



Turk & Milone
Attorneys at Law

☎ 781.356.4200
🌐 turkmilonelaw.com
✉ jturk@turkmilonelaw.com
👤 Jeffrey C. Turk, Esq.
10 Forbes Road, Suite 400W,
Braintree, MA 02184

The New “Normal” **Housing Court Standing Order 1-23 (Issued April 3, 2023)**

In response to the expiration of Chapter 257 of the Acts of 2020 and the conclusion of the Massachusetts COVID-19 State of Emergency, the Housing Court has issued a new Standing Order which includes several significant new requirements for residential landlords commencing eviction actions. This new Standing Order not only eliminates zoom mediations and significantly reduces the availability of virtual court hearings, but also alters the timeline for summary process actions and imposes new notice requirements.

Effective June 5, 2023, the new Standing Order provides for the following:

1. **REMOTE COURT PROCEEDINGS.** The Housing Court will no longer perform mediations or hearings via zoom, except in “extraordinary circumstances”. The exception will be certain procedural/scheduling hearings, emergency motions (such as motions to stop a physical eviction), non-evidentiary hearings, and if the Court otherwise permits one or more parties to appear by zoom for some special circumstance. In effect, the Court will be returning to its pre-COVID in-person process. The Courts will also be staggering hearing times to allow for the “maximum” number of cases to be heard.
2. **EVICTON CASE SCHEDULING.** As you may recall, since the onset of COVID, the Housing Court has maintained a two-tier eviction process in which cases were first scheduled for virtual mediation (Tier-1) and then for an in-person trial date if the case did not resolve (Tier-2). The dates for both events were selected solely by the Court based on its schedule and landlords (and their attorneys) had no ability to select dates. This two-tier process will remain under the new Standing Order. However, two (2) significant changes have now been made:
 - A. **Tier-1: Mediations.**
 - (1) The court will continue to select the mediation date, but it will NOT be scheduled sooner than 30 days nor later than 60 days after the case is filed; AND
 - (2) The court will provide the landlord with a written notice of the mediation date (which will also include other information for the tenant), and this notice must be served on the tenant by constable/sheriff at least 14 days before the mediation date.

Thus, not only will there now be a mandated delay of 30 days before the mediation, but landlords will now be required to have this notice of hearing served by constable or sheriff at an additional cost. While the cost of service may be recovered from the tenant, the landlord will be required to initially pay this charge to the constable or sheriff.

B. Tier-2: Trial Dates.

If the case is not resolved at the mediation, the trial date will automatically be two (2) weeks after the mediation date. The Parties will receive the date and time of the trial date prior to the conclusion of mediation and no further notice shall be required. As we have often been waiting a significant period of time for trial dates, this new Standing Order will hopefully expedite the process of bringing the cases to resolution. Of course, this will not apply if a jury trial has been demanded by the tenant, as the court will still need to schedule such trials.

3. DEFAULTS.

Tenants who fail to appear at the mediation or trial date will be defaulted so long as the landlord files the return of service from the constable or sheriff confirming that the notice of hearing was served as required. However, if the tenant's mail is returned to the court undeliverable and the notice of hearing was not served in hand, a default judgment will not be permitted. This requirement appears to simply recognize the Court's primary concern that the tenant actually receives notice of the court date.

4. AGREEMENTS:

The Standing Order continues to permit parties to file Agreements electronically for approval by the Court. The Court will continue to require that any such agreement be approved by a Housing Specialist, Clerk, or Judge.

5. IMPLEMENTATION.

Cases filed prior to June 5, 2023, which **have not been scheduled** for mediation, will proceed under the new system. Cases filed prior to June 5, 2023, which **have been scheduled** for mediation by the court, will continue to proceed under the current two-tier process (i.e. – no requirement to serve the notice and the scheduled court dates in those cases will remain, including Tier-1 zoom mediations).

While we understand that these new requirements impose some additional burdens on landlords, the hope is that the Court will now be able to address the backlog of cases and ensure that cases are now addressed in a timely and appropriate manner.

Jeffrey C. Turk, Esq.

Caitlin P. Milone, Esq.

The foregoing is for informational purposes only and should not be considered legal advice. Please feel free to contact our office if you have any questions or need assistance. We are available to assist you with your legal needs as the housing industry navigates these complex and ever-changing circumstances.