



JAMES G. DIBBINI
& ASSOCIATES, P.C.
Attorneys At Law
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Chronic Nonpayment Holdover Proceedings in New York: A Powerful Legal Tool for Landlords

When tenants repeatedly fail to pay rent on time—despite bringing their accounts current before a formal eviction—landlords often find themselves trapped in a frustrating cycle of court appearances and instability. In these cases, a **Chronic Nonpayment Holdover Proceeding** may be the solution.

At **James G. Dibbini & Associates, P.C.**, we've successfully prosecuted chronic nonpayment cases across Westchester County and the surrounding counties. This newsletter explains what this proceeding is, when it's appropriate, and how landlords can assert their rights.

What Is a Chronic Nonpayment Holdover Proceeding?

A **chronic nonpayment holdover** is a special type of eviction proceeding used **not because the tenant currently owes rent**, but because of their **consistent history of late or missed rent payments**. The goal is to demonstrate that the tenant's pattern of behavior makes it impossible for the landlord to maintain the tenancy, even if rent is eventually paid.

This type of proceeding is **based on the tenant's conduct**, not a single instance of nonpayment.

When Should a Landlord Use It?

You may want to consider a chronic nonpayment holdover when:

- The tenant has **repeatedly failed to pay rent on time** over a period of **6–12 months** or longer.
- You have filed **multiple nonpayment cases** (usually **3 or more**) in Housing Court during that time.
- The tenant often pays late **only after court intervention**, causing financial and administrative hardship.
- You seek **a more permanent solution** than chasing rent in court month after month.

Important: Courts require **detailed records** of the tenant's payment history and court filings and judgments to support a claim of chronic nonpayment.

⚖️ How the Process Works

1. **Document the Pattern**
2. Gather records of late payments, prior rent demands, and past nonpayment proceedings. Lease violations and ledger history are critical evidence.
3. **Serve a Termination Notice**
4. A predicate notice (**Notice of Termination**) is served, informing the

tenant that the lease is being terminated due to chronic nonpayment.

- 5. File a Holdover Petition**
6. After the notice period expires, the landlord files a **holdover proceeding** in Housing Court based on the tenant's repeated defaults.
- 7. Go to Trial (If Necessary)**
8. The landlord must prove the chronic nature of the nonpayment pattern. The tenant may argue hardship or claim they were not truly in default.
- 9. Obtain a Judgment of Possession**
10. If successful, the court may grant a **warrant of eviction** even if the tenant is not currently in arrears.

⚠ **Key Considerations**

- Courts **do not lightly evict** tenants on this basis. The burden is on the landlord to prove the tenant's behavior makes the tenancy untenable.
- These proceedings are **complex** and must be carefully prepared to avoid dismissal on procedural grounds.
- **Rent-stabilized and public housing tenants may have additional protections. Each case must be evaluated individually.**

☐ **We're Here to Help**

At **James G. Dibbini & Associates, P.C.**, we have decades of experience representing landlords in both chronic nonpayment and traditional holdover cases. We assist in:

- **Evaluating tenant rent histories**
- **Drafting proper termination notices**
- **Filing and litigating holdover proceedings**
- **Negotiating settlements or stipulations**
- **Enforcing eviction warrants when necessary**

If you are dealing with a tenant who constantly pays late or not at all—despite repeated court actions—contact us to discuss whether a chronic nonpayment holdover is appropriate in your situation.

Email James Dibbini now at jdibbini@dibbinilaw.com or call at 914-240-8270.

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James G. Dibbini & Associates, P.C.
570 Yonkers Avenue
Yonkers, NY 10704
(914) 240-8270

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James G. Dibbini & Associates, P.C. | 570 Yonkers Avenue | Yonkers, NY 10704 US

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