

EMERGENCY RENTAL ASSISTANCE PROGRAM PROTECTIONS IN HOUSING COURT

By Christin M. Damiano Esq. | August 2022

During the Covid-19 pandemic, New York implemented several laws and programs to protect tenants who could not afford to pay rent. When the moratorium on evictions was lifted in January 2022, many New York tenants applied for economic relief through the [Emergency Rental Assistance Program \(ERAP\)](#). Regardless of the application decision, tenants may be protected from evictions simply by having applied for ERAP. The following article highlights protections you may have access to after applying for ERAP.

If your ERAP application was approved and rent arrears that accrued during the pandemic were paid, the court will dismiss your eviction case. As a condition of accepting the ERAP payment, your landlord cannot raise your rent or evict you (with a few exceptions including lease violations) for a year following receipt of the payment. If you are sued in a nonpayment proceeding and you provide the court with documentation of the ERAP approval and/or payment, your case should be dismissed for rent due during the covered period. Note: If you owe rent following the covered period, you will be responsible for paying that rent.

If you applied for ERAP and the Office of Temporary and Disability Assistance (OTDA) has not yet made a decision on your eligibility, the court should issue a stay (or a temporary hold) on your case. The stay would remain in place until ERAP determines your eligibility. Housing court will not hear your case and the court will not issue a warrant for your eviction during that time. Your landlord may have to file a written request to reschedule the case in the court calendar after OTDA makes a final decision on your application.

If your landlord refuses to participate in the application process for the ERAP program, or refuses ERAP funds, a tenant may use this as an affirmative defense against a money judgment or an order of eviction based on nonpayment. However, a tenant must affirmatively raise this defense with the court to receive its benefit. Twelve months after the tenant's date of eligibility determination, a landlord is deemed to have waived the rent that ERAP would have covered for that period of time.

If you ultimately don't receive ERAP assistance, or if you owe rent in the period following ERAP coverage, you have options for assistance in paying the arrears. If you live in New York City, contact the Human Resources Administration (HRA) to see if you qualify for "one-shot deal" assistance. You may reach HRA by calling 311 or through their [online portal](#). If you can pay your ongoing rent, HRA may arrange to pay the arrears through a grant or a loan. If you cannot pay your ongoing rent in full, HRA can assess if you are eligible for other rental assistance programs. If HRA rejects your rental assistance application in any capacity, you may contact the Rental Assistance Hotline at 212-962-4795 for information on charities that may assist you.

If you have questions about a housing matter, you may contact the Legal Hotline at 212-626-7383 or complete our [online application](#).

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