

STATE OF VERMONT  
VERMONT SUPREME COURT  
NOVEMBER TERM, 2021

**ORDER AMENDING ADMINISTRATIVE ORDER NO. 49 AND ADOPTING  
APPENDIX D TO THAT ORDER**

Pursuant to the Vermont Constitution, Chapter II, § 30, it is hereby ordered:

1. That ¶ 21 of Administrative Order No. 49 be amended to read as follows (deleted matter struck through; new matter underlined):

**21. Pleading Requirements in Eviction Proceedings:**

- a. Notwithstanding the provisions of Rules 8 and 9 of the Vermont Rules of Civil Procedure, in any action for eviction of a tenant of residential housing filed on or after March 27, 2020, the plaintiff must attach to the complaint the plaintiff's certification that the filing complies with the federal CARES Act. In particular, the plaintiff must certify either that the plaintiff has complied with the restrictions of the CARES Act, or that the CARES Act is inapplicable to the property from which plaintiff seeks to evict a tenant.
- b. ~~If the complaint was filed without the certification required in ¶ 21(a), such certification must be filed with the court by August 14, 2020. Any complaint filed after December 1, 2021, without the certification required in ¶ 21(a) may be dismissed by the court.~~
- c. The certification required in ¶ 21(a) must be in substantially the form reflected in [Appendix A](#) to ~~this amendment~~ ¶ 21.
- d. Notice of Emergency Rental Assistance.

(1) In any action for eviction of a residential tenant based solely or in part on nonpayment of rent filed after December 1, 2021, the summons and complaint must be accompanied by a notice in the form provided in [Appendix D](#) concerning the availability of Vermont Emergency Rental Assistance (VERAP) funds. The notice must be served as the cover page of the documents, and the sheriff's return of service must state whether such a notice has been served. A failure to serve the notice may be corrected within 30 days, or the court may dismiss the case. A failure to serve such a notice may, if the tenant requests, be grounds to reschedule the rent escrow hearing or final hearing for up to thirty days to allow the tenant to file a VERAP application.

(2) When sufficient evidence has been submitted that the tenant has applied for VERAP funds, the court, in its discretion, may take any action that it deems appropriate in determining the fashioning of a rent escrow order or writ of possession, including the timing and amount of payment, the timing of issuance of a rent escrow order, or the timing of issuance of a writ of possession.

- e. Permanent Rule Changes. The Advisory Committee on the Rules of Civil Procedure shall review the current state of state and federal law concerning eviction proceedings

and propose any necessary changes in the Civil Rules to take effect upon expiration of this Administrative Order.

2. That the following Explanatory Note be added:

**Explanatory Note—November 15, 2021 Amendment**

Administrative Order No.49, ¶ 21(b) is amended to make the provision appropriate in current circumstances.

Administrative Order No.49, ¶ 21(d) is added, and former paragraph (d) is redesignated as paragraph (e), in response to a proposal prepared at the request of the Supreme Court by a group of judges sitting in the Superior Court Civil Division or serving on the Civil Division Oversight Committee. The purpose is to follow up on a request from Vermont Legal Aid to address delays in state provision of federal funds to pay back rent and forestall evictions from residential housing (Vermont Emergency Rental Assistance—VERAP—funds).

Paragraph (d)(1) provides that in such an action based solely or in part on nonpayment of rent, a notice in the form provided in [Appendix D](#) (adopted simultaneously with this amendment), concerning the availability of VERAP funds, must be served as the cover page of the documents being served, and the return of service must state whether it has been served. If failure to serve the notice is not corrected within 30 days, the court has discretion to dismiss the case, or, at the tenant’s request, reschedule the rent escrow hearing or final hearing for up to thirty days to allow the tenant to file a VERAP application.

Under paragraph (d)(2), on sufficient evidence presented by either party of the tenant’s having filed a VERAP application, the court has discretion to take appropriate action, including determination of the timing and amount of payment, or the timing of issuance of a rent escrow order or a writ of possession.

Paragraph (d) applies only to actions filed after December 1, 2021, to allow landlords time to become aware of the requirement.

4. That this order is effective immediately and extends until March 1, 2022, unless extended further by the Court.

5. That the Chief Justice is authorized to report this order to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont, this 15<sup>th</sup> day of November, 2021.



Signed by the Vermont Supreme Court

---

Paul L. Reiber, Chief Justice

---

Harold E. Eaton, Jr., Associate Justice

---

Karen R. Carroll, Associate Justice

---

William D. Cohen, Associate Justice