COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

|  |  |
| --- | --- |
| {{ courts[0].address.county }}, ss. | {{ courts[0] }} |
|  | Docket Number.: {{ docket\_number }} |

{{ plaintiffs }}

PLAINTIFF (Landlord) **MOTION TO DISMISS** **OR STAY**

**UNDER CDC EVICTION** **MORATORIUM**

{{ defendants[0] }}

DEFENDANT (Tenant)

The Defendant moves to dismiss or stay this Summary Process action under the CDC Eviction Moratorium Order (“CDC Order”) because:

**1.** The CDC Order bars a landlord from taking any action to evict a tenant through December 31, 2020, if the tenant gave the landlord a signed Declaration meeting the requirements of the CDC Order, unless the eviction falls within an exception to the Order.

**2.** This case does not fall within an exception to the CDC Order. My landlord has not brought this eviction case based on (1) criminal conduct at the apartment; (2) threatening the health or safety of other residents; (3) damaging or posing an immediate and significant risk of damage to property; (4) violating health or safety codes; or (5) violating any other terms of my lease or tenancy agreement, other than the timely payment of rent or similar housing-related payments (including non-payment or late payment of fees, penalties, or interest).

**3.** My landlord has asked for rent or other money in this case (either in the Notice to Quit, Complaint, trial, or motion). See Housing Court Standing Order 6-20(2)(d); District Court Standing Order 10-20 (II)(2); Boston Municipal Court Standing Order 11-20(II)(c).

{%p if provided\_declaration\_before\_ntq %}

**4.** I gave my landlord a signed Declaration meeting the requirements of the CDC Order before my landlord gave me the Notice to Quit (notice to terminate my tenancy) or before the landlord gave me the Complaint in this case. Therefore, my landlord should not have given me a Notice to Quit and/or filed this case. This case is barred by the CDC Order and should be **dismissed**.

{%p endif %}

{%p if not provided\_declaration\_before\_ntq %}

**4.** I gave my landlord a signed Declaration meeting the requirements of the CDC Order after my landlord gave me the Complaint in this case. The landlord is now barred from taking any further action in the case. Therefore, this case should be **stayed**.

{%p endif %}

{%p if attaching\_declaration %}

**5.** A true and accurate copy of the Declaration I gave my landlord is attached.

{%p endif %}

**{%p if not dont\_have\_hearing\_date %}**

**Notice of Hearing**

I request that a hearing on this the Motion be scheduled on: **{{ proposed\_hearing\_date }}**

{%p endif %}

**Certificate of Service**

{%p if ready\_to\_sign %}

I {{ service\_method }} a copy of the Motion to my landlord or his/her lawyer on {{ service\_date }}.

{%p else %}

I mailed emailed hand-delivered *(circle which one applies)* a copy of the Motion to my landlord or his/her lawyer on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*(date)*.

{%p endif %}

{%p if i == 'final' %}

{{ users[0].signature }}

{%p endif %}

{{users[0].address\_block() }}

Signed: {{ signature\_date }}

**Verification**

All of the facts asserted in this Motion are true, correct, and based on my own personal knowledge, and any documents attached hereto are true and correct copies. Signed under penalty of perjury this {{ ordinal\_number(signature\_date.day) }} day of {{ signature\_date.format("MMMM")}} 2020.

{%p if i == 'final' %}

{{ users[0].signature }}

{%p endif %}

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Signature of Tenant)