

Evictions are still happening in Arizona. But they've dramatically dropped

Rebekah L. Sanders, Arizona Republic Published 6:00 a.m. MT May 24, 2020

The young woman who answered the door to the swanky Old Town Scottsdale apartment spoke quietly, arms crossed against her chest.

Maricopa County Constable David Lester pulled out the eviction paperwork.

"Is there anything I need to know about? Is everyone well inside your apartment?" Lester asked.

"I don't have a job right now," said the tenant, breaking into tears. "We closed due to COVID."

The constable — armed with a brass badge, a bulletproof vest and a gun — handed a COVID-19 eviction delay request form to the renter.

"What I'm going to do now is hold off on the eviction," Lester said, explaining she had five days to turn in the form seeking an eviction delay to her property manager. He encouraged her to work out a payment plan.

"Just call us," said the property manager, standing nearby. "We understand, alright?"

It was a textbook example of how Arizona's eviction delay is supposed to work for people affected by the new coronavirus.

Gov. Doug Ducey in late March allowed landlords to continue filing evictions against tenants for overdue rent, but [ordered constables not to kick anyone out until July 23](#) if the tenant or a household member could prove they were sick or economically impacted by COVID-19.

Since the order, eviction filings against renters have dropped by 54% in Maricopa County, from 3,917 in March to 1,805 in April, according to data from the justice courts.

Of that, less than 300 households in April were visited by a Maricopa County constable, the last step before losing a rental home, a nearly 70% decrease from March.

Some constable visits — like the one at the Scottsdale complex — now are ending with an eviction delay.

"The statistics show for a lot of people it's having the effect that's intended," Ducey spokesman Patrick Ptak said. "Keeping people in their homes during a pandemic is a public health priority. When we're asking people to limit their time away from home ... ensuring people have that home to stay in is very important."

Yes, evictions are still happening

Even as evictions plummet, many renters remain confused about exactly what protections they're entitled to and how to request relief, tenants and government officials say.

"There is this erroneous belief that evictions are not happening, and that landlords cannot evict tenants, and that's not correct," Maricopa County Justice Courts spokesman Scott Davis said. "If tenants do not pay, landlords can and do file the eviction suits to take those tenants to court. ... (And tenants) have to provide legitimate proof of being affected by the coronavirus pandemic."

Evictions for other lease violations, such as criminal activity or domestic violence, are continuing.

But while the delays may be helpful to tenants, landlords warn they won't be able to last long financially.

"If only 15% of the state's renters don't pay rent during the 120-day eviction moratorium, property owners will lose nearly \$900 million in rental income," Courtney Gilstrap LeVinus, CEO of the Arizona Multihousing Association, said. "It isn't just big businesses. We have retirees who own a rental unit to supplement their retirement and small businesses that own and operate low-income housing units. They are all shouldering a huge burden."

Tenants 'stressed beyond belief'

Seeking a delay of eviction from their small Phoenix apartment has kept Aaron Nadel and Sierra Nielsen on edge for weeks, they said.

After losing his construction job because of the coronavirus in April, the couple's finances dried up, Nadel, 32, said. They could barely afford groceries using food stamps.

"Prior to this we paid on time every week. We were perfect tenants," Nielsen, 22, said. Now "we're stressed beyond belief."

As Nadel went job searching, Nielsen looked for help. Arizona's unemployment program turned Nadel down because his boss had paid him in cash, she said. The couple's federal stimulus check never arrived. Nielsen recently applied to [Arizona's rental assistance program](#), but little of that money has been distributed to tenants so far.

Soon after the job loss, the couple submitted [a formal request for an eviction delay](#), along with a letter from Nadel's boss and a letter explaining their efforts to seek financial help, to their landlord, Budget Suites.

The next day, the company sent the tenants a five-day eviction notice.

"We've been communicating with them. We've been telling them what's going on. We've been trying to take care of this upfront," Nadel said. "And they're not doing anything to try to help us."

An employee at the Budget Suites office said the company does not do interviews.

A few weeks later, the couple was summoned to court. They didn't know what to expect.

Governor's order is unprecedented

A committee of Maricopa County constables and justices of the peace met soon after Ducey's executive order to figure out how to enforce the eviction moratorium.

They decided text messages and emails should count as a written request for an eviction delay. They noted a tenant is not required to prove they applied for unemployment benefits, received a stimulus check or are seeking work.

The judges [agreed](#) to clear up confusion among tenants at eviction hearings by explaining how the executive order works, how tenants can seek relief and that accumulated rent still will be due at the end of the delay.

Constables [agreed](#) to delay kicking out tenants if they could show their health or finances were impacted by COVID-19. A tenant would receive five days to submit a written request for eviction delay to their landlord after the constable arrived. A landlord could appeal the delay to the court.

Some judges give benefit of the doubt

With most Maricopa County eviction hearings happening by phone during the pandemic, judges are dealing with the challenges of conference calls. Background noise interrupting the conversation. Muffled microphones rendering words unrecognizable.

Judge Leonore Driggs at Arcadia Biltmore Justice Court was giving tenants the benefit of the doubt during her May 20 eviction hearings.

A renter explained her boss cut her hours because of COVID-19. A constable had delayed the eviction. But the landlord appealed, citing unpaid rent even before the pandemic.

Although some judges are allowing an eviction to move forward if a tenant missed rent before March 1, Driggs indicated she would not kick out the tenant based on the impact of coronavirus on her now.

"If she's showing she has documentation that she's been fired or her hours have been reduced, I wouldn't feel comfortable to enforce the (eviction) at this time," Driggs told the landlord.

The judge encouraged the tenant to work out a payment plan to avoid a financial crunch when the moratorium ends July 22.

"You're still obligated under the lease to pay rent as long as you're there. So the amount of rent (owed) is going to increase," Driggs said. "What I don't want is for you to have this delay and then at the end, you have a huge amount due."

Housing advocates and landlords warn evictions could spike in July and August once the governor's order expires and months of rent become due.

Renters hopefully will be able to start paying again as the economy reopens, Gilstrap LeVinus said, but the Arizona Multihousing Association is urging the state to speed up hardship payments to tenants and provide economic relief to landlords.

"No one wants to see anyone lose the roof over their head," Gilstrap LeVinus said. "But property owners also have bills to pay – bank loans and payroll costs, property taxes and

repair bills. There's a breaking point for everyone eventually."

Other judges leave renters confused

When Nadel and Nielsen went to court, their judge wasn't explaining the new rules.

Appearing by phone, Judge Pro-Tempore Nicholas DiPiazza at Desert Ridge Justice Courtasked for their legal defense.

"I don't have a legal defense to the eviction as far as the money is owed," said Nadel, who had no attorney. "The only thing I'm requesting is to postpone the (eviction enforcement) date due to my hardship in this case."

"I certainly feel for you, but I must follow the law," DiPiazza said. He ruled in the landlord's favor.

Although the court's best practices advise judges to continue granting evictions when tenants haven't paid, DiPiazza didn't follow the guideline of explaining why.

"Your honor, can I ask you one question?" Nadel asked. "What exactly does Gov. Ducey's order do to protect and help people that are affected in this case?"

"I can't give you legal advice," DiPiazza told the renter. "I can only tell you that under the law I am constrained to enter judgment."

After 3.5 minutes, the eviction hearing was over.

"It terrified the hell out of us," Nielsen said.

'I do not want to be on the streets'

The couple packed up their apartment, expecting to be kicked out any day. They worried the constable wouldn't grant them a delay.

Nadel had lived in a homeless shelter years ago where he became sick with pneumonia, he said. Catching COVID-19 could be worse, he feared.

"I do not want to be on the streets with my family during this crisis. It's not safe," he said.

But when the constable knocked on the door, Nielsen showed their eviction delay paperwork and the couple was allowed to stay.

Now the couple hopes Nadel will find another job and their landlord won't file an appeal.

"It's a relief," Nadel said. "It'll give us time at least until I can get in a better situation. That's really what it comes down to during this pandemic."

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How Arizona's eviction delay works

If you or a household member's health or finances have been affected by COVID-19 and you have not paid your rent, here's how the eviction delay works in Maricopa County. For other counties, call your local justice court to inquire.

- If you cannot pay rent due to COVID-19, submit a [written request for an eviction delay](#) to your landlord along with proof of your hardship.
- Landlords may still seek an eviction order from a judge, even if you've been affected by the pandemic. (Tenants of some public housing will not be taken to court. Check with your public housing office to confirm.)
- You will receive a notice that a court hearing has been scheduled. Make sure to attend the hearing. You should be able to attend by phone. Submit as much paperwork as possible to the court ahead of time that demonstrates your hardship.
- If you have the opportunity, tell the judge how you have been affected by COVID-19. But don't be surprised. The judge likely will grant an eviction order against you, even if you've submitted a written request to your landlord to delay your eviction.
- A constable will visit you, typically within a few days or a week, if your landlord requests a writ of restitution from the court, which is the order to remove you.
- When the constable arrives, explain that you have been impacted by COVID-19.
- Show the constable copies of your paperwork. If you have not submitted a written request to your landlord for an eviction delay and proof of your situation, the constable will give you five days to submit it to your landlord.
- At that point, the constable should let you stay in the apartment until July 22 or until your health or income return, whichever is first. The constable likely will encourage you to reach a payment plan with the landlord.
- If the landlord does not believe you are eligible for an eviction delay, they can appeal to the court with a motion to compel.
- You will receive another notice that a court hearing has been scheduled. Make sure to attend the hearing. Submit as much paperwork as possible to the court ahead of time that demonstrates your hardship.
- If you are eligible for an eviction delay, the judge will deny the landlord's motion to compel. If the judge believes you are ineligible, the judge will allow the eviction to move forward.

Can't pay your rent? Here's how to get help

1. Apply for up to \$2,000 per month toward your rent from the Arizona Department of Housing: <https://housing.az.gov/general-public/eviction-prevention-assistance>

2. File paperwork with your landlord to delay eviction. Your landlord can still file for an eviction order against you, but following these steps should prevent a constable from locking you out of your home:

- Tell your landlord in writing that you have lost income or you or a household member have been quarantined because of COVID-19 using a form like this: <https://assets.documentcloud.org/documents/6819854/Covid19FormFillable.pdf>.
- Provide documentation such as a doctor's note or pay stubs. Write a statement explaining why you are eligible for help if you don't have documentation.
- Keep copies of your form and documents.
- Send a copy of your form and documents through certified mail or hand-deliver them to your landlord and keep a record of the date it was submitted.

3. Ask your landlord if they have a federally backed mortgage. If so, the property owner can receive assistance from Fannie Mae and Freddie Mac in exchange for not evicting tenants hurt by the pandemic: <https://www.fanniemae.com/portal/media/corporate-news/2020/renters-covid-19-multifamily-7002.html>.

Are you a renter or landlord affected by COVID-19? Do you need help? Do you have a question? Contact consumer reporter Rebekah L. Sanders at rsanders@azcentral.com or follow her on Twitter at [@RebekahLSanders](https://twitter.com/RebekahLSanders).

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