



James G. Dibbini, Esq.

LAW OFFICES OF
JAMES G. DIBBINI

570 YONKERS AVE
YONKERS, NEW YORK 10704
TEL (914) 965-1011 FAX (914) 965-0019
E-Mail: jdibbini@dibbinilaw.com

Multiple Nonpayment Judgments May Be Grounds For Eviction

Do you have a tenant that you have been forced to bring multiple nonpayment proceedings against over a short period of time? There may be something you can do to remove the tenant permanently and avoid the vicious cycle of going to court, obtaining a judgment and warrant, tenant finally paying the rent, and then having the same thing happen over and over again. It's called a chronic nonpayment cause of action commenced under a holdover proceeding.

As you probably know, when tenants do not pay their rent, you should give them a 3-day rent demand, after which time if the rent is not paid, you may bring a nonpayment proceeding to recover the money owed to you. If the court finds that the tenant willfully or unjustifiably withheld rent, the court will grant the landlord a money judgment for the rent arrears, legal fees and court costs owed. Some tenants will pay the judgment amount and not cause any future problems to the landlord. Other tenants will soon fall behind in rent again, starting the litigation process and related costs all over again.

There is a solution to the problem for landlords of tenants that repeatedly fail to pay their rent. Courts have found that landlords who have gone through the nonpayment proceeding court process multiple times in a short time frame for the same tenant (usually three or four nonpayments within a 12-month period, depending on the circumstances), may be able to terminate the tenancy based on a breach of a fundamental obligation of the lease. The landlord would be able to forgo the need to serve the tenant a 10-day notice to cure and proceed directly to serving a 30-day notice to vacate followed by the commencement of a holdover proceeding, if the tenant fails to vacate by the 30-day notice deadline.

At the holdover proceeding, if the court finds that the tenant's chronic nonpayments were willful, unjustified or accompanied by an intent to harass the landlord, the court may issue a judgment and warrant of eviction for the landlord ordering the removal of the tenant and thus putting an end to the vicious cycle.

Call or email James G. Dibbini, Esq. for a free consultation regarding any specific legal questions you may have.

Disclaimer: The information provided is not intended to be legal advice, but merely conveys general information related to legal issues commonly encountered.

NEWSLETTER

- FEBRUARY 2007 -

VOLUME 10 NUMBER 15

MEMBER OF NEW YORK STATE BAR ASSOCIATION, WESTCHESTER COUNTY BAR ASSOCIATION AND YONKERS LAWYERS' ASSOCIATION