

February 2021

Client Advisory

Commercial Evictions May be Back on the Rise in New Jersey

New Jersey is taking steps toward a return to business as usual in the midst of the now almost one-year-long Covid-19 Pandemic. The New Jersey Supreme Court issued a revised Order on February 5, 2021, clarifying and expanding the circumstances in which a commercial landlord may apply to the Court for a trial in landlord/tenant matters. Pursuant to the Court's Order, commercial landlords can now file an Order to Show cause alleging emergent circumstances warrant eviction of its commercial tenant.

If a commercial landlord wants to evict its tenant, it first must be granted a trial. To be granted a trial, the commercial landlord must demonstrate an emergency exists. By way of example, the Court listed several emergencies that may catch a judge's attention, including violence against other tenants; criminal activity; extreme damage to residence; death of a tenant, or permanent closure of the tenant's business resulting in vacancy of the property. Importantly, nonpayment of rent alone is not considered an emergency under the Court's Order. However, the Court may consider nonpayment of rent an emergency if any of the following circumstances accompany nonpayment: (1) the tenant has vacated the property; (2) the tenant's business is not operating and will not resume operations; or (3) the commercial landlord is facing foreclosure or a tax lien. Based on its determination that an emergency exists, the court may schedule a trial, and an eviction may proceed following the trial, "in the interests of justice."

In a year that has been anything but normal, this pronouncement signals a shift toward a return to pre-pandemic dealings in the commercial landlord/tenant context. The Order may also be the beginning of a return to normalcy in business dealings more generally in New Jersey.

For questions regarding commercial landlord and tenant matters, please contact your Archer attorney or [Nilufer DeScherer](mailto:Nilufer.DeScherer@archerlaw.com) at 201-498-8523 or ndescherer@archerlaw.com, or [Jonathan Rardin](mailto:Jonathan.Rardin@archerlaw.com) at 215-246-3105 or jrardin@archerlaw.com, or [Alexander Thompson](mailto:Alexander.Thompson@archerlaw.com) at 856-354-3042 or athompson@archerlaw.com, or [Amy Pearl](mailto:Amy.Pearl@archerlaw.com) at 856-857-2790 or apearl@archerlaw.com.

DISCLAIMER: This client advisory is for general information purposes only. It does not constitute legal or tax advice, and may not be used and relied upon as a substitute for legal or tax advice regarding a specific issue or problem. Advice should be obtained from a qualified attorney or tax practitioner licensed to practice in the jurisdiction where that advice is sought.