

Virginia Court of Appeals Clarifies Impact of the CARES Act on Eviction Actions

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In a recent decision, the Virginia Court of Appeals clarified the impact of the CARES Act on Virginia eviction proceedings. [Read the full ruling here.](#) The ruling is significant for Virginia landlords, property managers, and tenants, particularly those managing or residing in properties covered under the CARES Act.

Background: The landlord filed an eviction action (unlawful detainer) against residential tenants after they allegedly failed to pay rent. Under Virginia law, the Landlord issued a five-day notice to pay rent or vacate the premises. However, the notice also stated the tenants had 30 days to vacate pursuant to the CARES Act. The trial court dismissed the eviction action, ruling it violated the CARES Act's 30-day notice requirement because the action was filed before the 30-day vacate period expired. On appeal, the Court of Appeals reversed the trial court's decision.

Key Implications of Ruling:

1. **Filing an Eviction Action Does Not Require a Tenant to Move Out:** Filing an eviction action is only the first step in the legal eviction process, and it does not require the tenant to leave the property. Therefore, a landlord who files an eviction action within the 30 days allowed by the CARES Act does not violate the CARES Act.
2. **Difference Between Summons and Execution of a Writ:** The CARES Act prohibits landlords from taking action that would require a tenant to vacate the premises before the 30-day notice period has expired. However, it does not prevent landlords from initiating an eviction action. Only a physical eviction of a tenant, performed by a Sheriff, would violate this provision if done within the 30-day timeframe. Practically speaking, a physical eviction cannot occur this quickly.
3. **Preemption of State Law by Federal Law:** When there is a conflict between federal and state law, federal law preempts state law. Thus, the CARES Act's requirements, if applicable, provide tenants in covered properties with 30 days before they must vacate, superseding any contrary provision of Virginia law.

Impact on Virginia Landlords and Tenants:

- **Proceed with Filing:** Landlords can file eviction actions within the 30-day notice period without violating the CARES Act.
- **Understand Tenant Protections:** The ruling reinforces the requirement for landlords, subject to the CARES Act, to allow the full 30-day period before proceeding with any action that would physically remove tenants from the property. Any attempt to execute a writ of eviction within that period could lead to legal consequences.
- **Clarity on Lease Termination:** Even if a lease is terminated under Virginia law, the tenant still has the right to remain on the premises for 30 days after receiving notice, in accordance with the CARES Act.

Conclusion

In sum, the Court of Appeals' ruling balances the rights of landlords to initiate legal eviction actions while ensuring tenants receive protections guaranteed under the CARES Act, if applicable. The CARES Act and the Virginia Residential Landlord Tenant Act impose significant obligations on landlords and tenants regarding rental properties. Understanding applicable legal requirements and responsibilities is essential for fostering a harmonious landlord-tenant relationship and protecting the interests of both parties. Consulting with a trusted attorney in your area is critical if you or your organization have a landlord-tenant related claim. While outcomes cannot be guaranteed and past performance cannot assure future success, Offit Kurman real estate litigator [Anders Sleight | Offit Kurman](#) is available to evaluate your situation.