

STATE OF NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
SMALL CLAIMS
FILE NO. _____

Name and Address of Plaintiff

VERSUS

Name and Address of Defendant 1

Name and Address of Defendant 2

**AFFIDAVIT SHOWING DELIVERY OF BLANK CDC
DECLARATION FORM TO TENANT**
Executive Order 171

1. I am the ☐ Plaintiff ☐ authorized agent (or attorney) of the Plaintiff in this action.
2. Plaintiff seeks to reclaim possession of the following leased premises ("Premises") from Defendant(s):

Name of Apartment Community (if any): _____

Street Address and Unit No. (if any), City, County, State, Zip:

3. The undersigned affiant certifies, in accordance with the Governor's Executive Order 171, effective in this State as of October 30, 2020, that a blank copy of the Declaration Form from the Centers for Disease Control's Order titled *Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19* has been provided to the above-named Defendant(s)/tenant(s) in this case.

SWORN AND SUBSCRIBED TO BEFORE ME		<i>Signature of Affiant</i>
<i>Date</i>	<i>Signature</i>	<i>Name of Affiant (Type or Print)</i>
<i>Title of Person Authorized to Administer Oaths</i>		☐ Plaintiff ☐ Authorized Agent ☐ Attorney
<i>Date Commission Expires</i>		

MY STATE MLS MAKES NO REPRESENTATION REGARDING THE LEGAL VALIDITY OR ADEQUACY OF THIS FORM OR ANY INFORMATION CONTAINED HEREIN. IF YOU DO NOT UNDERSTAND THIS FORM OR BELIEVE IT DOES NOT ADDRESS YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA ATTORNEY BEFORE USING IT.

INFORMATION REGARDING THE CDC ORDER AND EXECUTIVE ORDER 171

CDC Order

Beginning September 4, 2020, the Centers for Disease Control (“CDC”) enacted an order (“Order”) temporarily halting evictions due to nonpayment of rent. This Order applies to all properties leased for residential purposes, with the exception of hotels, motels, or other guest houses rented to temporary guests or seasonal tenants. The Order remains in effect until December 31, 2020, and prohibits any action to remove or facilitate the removal of a “covered person” from a residential property for nonpayment of rent. A “covered person” refers to any residential tenant who submits a written declaration certifying, under penalty of perjury, that they:

- Have made their best efforts to secure all available government assistance for rent or housing;
- Anticipate earning no more than \$99,000 as an individual or \$198,000 as a joint filer in 2020; OR were not required to report income for 2019; OR received an Economic Impact Payment under the CARES Act;
- Are unable to pay the full amount of rent or housing costs due to a significant loss of household income, reduction in work hours, job layoff, or extraordinary medical expenses;
- Are using best efforts to make timely partial payments;
- Eviction would likely result in homelessness or require them to move into crowded, congregate, or shared living arrangements due to a lack of alternative housing options.

A sample Declaration form for tenants to utilize is included with the CDC Order. Each adult named on the lease must sign the Declaration (or a comparable declaration).

The Order does not absolve tenants from their responsibility to pay rent or comply with other lease terms. Landlords may impose late fees, penalties, and interest on missed payments and may still pursue eviction for reasons other than nonpayment of rent. Violations of the Order can result in criminal penalties, including fines ranging from \$100,000 to \$500,000 per event and up to one year in jail for individuals. Organizations may face fines of up to \$200,000 per event if no death occurs or \$500,000 per event if the violation results in a tenant’s death due to COVID-19.

Executive Order 171

Governor Cooper’s [Executive Order 171](#), effective October 30, 2020, and lasting until December 31, 2020, expands the applicability of the CDC Order in North Carolina and imposes the following requirements:

- In any eviction action commenced on or after October 30, 2020, the landlord must execute an affidavit and present it to the court certifying that they have provided the tenant with a blank copy of the CDC Declaration Form.
- Notwithstanding what the CDC Order states, only one Declaration from one tenant in the household is required under EO 171.
- Whether the eviction action was pending or commenced on or after October 30, 2020, if the landlord receives an executed Declaration from a tenant, the landlord must immediately notify the court and submit a copy to the court within 5 days of receipt.
- Upon receiving a Declaration, the landlord shall take no actions to request a writ of possession and is not entitled to the writ.
- This means that if a tenant submits a Declaration under the CDC Order, the landlord cannot automatically proceed with eviction for nonpayment of rent. However, if the landlord believes the eviction should continue—for example, if the tenant violated other lease terms such as property damage or criminal activity—the landlord must submit a written response explaining why the eviction should move forward despite the CDC Order protections.
- After the landlord receives a signed Declaration, they are prohibited from seeking a writ of possession. The landlord is required to submit a response and wait for the court’s hearing and ruling on the response to the Declaration. If the court permits the eviction to proceed following the hearing, the landlord may then request a writ of possession.
- Tenants who qualify for the HOPE Program are entitled to protections under EO 171, regardless of whether they meet the criteria for protection under the CDC Order.

Violating EO 171 is considered a class 2 misdemeanor, which carries the same penalties as violating any Executive Order issued by the Governor. As such, landlords and property managers are strongly advised to thoroughly review the order and ensure compliance with its provisions when seeking to evict a tenant.