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Examination of Eviction Filings in Lancaster County, Nebraska, 2019-2021

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Full article: go.unl.edu/examination-eviction

Purpose of the Study

This study examined and analyzed eviction filings and proceedings in Nebraska, with a specific focus on Lancaster County—the home to the State’s capital, Lincoln. The primary objective of this study is to place eviction proceedings under a microscope to gain a better understanding of the volume of evictions in Nebraska, and whether the statutorily mandated processes are being followed. The study also attempts to capture the impact of certain external factors present during the period examined. Such factors include the COVID-19 pandemic and various eviction moratoria in place during 2020 and 2021, as well as the increased availability of legal representation for tenants facing eviction and the influx of funding for rental assistance programs.

Examination Period

This study examined all eviction cases filed between December 1, 2019 and October 31, 2021.

Summary of Key Findings

Volume

- Three-month snapshots within each of the last three years highlight the impact of legal representation, as well the impact of an effective eviction moratorium and available rental assistance, on the number of eviction cases filed:
 - In 2019 when there was no Tenant Assistance Project (TAP), no CDC Moratorium, and rental assistance was not yet available: **519 filings**
 - In 2020 after TAP began, but before the CDC Moratorium and the availability of rental assistance: **299 filings**
 - In 2021 when TAP was operating, a CDC Moratorium was in place and rental assistance was available: **253 filings**

Lawfulness

- Only 6.8% of the cases filed during the period examined were compliant with all statutorily mandated requirements for bringing an eviction action in Nebraska
- Non-compliant eviction actions were allowed to proceed in nearly every instance, and most often (60.8%) resulted in the tenant being displaced from their home
- 401 default evictions were entered in matters where the tenant was alleged to have been served by “constructive service” but the record indicates the requirements for service of process had not been followed

Deficiency	Count	Percent of Total Filings
Improper Notice	284	12%
Record Confirmed No Service of Summons	27	1%
Summons Untimely Served	31	1%
Summons Untimely Returned	34	1%
No Diligent Effort Before Constructive Service	143	6%
No Service Affidavit Filed	1,034	45%
Service Affidavit Filed, but Defective	359	15%
No Standing on the Pleadings	504	22%
No Actual Standing	798	35%
Complaint Failed to Properly State a Claim	1,438	62%
Complaint Failed to Plead Specific Statute	260	11%
Complaint Filed Prematurely	98	4%
Improper Defendant	56	2%
Hearing Scheduled Too Soon	71	3%
Plaintiff Engaged in Unauthorized Practice of Law	19	1%

Legal Representation

- Prior to TAP, only 2.2% of the tenants facing eviction had legal representation; after TAP launched, this rose to 54.2%; of tenants who appeared for their hearing during the period TAP was in operation, 95.8% were provided legal representation
- Across the entire examined period, landlords had legal representation at a rate of 93.5%

Impact of Legal Representation

- In cases where tenants had legal representation, only 2.3% were ordered to be evicted from their home the day of the hearing; by comparison, those who did not have legal representation were immediately evicted at a rate of 55.3%
- In cases where tenants had legal representation, only 50.8% were ultimately displaced.
- Law enforcement was necessary to carry out an eviction in only 32.1% of cases when the tenant had an attorney, compared to 41.9% when the tenant was without an attorney
- A tenant with legal representation was more likely to follow through with an agreement to vacate (68.6%) than an unrepresented tenant (55.3%)
- In matters where the tenant had no legal representation, the eviction judgment was ordered to be executed immediately in 88.2% of the cases
- In matters where an eviction judgment was entered, a represented tenant was provided on average 7 days to peacefully transition; for those without representation, the average time permitted was .5 days, with zero days being the most common
- During the TAP period, the rate at which tenants appeared for their hearings rose to 43.1%, up from 18.3%