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House Bill 18 – Right to Counsel

Before the House Judiciary Committee, February 17, 2021

Position: FAVORABLE

I write in support of HB 18. Our firm regularly represents tenants who live in terrible conditions (rats, mold, sewage back-ups, etc.), receive illegal threats from their landlords when the tenants try to assert their legal rights, and tenants who are overcharged on fees and forced to pay them on threat of eviction. We have witnessed the difficulties tenants face in trying to raise defenses to failure to pay rent complaints in rent court. Because of the overwhelming number of failure to pay rent complaints filed in Maryland’s courts, rent court is designed to move at lightning speed and the clerks and judges err on the side of moving the cases along versus providing tenants the time to present a defense. Often the court’s question is “Do you owe the rent?” and if the tenant answers “yes,” the tenant has no opportunity present legal defenses – provided right in the law – such as conditions that pose a threat to their life, health and safety. The attorneys at our firm have heard rent court judges give openings such as, “the only thing we are here for is whether you owe the money. I don’t want to hear about anything else.” If a judge gives this speech to a roomful of unrepresented tenants, then those tenants are certainly not going to raise defenses.

The difficulties tenants face in rent court has been highlighted by the Court of Appeals, which routinely reprimand trial courts for failing to allow tenants to raise defenses. The latest case is *Pettiford v. Next Generation Tr. Serv.*, 467 Md. 624, 665 (2020), where the court recounted the trial court’s refusal to hear the tenant’s defenses:

[T]he District Court cut off Pettiford's defenses at the knees, effectively denying her the right to seek relief and defend against the summary ejection proceeding. Indeed, when Pettiford's counsel attempted to raise breach of the warranty of habitability as a defense, rather than accepting evidence or hearing argument from Pettiford's counsel on the issue, the District Court stated: “[I]f you don't think [that] it's habitable[,] I'm not going [to] let her stay in the property.” Pettiford's counsel attempted to assert a claim for rent escrow, and the District Court stated: “Well[,] if it's uninhabitable[,] I'm not going to let her stay in it... [Bec]ause[,] if something happens to her[,] and you've told me [that] it's uninhabitable[,] it's on me. *So, she'll be out by midnight tonight if she wants to claim [that] it's uninhabitable.*”

While Ms. Pettiford had counsel and was ultimately able to appeal and overturn the district court's judgment, most tenants do not have an attorney and would have likely been evicted.

I urge this committee to give HB 18 a favorable report to ensure that more Maryland tenants have access to representation to ensure their basic human needs are being met. Thank you.

Very truly yours,



Chelsea Ortega