

Tenants facing eviction may receive jury trial under bill

BY SETH KLAMANN

SKLAMANN@DENVERPOST.COM

In October, amid a record-breaking wave of eviction filings, the Colorado Supreme Court handed down a seismic decision: Tenants facing eviction have a right to contest their displacement in front of a jury.

The opinion — sparked by a lawsuit from a tenant challenging allegations from her landlord — marked a shift, at least for the relatively small number of cases that would qualify under its parameters. Eviction proceedings are often dispatched in rapid succession, with relatively few tenants defended by lawyers and county judges typically denying requests for jury trials.

Then, in December, the court reversed itself. In a move that one housing lawyer said he'd never seen before, the court voluntarily withdrew the opinion because of its new understanding of an underlying fact in the case — how the tenant had been served her eviction notice.

The court then demurred on the deeper question about tenants' access to jury trials. That question, the justices wrote, should actually be addressed by the legislature.

Now, Colorado lawmakers are seeking to provide an answer. House Bill 1235 would give tenants with factual disputes — like whether they violated specific parts of their lease — the ability to argue their case in front of a jury of their peers. The lawsuit that led to the withdrawn Supreme Court decision, for instance, turned on whether a tenant had violated her lease by having someone stay in her apartment for more than three months, among other allegations.

The jury option guaranteed under the bill generally would not apply to tenants facing eviction because they didn't pay their rent, which is the basis for most eviction cases. The bill passed an initial committee hearing in early March. Even with limited applicability, supporters argued, the ability to elevate eviction cases to jury trials was a key right for people facing the loss of their homes.

"We're bringing this forward to support tenants' rights in that they might have a chance to defend themselves in being able to stay in their home," Rep. Jennifer Bacon, who's sponsoring the bill with fellow Denver Democratic Rep. Steven Woodrow, said during a committee hearing last month. "Without the jury trial, the concern that we have is that (these cases) move very quickly and people can't keep up."

Opponents, meanwhile, have argued that the bill would lead to a surge of jury trials in an already overburdened court system. In interviews and in committee testimony, property owners and industry lawyers argued the tenants could abuse the jury-trial option to delay proceedings and that lawmakers have already gone too far in disrupting the balance between landlords and their renters.


"If (tenants) are going to demand one of these, county courts are not set up to instantaneously have them," said Drew Hamrick, the general counsel for the Colorado Apartment Association.

"... It's going to be a huge motivation to any defendant to ask for a jury trial for their own selfish perspective because it will buy them additional time."

The debate comes at a pivotal moment in Colorado. As pandemic-era relief money has dried up, eviction filings have surged: There were nearly 16,000 such filings in Denver last year and nearly 45,000 more statewide, according to state and local data.

Denver is projected to surpass that total in 2025, which would mean a third consecutive year of record-setting eviction filings in Colorado's capital city.

Lawmakers in the Democrat-controlled legislature have pursued a multiyear agenda to slow evictions alongside efforts to set aside local and state money for rental assistance. A law passed two years ago allowed for tenants to participate in proceedings

remotely, a marquee law from last year gives tenants a right of first refusal to renew their leases, and a bill advancing this year  would give tenants more time to pay back-rent before they're evicted.

Zach Neumann, the CEO of the Community Economic Defense Project, said evictions continue to climb. But policy efforts to address them have born fruit: Fewer cases in Denver have resulted in court-ordered displacement in recent years, he said, thanks to increased rental and legal assistance.

"Because of the pace of evictions and what we've seen in the housing market, it feels like a lot of the work of the past few years has been two steps forward, one step back," Neumann said.

The multiyear legislative effort has prompted criticisms from property owners, landlords and Republican lawmakers that the legislature has gone too far in regulating the tenant-landlord relationship.

"I do not believe that evictions favor landlords and they haven't for a while," Jody Beckstead, an Arvada property manager, testified last month.

"I just feel like the landlord persona is still villainized."

Beckstead's testimony came shortly before the bill advanced out of the House Judiciary Committee on a party-line vote. It now sits in the House Appropriations Committee — a legislative body tasked with overseeing legislative spending.

It's a consequential stop: In a tight budget year, any amount of additional spending can be fatal, and the bill initially carried a roughly \$1 million price tag over its first two years to account for more staff to handle an increased jury trial load. The bill was amended to make clear that judges can reject jury demands unless there's a factual dispute that needs to be decided by a jury, and Bacon said she hopes that change will curb costs and fears of a rush of new trials.

Neumann, of the economic defense project, rejected the claims that a wave of filings would follow the bill's passage.

"There's no evidence to support these claims," Neumann told lawmakers.

"Their argument is maintaining an eviction process that moves quickly and with very little scrutiny."