



Understanding Nonpayment vs. Holdover Proceedings in New York

We hope this message finds you well. In New York, landlords may pursue two types of legal proceedings to regain possession of rental properties when tenant disputes arise: nonpayment and holdover proceedings. Each type has distinct purposes, notice requirements, and time frames, which are essential to understand.

1. Nonpayment Proceedings

A nonpayment proceeding is initiated when a tenant fails to pay rent. This type of proceeding is designed specifically to recover unpaid rent and/or possession of the unit if payment is not made.

Notice Requirements:

- **5-Day Rent Notice:** This notice must be served within five days after the rent becomes overdue. It serves as a reminder to the tenant that rent has not been paid and informs them of the possibility of a nonpayment proceeding if the rent remains unpaid.
- **Rent Demand:** Before filing a nonpayment petition, the landlord must serve a written rent demand on the tenant. This notice must give the tenant 14 days to pay the outstanding rent before any court action can begin.
- If the tenant fails to make payment within these 14 days, the landlord may then proceed by filing a petition with the court to begin the formal nonpayment proceeding.

2. Holdover Proceedings

A holdover proceeding, on the other hand, is initiated when a tenant remains in the rental unit beyond the lease term, violates lease terms, or engages in behavior that justifies the termination of the tenancy. This proceeding seeks possession of the property rather than unpaid rent, making it applicable in broader situations than a nonpayment case.

Notice Requirements:

- **Termination Notices:** The type and timing of the notice depend on the nature of the lease and the grounds for the holdover. Common notices in holdover cases include:
 - **30-Day, 60-Day, or 90-Day Notices:** If the landlord wishes to end a month-to-month tenancy, they must provide the tenant with a 30, 60, or 90-day notice, depending on how long the tenant has resided in the property.
 - **Notice to Cure and Notice of Termination:** If the holdover is due to a specific lease violation, the landlord may be required to serve a "Notice to Cure" (giving the tenant time to correct the violation) followed by a "Notice of Termination" if the violation remains uncorrected.

The timing and content requirements for each notice are highly specific and vary based on the circumstances of the holdover.

Key Differences in Notice Timing

- Nonpayment Proceedings: Requires a 14-day rent demand notice.
- Holdover Proceedings: Notice periods vary (30, 60, or 90 days or additional notices if based on lease violations).

The Importance of Experienced Counsel

Navigating nonpayment and holdover proceedings requires strict adherence to legal requirements, and even minor missteps in serving notices or filing documents can result in the dismissal of a case. Given the complexities and pitfalls involved, we strongly encourage landlords to retain experienced counsel to represent them in these matters.

Our team is here to support you at every step, ensuring that all notices are properly served, filings are correctly submitted, and proceedings follow New York's procedural requirements.

Please feel free to reach out if you need assistance.

Contact Us

If you need any assistance, our team at James G. Dibbini & Associates, P.C. is here to help. Contact us today at (914) 240-8270 or jdibbini@dibbinilaw.com.

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