



EVICTIION DEFENSE PROJECT

a program of Legal Action of Wisconsin

Eviction Defense – Stabilizing Housing for Low Income Tenants

July 9, 2019

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Impacts of Eviction

- ◆ Displacement
- ◆ Children
 - ◆ Education – Increased absences due to instability or school changes due to relocation
 - ◆ Health - Direct correlation between ER visits for children and housing instability
- ◆ Adults
 - ◆ Education
 - ◆ Employment
 - ◆ Difficulty getting new job without permanent address
 - ◆ Risk of losing current job due to housing instability, relocation, transportation, etc.
- ◆ Health
 - ◆ Conditions (worsened by cycle of eviction) like lack of heat, mold, infestations, etc. lead to health issues
 - ◆ Mental Health (perceptions of procedural fairness)
- ◆ Families can be separated or forced into unsafe housing conditions due to housing instability



Impacts of Eviction

- ◇ CCAP is publicly accessible (LLs use it to review)
- ◇ **Eviction is the modern day scarlet letter and negatively impacts long-term housing options**
- ◇ From actual landlord application site: “No Prior Evictions, No Exceptions”



The Justice Gap

- ◇ How many evictions in Milwaukee County per year?
 - ◇ 14,077 in 2017 and 13,472 in 2016
 - ◇ Approximately 34k people impacted by eviction in 2017
- ◇ How often are landlords represented by counsel in those cases?
 - ◇ In 2016, slightly more than 50% of landlords were represented in court by an attorney
- ◇ How many tenants had representation in 2016?
 - ◇ Less than 1% of tenants in eviction filings, 112 out of 13,472, were represented by counsel

Addressing the Justice Gap

- ◇ Among the solutions proposed by Matthew Desmond in *Evicted* was the notion that additional legal representation be afforded to low-income tenants
- ◇ Other states have institutionalized programs providing legal assistance to tenants facing eviction
 - ◇ New York & San Francisco → Right to Counsel
 - ◇ Landlords generally have the choice as to whether they retain counsel, tenants do not
- ◇ There is limited availability of non-profit traditional legal representation for tenants

LAW's Eviction Defense Project

- ◆ EDP is a **free**, volunteer based, civil legal aid provider that is unique in this state
- ◆ This representation goes beyond the brief advice that characterizes most limited scope representation clinics. Volunteers are able to advocate for their clients in court.



What Services Does the EDP Provide?

- ◆ Brief Legal Advice
- ◆ Settlement Negotiation Assistance
- ◆ Document Drafting
- ◆ Limited In-Court Representation



All representation is limited in scope. In other words, the representation is generally limited to a single afternoon and is not intended to provide extended representation.

Where and When Can I Find the EDP?

- ◆ We are located on the fourth floor of the Milwaukee County Courthouse (209 N. 9th St., Milwaukee, WI)
- ◆ Room 411
- ◆ Open at 12:00pm on Mondays, Thursdays, and certain Wednesdays and Fridays (call 414.278.7722 to confirm availability)
- ◆ First come, first served. Tenants should come at 12:00pm.



Possible Outcomes at Eviction Court

- ◆ Case Dismissed
 - ◆ Court order → Whole case dismissed
 - ◆ Stipulation → Agreement between parties. Compliance required to maintain dismissal.
 - ◆ Eviction Granted (Writ of Restitution)
- ◆ CCAP seal
- ◆ Eviction Granted
 - ◆ LL has 30 days to get writ to sheriff. Upon receipt, sheriff has 10 days to carry out eviction.



Takeaways for Tenants



- ◆ Go to Court - More than 50% of cases result in default judgments
- ◆ Many evictions stem from non-payment due to conditions
 - ◆ Tenants cannot withhold 100% of rent due to condition issues (Abatement)
 - ◆ Can still come into play when addressing 2nd and 3rd causes
- ◆ “A day late or a dollar short”
 - ◆ When possible, pay on time and in full
 - ◆ Keep up with terms of any stipulations
- ◆ Maintain Records (E.g., Receipts, agreements, promises, etc.)
- ◆ If eviction is dismissed, the Court may be willing to “seal” the record

Takeaways for Tenants

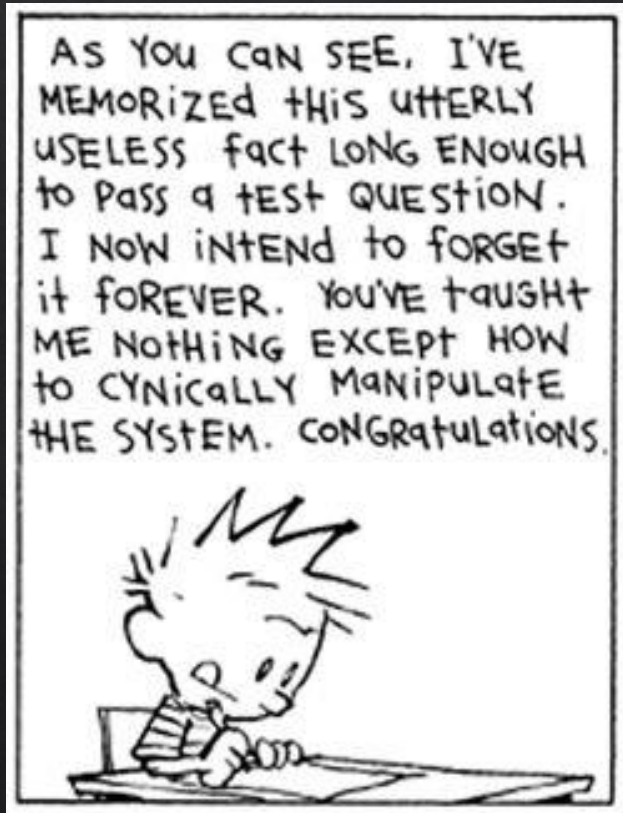
- ◆ Work with Community Advocates and DNS when dealing with conditions issues before reducing rent to minimize risk
- ◆ Emergency Assistance – Work with W2 to request EA. Can stay a pending eviction proceeding.
- ◆ Security Deposits – Even if evicted, landlord must still return security deposit or provide notice explaining why deposit was withheld within 21 days after leaving property.

A close-up, dimly lit photograph of a hand in a white sleeve moving a wooden chess piece on a checkered board. The background is dark and out of focus, showing other chess pieces.

Changes to Law

- ♦ 2017 Wis. Act 317 eliminated or diminished several tenants' rights
- ♦ Notice → Notice no longer needs to accurately identify the amount owed by a tenant to be valid (unless tenant pays what they believe they owe or the amount identified is intentionally incorrect).
- ♦ Waiver → Eliminated waiver defense based on past conduct between parties
- ♦ EA → A stay of proceedings based on EA is no available if the eviction has already been granted. Act 317 also limited the duration of the stay to 10 days.
- ♦ Trial → Arguably raised the threshold for trial before the Court. Tenants must now raise "valid legal grounds" for contest before the commissioners are required to set a hearing before the judge.
- ♦ Representation → Attorneys doing brief service must now include their name and bar number when drafting documents, chilling pro bono participation

Sources of Law



Landlord-Tenant Law

Wis. Stat. Ch. 704

Small Claims Procedure

Wis. Stat. Ch. 799

Dept. of Agriculture, Trade & Consumer Protection

Regulations: ATCP Ch. 134

Contract Law

Questions?

- ◆ rfr@legalaction.org
- ◆ Legal Action of Wisconsin
230 W. Wells St., Ste. 800
Milwaukee, WI 53208
414.278.7722
- ◆ Eviction Defense Project
Milwaukee County Courthouse
901 N. 9th St., Room 411
Mondays and Thursdays
Certain Wednesdays and Fridays
Opens at 12:00pm



The EDP is made possible through a collaboration between Legal Action of Wisconsin and its community partners: Legal Services Corporation, the Milwaukee Justice Center, Marquette Volunteer Legal Clinic, the Legal Aid Society of Milwaukee, Community Advocates, Quarles & Brady LLP, volunteer attorneys, and the support of the Circuit Court.

