

CIVIL COURT OF THE CITY OF NEW YORK

Civil Court Directive

Subject: Emergency HP Actions

Class: DRP-122

Category: LT-10

Eff. Date: Aug. 15, 1991

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BACKGROUND:

Recent developments have caused us to reconsider Directive Number 597 regarding "Cold Weather Emergencies" and to enlarge its scope. Directive Number 597 is hereby rescinded and is replaced by this DRP.

A Tenant/Petitioner may at any time initiate a Housing Part proceeding against a Landlord/Respondent for the purpose of correcting a violation. Such a proceeding, commonly known as an HP action, is begun by the filing of an Order to Show Cause (CIV-LT-81) and a Petition (CIV-LT-21).

The normal return date for an HP action is approximately seven to eight (7-8) days. However, there are exceptions to this rule. For example, Directive Number 597 (old series) provided an exception for the prompt disposition of heat and/or hot water cases during the "cold weather emergency period," October 15th through April 15th.

It has now been determined that other emergencies should also fall under this prompt disposition exception. Emergencies are defined as extremely serious situations, for example, where the landlord has shut-off electric service, water or some comparable service.

DIRECTIVE OF THE ADMINISTRATIVE JUDGE:

Where a Tenant/Petitioner or a City Department initiates a Housing Part action or proceeding against a Landlord/Respondent for the correction of violations (an HP action) and the violation is deemed to be of an emergency nature, the action or proceeding will be made returnable within five (5) days or within a lesser time period in the discretion of the Court. (Civil Court Act, Section 110 (a)(9)).

GENERAL EMERGENCIES:

A condition may be considered an emergency when it is potentially dangerous to the life or safety of a tenant and is created by the Landlord. For example, if the landlord shuts off electric service or water, or some comparable service.

HEAT AND HOT WATER:

During the cold weather emergency period, October 15th to April 15th, a lack of heat and/or hot water, whether created by the landlord or otherwise, is to be considered an **emergency**. Judges-in-Charge of each county may take measures to insure that there are sufficient parts for the prompt disposition of heat cases. Such measures may include re-assignment of Judges to sit in special parts. Non-Judicial personnel, including Court Attorneys, may be reassigned from regularly scheduled duties to service these parts.

NON-PAYMENT PROCEEDINGS:

In Non-Payment proceedings, where the tenant's defense is "lack of heat," and/or "lack of hot water," the trial date is to be scheduled for three (3) days from the day the tenant appears in the Clerk's office to answer. After the tenant has been assigned a trial date, the Clerk will send a notice, by card, to the landlord's attorney and simultaneously notify the landlord's attorney by phone. Clerks are to keep a record of the name of the person who received the telephone message.

The Chief Clerk is directed to advise all concerned staff, and to revise any and all forms relating to this change.

Dated: August 12, 1991

Jacqueline W. Silbermann
Administrative Judge

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CLERKS PROCEDURES, Landlord/Tenant Clerks

_____ Following the directive of the Administrative Judge, any L&T Clerk processing an emergency HP action or proceeding is advised to proceed as follows:

1. Leave the return date open on the HP order to Show Cause, CIV-LT-81.

2. Using the EMERGENCY HP NOTICE form, CIV-LT-63, provide a note to the Judge that the Petitioner/Tenant is claiming that there is an "emergency" and that a short return date is being requested.

3. The normal notification process to DHPD is to be followed.

Due to the shortage of inspection slots and the shortness of the return date, it is likely that no inspection can be requested. If this is the case, then the Judge should be made aware of this by checking the appropriate box on the EMERGENCY HP NOTICE form, CIV-LT-63.

The Judge's Directive in reference to Non-Payments requires that the Clerk notify the Landlord's attorney by phone and keep a record of this notification. This will only be required for the heat and/or hot water emergencies.

For the purpose of statistical information, the Clerk is to keep a record of how many HP actions for emergencies of the non-heat/hot water type are processed. At the end of this year I will ask for a report. For the purpose of the report, these actions will be called "Emergency HP." The Clerk may use any suitable record-keeping system.

Dated: August 12, 1991

Jack Baer
Chief Clerk