

IN THE JUSTICE COURT OF _____ COUNTY, MISSISSIPPI

LANDLORD

PLAINTIFF

V.

CASE NO. _____

TENANT

DEFENDANT.

**MOTION FOR COURT TO CONTINUE THE CASE AND TO ORDER
THE PARTIES TO MAKE EFFORTS TO OBTAIN ASSISTANCE
FOR THE RENT AND/OR UTILITIES DEMANDED**

The Tenant/Defendant herein asks the Court to continue this case and order the Landlord and the Tenant to both make good faith efforts to apply for and obtain the assistance available to them to pay the amount demanded in this case for unpaid rent and/or utilities. Alternatively, the Tenant/Defendant asks the Court to find that the Tenant/Defendant has not breached the lease and does not owe unpaid rent or utilities due to the Landlord/Plaintiff's own bad faith performance of the lease agreement.

FACTS

1. The Landlord/Plaintiff has sued the Tenant/Defendant for unpaid rent and/or utilities.
2. The Landlord/Plaintiff seeks eviction plus a money judgment and costs in the total amount of \$_____ .

3. Tenant/Defendant has not paid rent to the Landlord/Plaintiff because of loss of income during the COVID-19 crisis.
4. Tenant/Defendant did not in breach of lease and could not be evicted for non-payment during this time, however, because there was a moratorium on evictions that began on September 20, 2020.
5. On July 31, 2021 the moratorium ended.
6. The Rental Assistance for Mississippians Program assists eligible households who cannot make timely payments of rent and utilities due to the COVID-19 pandemic.
7. The Rental Assistance for Mississippians Program has \$186,696,633.80 to pay landlords so that tenants do not get evicted. See <https://ms-rampera.com/>
8. The Tenant/Defendant desires to pay the Landlord/Plaintiff the unpaid rent and/or utilities in the amount demanded or \$ _____ and has tried to apply to the Rental Assistance for Mississippians Program.
9. In order to receive funds from the Rental Assistance for Mississippians Program tenants must provide:
 - a. A completed application;
 - b. Proof of identification;
 - c. A current lease or alternative documentation to show proof of residence and rent amount;
 - d. Documentation showing household income and financial hardship due to COVID-19;
 - e. Evidence of risk of homelessness or housing instability;

- f. The Landlord's participation form; and
 - g. If requesting utility assistance, a copy of the tenant's bill, showing the name of the service provider, account number and name and address of customer.
10. A tenant needs the landlord to cooperate in providing:
- a. If the tenant's lease has expired, a current lease or other document showing that the tenant is residing at the landlord's property and the rental amount;
 - b. Utility bills, if the utilities are in the landlord's name;
 - c. A completed IRS W-9 Form; and
 - d. An ACH Direct Deposit Authorization.
11. Without the cooperation of the Landlord/Plaintiff, the Tenant/Defendant is unable to obtain rental assistance.
12. In this case, the Landlord/Plaintiff claims to want to be paid rent and/or utilities and has sued the Tenant/Defendant because they have not been paid. The Landlord/Plaintiff has refused, however, to cooperate in the Tenant/Defendant's efforts to pay, which is the equivalent of rejecting payment.
13. The Landlord/Plaintiff's rejection of payment by refusing to cooperate in the Tenant/Defendant's application for rental assistance funds violates Miss. Code Ann. §89-8-9, which requires good faith performance of the lease, including at termination of the lease for non-payment of rent.

LAW

14. A lease is a type of contract between a landlord and a tenant. All contracts require parties to act in good faith. *Estate of Greer v. Ball*, 218 So. 3d 1196, 1202 (Miss. App. 2016).
15. The Residential Landlord Tenant Act specifically governs the residential landlord/tenant relationship and imposes a duty to act in good faith on the parties, including when landlords evict tenants. *Miss. Code Ann. §89-8-9*.
16. The Mississippi Supreme Court has held that the duty of good faith requires that parties to a contract "not only . . . refrain from hindering or preventing . . . the [other party's] performance . . . , but also to take some affirmative steps to cooperate in achieving the[] goals" of the contract. "Good faith" is "faithfulness" to the contract's "agreed purpose" and the "justified expectations of the other party. The breach of good faith is bad faith characterized by some conduct which violates standards of decency, fairness or reasonableness." *Jones v. Miss. Insts. of Higher Learning*, 264 So. 3d 9, 26 (Miss. App. 2018)
17. Since a landlord must act in good faith, a landlord cannot both sue to evict for non-payment of rent and then prevent the tenant from paying by refusing to cooperate with the Tenants/Defendant's efforts to obtain funds for the landlord from the Rental Assistance for Mississippians Program.
18. A refusal to provide the tenant with this basic, required information violates the implied covenant of good faith and fair dealing inherent in every contract. *Id*

CONCLUSION

WHEREFORE Tenant/Defendant respectfully requests that this court continues this case and order the Landlord and the Tenant to both make good faith efforts to apply for and obtain assistance from the Rental Assistance for Mississippians Program. Alternatively, the Tenant/Defendant asks the Court to find that the Tenant/Defendant has not breached the lease and does not owe unpaid rent or utilities due to the Landlord/Plaintiff's bad faith violation of the lease agreement.

Respectfully submitted,

TENANT/DEFENDANT

DATE

IN THE JUSTICE COURT OF _____ COUNTY, MISSISSIPPI

LANDLORD

PLAINTIFF

V.

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TENANT

DEFENDANT.

ORDER

The Court has before it the TENANT/DEFENDANT'S motion to continue this case and to order the Landlord and the Tenant to both make a good faith effort to apply for and obtain the assistance available to them from the Rental Assistance for Mississippians Program. I hereby find that:

1. The LANDLORD/PLAINTIFF has demanded rent and/or utilities plus costs in the amount of \$_____.
2. The LANDLORD/PLAINTIFF may be paid in full by the Rental Assistance for Mississippi Program if the LANDLORD/PLAINTIFF and the TENANT/DEFENDANT cooperate in applying for and obtaining these funds.
3. The LANDLORD/PLAINTIFF has refused to cooperate in applying for and obtaining these funds.

4. By refusing to cooperate with the TENANT/DEFENDANT in applying for funds from the Rental Assistance for Mississippi Program, the LANDLORD/PLAINTIFF has violated the covenant of good faith and fair dealing that is incorporated into to the lease agreement in Mississippi. Miss. Code Ann. §89-8-9.
5. The LANDLORD/PLAINTIFF is not entitled to eviction or to a judgment for the amount demanded at this time because the LANDLORD/PLAINTIFF has acted in bad faith in refusing to cooperate with the TENANT/DEFENDANT to apply for and obtain payment from the Rental Assistance for Mississippians Program.
6. The TENANT/DEFENDANT will be unjustifiably homeless if they are evicted and a money judgment is entered against them when they have not had the opportunity to apply for and obtain funds from the Rental Assistance for Mississippi Program because of the LANDLORD/DEFENDANT'S bad faith.

Therefore, I HEREBY ORDER that:

1. The case be continued until _____, 2021 in order to give the parties time to apply for and obtain funds in the amount demanded from the Rental Assistance for Mississippi Program.
2. The LANDLORD/PLAINTIFF and the TENANT/DEFENDANT are ordered to BOTH make good faith efforts to apply for and obtain funds in the amount demanded or \$ _____ from the Rental Assistance for Mississippi Program. This effort shall include providing the necessary paperwork and providing the necessary information to the Rental Assistance for Mississippi Program by no later than 5 business days from the below date.

3. The LANDLORD/PLAINTIFF may obtain a judgment for eviction and/or for money damages and costs in this proceeding only after showing that the parties' application for funds from the Rental Assistance for Mississippi Program was denied after the parties both made a good faith effort to obtain those funds.

SO ORDERED THIS THE _____ DAY OF _____, 2021.

JUSTICE COURT JUDGE