

Name: Danielle Srock

Date: 10/19/2022

ADM File Number: 2020-08

Comment:
10/19/22

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
PO Box 30052
Lansing, MI 48909

RE: ADM File N.o 2020-08 – Proposed Amendments of Administrative Order 2020-17 and Rule 4.201 of the Michigan Court Rules

Dear Clerk Royster:

The impact of Administrative Order 2020-17 (AO 2020-17) has adversely impacted the residential rental industry in Michigan in a manner that reduces the availability of affordable housing by allowing tenants to occupy property without paying rent for up to a year. Although we understand the Michigan Supreme Court's goal of showing empathy to those who could not afford to pay rent due to hardships related to COVID-19, residents have weaponized the new process to avoid contractual obligations even when they have the financial ability to pay rent. The Court should decline to make AO 2020-17 permanent and should instead follow the Summary Proceedings Act and Michigan Court Rules in place for decades before AO 2020-17.

I have a backlog of several applicants looking for affordable housing in my community but cannot provide housing for those applicants because I have so many units occupied by residents using the court rules to avoid both paying rent and moving out. The attitude of some residents seems to be "why pay rent when the courts will let me live here without paying?" The Court may have good intentions, but it is hurting families seeking affordable housing. Specifically, the Court should reject the following proposed revisions:

1. MCR 4.201(B)(3)(c) appears designed to create a way for tenants to block landlords' path to the courthouse doors by preventing a landlord from evicting tenants if they have any issue with rental registration or occupancy certificates, even if minor.
2. MCR 4.201(F)(1) eliminates the requirement for tenants in eviction proceedings to answer a complaint at the first hearing. Given that defendants in most evictions for nonpayment have no defense for failing to fulfill their contractual obligation for using the plaintiff's property, this change appears to be designed merely to delay eviction proceedings and force property owners to forfeit the use of their property without compensation.
3. MCR 4.201(F)(5)(d) similarly provides for an adjournment "for at least 7 days" and appears to be another stall tactic for defendants to continue using the plaintiff's property without paying.
4. MCR 4.201(G)(4) also appears designed to delay proceedings by allowing defendants to request a jury trial up until two days before a trial date.
5. MCR 4.201(I)(3) again allows defendants to continue residing in the plaintiff's property without paying rent merely by indicating to the court that the defendant has requested third-party assistance. Perhaps that approach had merit when programs using COVID Emergency Rental Assistance had significant backlogs and took time to process many applications, but we are beyond that point. Most cases do not make it to court until a resident has been living rent free for 60 days, so a resident who wants to seek third party assistance to pay rent has plenty of time obtain that assistance before a hearing. That approach has worked fine for decades.
6. MCR 4.201(K)(1)(c) creates another delay tactic for defendants refusing to pay rent by providing for an adjournment of up to 56 days in cases for "just cause," which is not defined.
7. MCR 4.201(K)(2)(a) effectively creates an advice of rights pretrial that will both cause delay and expense for plaintiffs.
8. MCR 4.201(K)(2)(c) requires personal service of a tenant before seeking a Judgment for failing to appear at a first hearing, which diverges from the service requirements for every other type of case. Service by attachment, combined with first-class mailing and all the other means permissible under the Court Rules should have the