



Federal evictions moratorium will no longer be upheld in Toledo Housing Court



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The Blade

MAR 30, 2021

4:46 PM

Following a federal appeals court ruling Monday, Toledo Housing Court will no longer honor the federal evictions moratorium for nonpayment of rent, The Blade has learned.

The decision from the Cincinnati-based U.S. Sixth Circuit Court of Appeals, which ruled that the federal government broadly interpreted an old law to justify the U.S. Centers for Disease Control and Prevention's authority for the order, came the same day the Biden administration announced it was extending the moratorium to June 30 just before the Wednesday deadline approached.

In denying a motion to stay a district court ruling in Tennessee, which argued the federal order was unlawful, the Sixth Circuit on Monday also ruled the federal moratorium needed clearer congressional ratification.

“We cannot read the Public Health Service Act to grant the CDC the power to insert itself into the landlord-tenant relationship without some clear, unequivocal textual evidence of Congress’s intent to do so,” the ruling read.

Eric Dunn, director of litigation with the National Housing Law Project, disagreed with the court’s decision and contended Congressional action in extending the moratorium as part of the Appropriations Act is enough to express its ratification of the order.

“That has the effect of ratifying the order,” he said. “There’s a long line of federal cases holding that if a federal agency does something that it’s not authorized to do at the time it does it, but then Congress comes along later and passes some kind of law that either expressly or implicitly says that Congress approves what the agency did, then it ratifies the agency action.”

Toledo Housing Court Judge Joseph Howe told The Blade Tuesday his court will be “unable” honor the CDC moratorium based on the ruling from the Sixth Circuit, whose jurisdiction includes the local court.

“That Sixth Circuit case is controlling for us,” Mr. Howe said. “So in essence, we can’t honor the CDC moratorium anymore.”

Judge Howe said the court currently has a number of cases with a CDC stay declaration on them, but that a number of those tenants have already moved on and don’t need a stay anymore. For other cases, Judge Howe said, the court is planning to have plaintiffs file a notice with the clerk of courts office that indicates they will proceed with an eviction.

“It will give notice that this is going forward,” he said.



Veronica Martinez, managing attorney for Legal Aid of Western Ohio, said her organization is focusing on rental assistance and getting landlords to offer relief to tenants in the wake of the Sixth Circuit decision. She hopes “landlords will continue to work with tenants to accept the rental assistance that has been made available by Congress” despite the challenges to the federal moratorium.

“I think Judge Howe’s hands were tied,” she said. “This is why national housing groups were calling on Congress to act.”

George Thomas, vice president and general counsel of the Fair Housing Center in Toledo, said efforts must be made locally to protect vulnerable renters from mass eviction, as the CDC moratorium had its legal challenges from the beginning.

In three states — Texas, Tennessee, and Ohio — federal judges have either struck down the CDC eviction moratorium’s constitutionality, ruled it wasn’t authorized by Congress and therefore is unenforceable, or simply found it illegal.

“The moratorium was never really fully sufficient in the first place,” he said. “Maybe this decision really is a call to policy makers to do something much more definitive and broader, and something that’s easier to enforce. There’s little doubt that the attorneys for landlords will certainly take advantage of that decision.”

But Ms. Martinez is confident the resources the city and community has gathered surrounding rental relief will prevent a crisis from exploding.

“Pre-pandemic, there was an eviction crisis and we didn’t have rental assistance available for tenants who got behind,” she said. “We didn’t have pay-to-stay as a defense. So the moratorium was always going to be a short-term solution to the larger problem of the housing crisis.”

“We knew the moratorium would come to an end at some point, and that’s why it’s important that these other protections and resources are in place.”