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From: Daniel Joseph Wiley <dwiley@ironboundcc.org>
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To: Comments Mailbox
Subject: [External]Comments in Response to Report of the Judiciary Special Committee on Landlord Tenant
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Good Day,

Attached are the Comments in Response to Report of the Judiciary Special Committee on Landlord Tenant from Ironbound Community Corporation (ICC) in Newark, NJ.

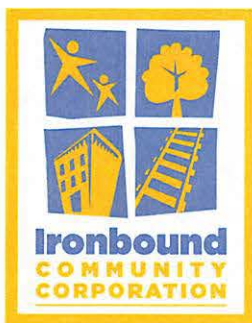
Thank you,
Daniel Joseph Wiley

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Comments in Response to Report of the Judiciary Special Committee on Landlord Tenant

Prepared by: Ironbound Community Corporation (ICC)

The ICC is a nonprofit organization that works with the people of the Ironbound section of Newark to identify needs and develop community-based solutions for them. ICC strives to empower people to better control and develop their own lives, families, and communities.

ICC's work impacts the lives of Ironbound residents both at the individual and community levels. Our daily programming and services include our Early Childhood Birth-5 Center that is home to a nationally accredited and acclaimed program that closes the achievement and developmental gaps of impoverished children and prepares them for Kindergarten; incubating the State's first workers' cooperative; provision of fresh produce to 800 families weekly; and much more.

ICC is deeply engaged in the pursuit of housing justice for Ironbound residents. We believe as a matter of right that everyone should have access to affordable, decent, housing. Our housing justice work uses a multi-prong strategy including organizing at the grass roots, engaging with policy-makers in City and State government, and everything in between. We work closely with tenants and landlords in the Ironbound every day, and we have helped shape policy that can ensure the revitalization of Newark does not effectuate mass displacement.

ICC recognizes and appreciates the efforts of the Special Committee on Landlord Tenant to implement reforms to eviction proceedings. Tenants throughout New Jersey are extraordinarily vulnerable to unjust evictions, particularly when they are unrepresented, because of the summary nature of these proceedings and the enormous information deficit. We urge the Special Committee to take specific steps, additional to those in the Special Committee's Report, to ensure tenants have the information and opportunity they need to defend themselves against unjust eviction.

ICC submits the following comments in response to the Special Committee's Report to further illustrate the concerns and challenges that tenants face in seeking relief in the courts for landlord-tenant disputes.

Recommendations 1 and 2

We urge the judiciary to take steps to provide tenants with independent information. The Tenant Case Information Statement should list all of the defenses available to tenants to the same degree that the Landlord Case Information Statement lists all of the grounds for eviction. And the Landlord Case Information Statement should require the landlord to indicate whether the home is registered. There are strong incentives and pressure on tenants to avoid asserting their rights and seeking relief through the judicial process, and tenants who actually make it to court should have a meaningful opportunity to protect themselves against unjust eviction.

We have heard countless stories of landlords threatening retaliation when tenants raise basic habitability issues. The most frequent threat we have heard is that landlords will call immigration; particularly for undocumented Ironbound residents, this threat is nuclear and completely effective. Blacklisting is another significant threat.¹ Forced to choose between having a home that is run down at best and becoming homeless or being deported is unacceptable, but Ironbound residents make those choices every day.

We also routinely hear from tenants who are evicted informally, by a letter on the door. Most do not believe they have any recourse. As the COVID-19 restrictions begin to lift, we have noticed an increasing trend of landlords outright refusing rent and then filing non-payment eviction actions. Similarly, there has been a significant increase of bad-actor landlords refusing to make essential repairs, sometimes to constructively evict tenants. With skyrocketing property values in the Newark greater area, there may be financial incentives for landlords to renovate apartments for higher rents. We are gravely concerned about the potential for mass displacement that could result in the irretrievable loss of culture and community.

Perhaps the biggest issue we have observed is the enormous power disparity between tenants and their landlords. For example, Ironbound residents with limited English proficiency often rely heavily on their landlords for information about jobs, schools, and community programming. In one case, the tenant's landlord was also his employer. For tenants in this situation, the trust they have in their landlords means they do not question whether the landlord is telling them the truth about their rights and obligations as tenants. We routinely hear stories about landlords pressuring tenants to enter agreements and leave units without regard to tenant's defenses.

Recommendation 5

Notice of case management conferences must continue to be made through traditional means such as the mail. Many Ironbound residents have no reliable access to the Internet at home. Additionally, for people with limited income, text is not a reliable form of communication because of the expense of a cell phone and a data plan. Traditional means of notice must not be abandoned.

Moreover, notice of case management conferences should be made in multiple languages and in plain language.² Many of the tenants we work with have limited English proficiency and rely on their children, including their grammar school children, to translate mail.

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² ICC strongly supports the Special Committee's recommendations to provide the TCIS (Recommendation 2), Harris instruction (Recommendation 12), "Landlord Tenant Procedures" (Recommendation 13), and Judgment of Possession (Recommendation 16) and Warrant of Removal forms (Recommendation 18) in plain language.

There should be no penalty for missing a case management conference the first time. The people we work with face multiple barriers that may prevent them from appearing on a date and time set by the court, particularly on only ten days' notice. Many working people have limited or no control over their shifts, which are generally set at the beginning of the month; many have child care constraints, particularly in the era of remote school. And for tenants who are overly reliant on their landlords as described above, the belief that eviction is an inevitability may discourage them from using their time to appear in court when they could be working and saving for a new home. Facing the choice between attending a case management conference or losing a job or leaving a small child alone, tenants will not appear - but, with more notice, they would be able to choose differently.³ Finally, ten days is simply not enough time for people to find counsel, even if they know how to do so. Many Ironbound residents do not know a single attorney and, troublingly, we have heard repeatedly from people who are mistrustful of attorneys. And tenants are often unaware of the other authorities that can assist them, such as municipal housing agencies and rent control boards.⁴ The notice should make clear that coming into court for a case management conference will not require a tenant to be prepared for trial.

Recommendation 14

Housing must be safe, sanitary and decent. It is widespread practice that courts order that rent owed be deposited with the court and that future rent payments be similarly deposited as they become due until the case runs its course. As a practical matter, this means many tenants cannot afford to raise their meritorious defenses to eviction. For example, a tenant who has paid an exterminator with the intention of deducting the cost from her rent may not be able to afford to pay her full rent amount into escrow and thus will never be able to get a court ruling on her entitlement to deduct the cost of repairs from her rent.

Paying to challenge conditions of a unit is simply unacceptable practice. Not only is it contrary to laws in New Jersey, but it is contrary to public policy. Evicting one tenant living in inhabitable conditions will simply subject the next tenant to the same issues. Therefore, while reducing the amount of deposit to be posted by fifty percent (50%) is a great step forward in increasing access to justice, the court still has compelling interest to alleviate all barriers

Conclusion

For many individuals, tenancy proceedings are likely to be the most significant contact with the judicial system, both with respect to the level of involvement required of a tenant and the consequences a tenant faces as a result of a judgment. Thus it is of the utmost significance that procedures focus on the fairness of the procedure that governs tenancy proceedings and provide

³ See Norrinda Brown Hayat & Marta Paczkowska, *After Monitoring Eviction Court for a Month, It's Clear that the System Is Failing Tenants*, NJ.com (Mar. 1, 2020) (noting the high rate of default judgments against tenants).

⁴ In the past, when one of our clients experiencing severe black mold was able to finally connect with code enforcement, it became difficult to navigate the legal landscape to actually present that report in court. Ultimately, our client was not able to compel their landlord to make necessary repairs, in part because the report was lacking in key areas, and it was increasingly difficult to obtain a supplementary report. As a result, our client was constructively evicted, and the next tenant was subjected to the same habitability issues.

tenants with a meaningful opportunity to raise their claims and defenses before the courts to best pursue the goals of justice.

Respectfully submitted,

The Ironbound Community Corporation