

Maine Revised Statutes
Title 14: COURT PROCEDURE -- CIVIL
Chapter 709: ENTRY AND DETAINER

§6001. AVAILABILITY OF REMEDY

1. Persons against whom process may be maintained. Process of forcible entry and detainer may be maintained against a disseisor who has not acquired any claim by possession and improvement; against a tenant holding under a written lease or contract or person holding under such a tenant; against a tenant where the occupancy of the premises is incidental to the employment of a tenant; at the expiration or forfeiture of the term, without notice, if commenced within 7 days from the expiration or forfeiture of the term; against a tenant at will, whose tenancy has been terminated as provided in section 6002; and against mobile home owners and tenants pursuant to Title 10, chapter 951, subchapter VI. When there are multiple occupants of an apartment or residence, the process of forcible entry and detainer is effective against all occupants if the plaintiff names as parties "all other occupants" together with all adult individuals whose names appear on the lease or rental agreement for the premises or whose tenancy the plaintiff has acknowledged by acceptance of rent or otherwise.

[1995, c. 372, §1 (AMD) .]

1-A. Foreclosure. A bona fide tenancy in a building for which a foreclosure action brought pursuant to either section 6203-A or 6321 is pending or for which a foreclosure judgment has been entered may be terminated only pursuant to the provisions of the federal Protecting Tenants at Foreclosure Act of 2009, Public Law 111-22, Sections 701 to 704.

[2009, c. 566, §1 (NEW) .]

1-B. Residential lease without termination or notice language. If a written residential lease or contract does not include a provision to terminate the tenancy or does not provide for any written notice of termination in the event of a material breach of a provision of the written residential lease or contract, either the landlord or the tenant may terminate the written residential lease or contract pursuant to this subsection.

A. A landlord may terminate the tenancy in accordance with section 6002, subsections 1 and 2. After a landlord has provided notice and service as provided in section 6002, including language advising the tenant that the tenant has the right to contest the termination in court, the landlord may commence a forcible entry and detainer action as provided in this section. [2011, c. 122, §1 (NEW) .]

B. A tenant may terminate the tenancy by providing the landlord with 7 days' written notice of the termination if the landlord has substantially breached a provision of the written residential lease or contract. In the event that the tenant or the tenant's agent has made at least 3 good faith efforts to personally serve the landlord in-hand, that service may be accomplished by both mailing the notice by first-class mail to the landlord's last known address and by leaving the notice at the landlord's last and usual place of abode. [2011, c. 420, Pt. D, §1 (AMD); 2011, c. 420, Pt. D, §6 (AFF) .]

[2011, c. 420, Pt. D, §1 (AMD); 2011, c. 420, Pt. D, §6 (AFF) .]

2. Persons who may not maintain process. The process of forcible entry and detainer may not be maintained against a tenant by a 3rd party lessee, grantee, assignee or donee of the tenant's premises, unless a tenant at will has received notice of termination in accordance with section 6002 by either the grantor or the grantee of the conveyance.

[1985, c. 638, §4 (AMD) .]

3. Presumption of retaliation. In any action of forcible entry and detainer there is a rebuttable presumption that the action was commenced in retaliation against the tenant if, within 6 months prior to the commencement of the action, the tenant has:

- A. Asserted the tenant's rights pursuant to section 6021 or section 6030-D; [2013, c. 324, §1 (AMD).]
- B. Complained as an individual, or if a complaint has been made in that individual's behalf, in good faith, of conditions affecting that individual's dwelling unit that may constitute a violation of a building, housing, sanitary or other code, ordinance, regulation or statute, presently or hereafter adopted, to a body charged with enforcement of that code, ordinance, regulation or statute, or such a body has filed a notice or complaint of such a violation; [2009, c. 566, §2 (AMD).]
- C. Complained in writing or made a written request, in good faith, to the landlord or the landlord's agent to make repairs on the premises as required by any applicable building, housing or sanitary code, or by section 6021, or as required by the rental agreement between the parties; [2015, c. 293, §2 (AMD).]
- D. [1989, c. 484, §2 (NEW); T. 14, §6001, sub-§3, ¶D (RP).]
- E. Prior to being served with an eviction notice, filed, in good faith, a fair housing complaint for which there is a reasonable basis with the Maine Human Rights Commission or filed, in good faith, a fair housing complaint for which there is a reasonable basis with the United States Department of Housing and Urban Development concerning acts affecting that individual's tenancy; or [2015, c. 293, §3 (AMD).]
- F. Prior to being served with an eviction notice, provided the landlord or the landlord's agent with notice that the tenant or tenant's minor child is a victim. [2015, c. 293, §4 (NEW).]

If an action of forcible entry and detainer is brought for failure to pay rent or for causing substantial damage to the premises, the presumption of retaliation does not apply, unless the tenant has asserted a right pursuant to section 6026.

No writ of possession may issue in the absence of rebuttal of the presumption of retaliation.

[2015, c. 293, §§2-4 (AMD).]

4. Membership in tenants' organization. No writ of possession may issue when the tenant proves that the action of forcible entry and detainer was commenced in retaliation for the tenant's membership in an organization concerned with landlord-tenant relationships.

[1981, c. 428, §1 (NEW).]

5. Affirmative defense. A tenant may raise the affirmative defense of failure of the landlord to provide the tenant with a reasonable accommodation pursuant to Title 5, chapter 337 or the federal Fair Housing Act, 42 United States Code, Section 3604(f)(3)(B). The court shall deny the forcible entry and detainer and not grant possession to the landlord if the court determines that the landlord has a duty to offer a reasonable accommodation and has failed to do so and there is a causal link between the accommodation requested and the conduct that is the subject of the forcible entry and detainer action.

The court shall grant the forcible entry and detainer if the court determines that the landlord is otherwise entitled to possession and:

- A. The landlord does not have a duty to offer a reasonable accommodation; [2011, c. 405, §2 (NEW).]
- B. The landlord has, in fact, offered a reasonable accommodation; or [2011, c. 405, §2 (NEW).]
- C. There is no causal link between the accommodation requested and the conduct that is the subject of the forcible entry and detainer action. [2011, c. 405, §2 (NEW).]

For purposes of this subsection, "reasonable accommodation" means a change, exception or adjustment to a rule, policy, practice or service that is necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common access spaces for that dwelling.

[2011, c. 405, §2 (RPR) .]

6. Domestic violence, sexual assault and stalking. This subsection applies to incidents involving domestic violence, sexual assault or stalking.

A. A victim may not be evicted based on an incident or incidents of actual or threatened domestic violence, sexual assault or stalking occurring at the premises or reporting to any agency such incidents that otherwise may be construed as:

- (1) A nuisance under section 6002;
- (2) Damage to property under section 6002; or
- (3) A lease violation arising from a nuisance, a disturbance or damage to premises. [2015, c. 293, §5 (NEW) .]

B. A victim may not be held liable for damage to the property related to an incident or incidents of actual or threatened domestic violence, sexual assault or stalking beyond the value of the victim's security deposit, as long as the alleged perpetrator is a tenant and the victim provides written notice of the damage and documentation required pursuant to paragraph H within 30 days of the occurrence of the damage. [2015, c. 293, §5 (NEW) .]

C. A landlord may bifurcate a lease or tenancy without regard to whether a household member who is a victim is a signatory to the lease in order to evict or terminate the tenancy of a perpetrator of domestic violence, sexual assault or stalking. In bifurcating a tenancy, a landlord may not interfere with a victim's property rights as allocated in a valid court order. Nothing in this section may be construed to create a tenancy that previously did not exist. [2015, c. 293, §5 (NEW) .]

D. A victim may terminate a lease early due to an incident or threat of domestic violence, sexual assault or stalking by providing:

- (1) Seven days' written notice and documentation required pursuant to paragraph H, in the case of a lease of less than one year; or
- (2) Thirty days' written notice and documentation required pursuant to paragraph H, in the case of a lease with a term of one year or more.

A victim is not liable for any unpaid rent under the victim's lease. [2015, c. 293, §5 (NEW) .]

E. Nothing in this section prohibits a landlord from evicting a tenant for reasons unrelated to domestic violence, sexual assault or stalking. [2015, c. 293, §5 (NEW) .]

F. Nothing in this section prohibits a landlord from instituting a forcible entry and detainer action against the tenant of the premises who perpetrated the domestic violence, sexual assault or stalking or obtaining a criminal no trespass order against a nontenant who perpetrates such violence or abuse at the premises. [2015, c. 494, Pt. A, §10 (AMD) .]

G. Nothing in this section limits the rights of a landlord to hold a perpetrator of the domestic violence, sexual assault or stalking liable for damage to the property. [2015, c. 293, §5 (NEW) .]

H. When a victim asserts any of the provisions contained within this chapter specifically available to a victim, except for changing locks according to section 6025, subsection 1, a victim shall provide to the landlord documentation of the alleged conduct by the perpetrator, including the perpetrator's name. Acceptable documentation includes, but is not limited to:

- (1) A statement signed by a Maine-based sexual assault counselor as defined in Title 16, section 53-A, subsection 1, paragraph B, an advocate as defined in Title 16, section 53-B, subsection 1, paragraph A or a victim witness advocate as defined in Title 16, section 53-C, subsection 1, paragraph C;

- (2) A statement signed by a health care provider, mental health care provider or law enforcement officer, including the license number of the health care provider, mental health care provider or law enforcement officer if licensed;
- (3) A copy of a protection from abuse complaint or a temporary order or final order of protection;
- (4) A copy of a protection from harassment complaint or a temporary order or final order of protection from harassment;
- (5) A copy of a police report prepared in response to an investigation of an incident of domestic violence; and
- (6) A copy of a criminal complaint, indictment or conviction for a domestic violence charge.
[2015, c. 293, §5 (NEW).]

[2015, c. 494, Pt. A, §10 (AMD) .]

SECTION HISTORY

1971, c. 322, §1 (AMD). 1977, c. 401, §2 (AMD). 1981, c. 428, §1 (RPR). 1985, c. 638, §4 (AMD). 1989, c. 484, §§1,2 (AMD). 1995, c. 60, §2 (AMD). 1995, c. 372, §1 (AMD). 2009, c. 566, §§1-3 (AMD). 2011, c. 122, §1 (AMD). 2011, c. 405, §§1, 2 (AMD). 2011, c. 420, Pt. D, §1 (AMD). 2011, c. 420, Pt. D, §6 (AFF). 2013, c. 324, §1 (AMD). 2015, c. 293, §§2-5 (AMD). 2015, c. 494, Pt. A, §10 (AMD).

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