

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE COMMITTEE TO EXAMINE §
AMENDMENT OF THE SUPREME §
COURT RULES TO PERMIT NON- §
ATTORNEY REPRESENTATION OF §
TENANTS IN RESIDENTIAL §
EVICTION PROCEEDINGS §

ORDER

On this 21st day of July 2021, it appears to the Court that:

WHEREAS, before the COVID-19 pandemic, nearly 18,000 eviction cases were filed each year in the Delaware Justice of the Peace Courts;

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act, enacted by the United States Congress in March 2020, provided a 120-day moratorium on eviction filings as well as other protections for certain residential tenants, which moratorium expired on July 24, 2020;

WHEREAS, on September 4, 2020, the Centers for Disease Control and Prevention (“CDC”) issued, and later extended, an order temporarily halting residential evictions;

WHEREAS, the CDC moratorium on residential evictions is currently scheduled to expire on July 31, 2021;

WHEREAS, on March 12, 2020, Delaware Governor John Carney declared, and later extended, a State of Emergency relating to the COVID-19 pandemic;

WHEREAS, the Governor’s State of Emergency declarations have imposed certain limitations on eviction actions and the removal of individuals from residential properties;

WHEREAS, on June 15, 2021, the Governor announced that he would lift the State of Emergency on July 13, 2021;

WHEREAS, it is widely anticipated that the expiration of federal and state protections and resources will result in a substantial increase in eviction proceedings and resulting evictions;

WHEREAS, Supreme Court Rule 57 permits the representation of landlord entities by non-attorney agents in eviction proceedings in the Justice of the Peace Court, but does not permit the representation of tenants by non-attorney agents in such actions;

WHEREAS, the three legal-aid agencies in Delaware have worked together in an effort to fund and expand the representation of low-income tenants who are facing eviction, but have faced significant challenges in recruiting a sufficient number of attorneys to assist tenants through a legal-aid office to meet the demand;

WHEREAS, the legal-aid agencies have requested that the Supreme Court consider amending the Supreme Court Rules to permit tenants to be represented by non-attorneys, under the supervision of the legal-aid agencies, in eviction proceedings in the Justice of the Peace Court; and

WHEREAS, the Court has determined that a committee composed of different stakeholders should examine how the Supreme Court Rules could be amended to permit non-attorney representation of tenants in residential eviction proceedings in the Justice of the Peace Court.

NOW, THEREFORE, IT IS ORDERED that:

- (1) A Committee to Examine Amendment of the Supreme Court Rules to Permit Non-Attorney Representation of Tenants in Residential Eviction Proceedings is hereby established.
- (2) Anne C. Foster, Esquire, shall chair the Committee. The members of the Committee shall be Justice Gary F. Traynor; Chief Magistrate Alan G. Davis; Chief Disciplinary Counsel David A. White; Daniel G. Atkins, Esquire; William P. Brady, Esquire; and Bruce E. Jameson, Esquire. The Committee will be supported by Supreme Court staff attorneys Christine Di Guglielmo, Esquire and Katherine J. Neikirk, Esquire.

- (3) Any recommendations by the Committee shall be made in the name of the Committee only, and not of the individual members or the institutions by which they are employed.
- (4) The Committee shall propose recommended amendments to the Chief Justice on or before October 15, 2021, or such later date as approved by the Chief Justice.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice