EVICTIONS MEAN?

The New Mexico Supreme Court entered an Order suspending evictions only for non-payment of rent during the pandemic.

The following things still apply, even with the Supreme Court Order:

- The landlord can file a court case seeking to evict a tenant who cannot pay their rent, for whatever reason, or for other reasons unrelated to rent.
- The tenant **MUST** appear at the hearing to ask the court to not evict them because they are unable to pay the rent. The tenant must provide testimony about their inability to pay the rent.
- Metropolitan Court in Albuquerque is asking people to **appear by phone**—you must call in before the start of the hearing so you do not miss it.
- Be prepared to explain to the judge that you are unable to pay the rent. For example, “I don’t have money to pay the rent;” “I lost my job;” “I was laid off;” “I am waiting for unemployment benefits;” “I cannot go to work because of stay at home order.”

Metropolitan Court is starting a **Landlord Tenant Settlement Program** to help landlords and tenants negotiate a repayment plan to try and avoid eviction where the tenant is unable to pay rent. If your landlord sues you for eviction for non-payment of rent, the Court may refer you to this program and you must appear at the settlement conference by phone to participate.

WHAT STEPS SHOULD A TENANT TAKE TO PROTECT THEMSELVES FROM EVICTION?

- Tenants must act—doing nothing could mean you will be evicted and lose your home.
- Apply for rental assistance as soon as possible.
- You don’t have to immediately move out; you can go to court to contest the eviction.
- Seek legal help when you know you may face eviction.
- The N.M. moratorium on evictions for non-payment may protect you, but only if you go to the court hearing. If you do not go to the hearing, you will mostly likely be evicted.
- Tell the court you don’t have the money to pay the rent and ask for more time to pay the rent.
- You should respond to the landlord if a problem exists or you receive a notice of violation.
- If you want to challenge an eviction, attend the court hearing to tell your side of the story.

KNOW YOUR RIGHTS:

- Your landlord cannot evict without a court order
- It is illegal for a landlord to evict a tenant without a court order by doing any of the following:
 - Changing locks
 - Disconnecting electricity, water or gas
 - Using force
 - Threatening to do these things

QUICK FACTS ABOUT NM SUPREME COURT MORATORIUM

- Imposes a stay on (or halts) evictions if the reason is non-payment of rent for tenants in subsidized housing, private housing or a mobile home park where renting a space.
- Applies to all residential landlords (not just subsidized).
- Judge must find that tenant is currently unable to pay rent.
- Tenant will still owe the rent when the Supreme Court lifts the stay – that is, lets evictions proceed. Landlords will evict these tenants unless the tenant and landlord have come to an agreement to allow more time to pay back rent.
- If you work out an agreement with the landlord, make sure it is in writing to protect yourself. Make sure you get a receipt for any rent paid.