

US Supreme Court blocks part of New York eviction moratorium

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15 August 2021

The US Supreme Court struck down part of a New York eviction moratorium on Thursday, ruling in favor of a landlord association that argued the moratorium violates the landlords' right to due process.

Although the order left parts of the moratorium intact, including a provision that instructs housing judges not to evict tenants who can prove they have suffered financial hardship, all protections under the New York eviction moratorium are set to expire on August 31.

During the pandemic, the New York state legislature passed the Tenant Safe Harbor Act and the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 to regulate evictions. In its 6-3 ruling, the Supreme Court struck down the latter law, which prevented any tenant who declared financial hardship from being evicted.

In a lawsuit led by the Rent Stabilization Association of New York City, the landlords argued that the state was denying them due process of law by interfering with their property rights without giving them a means of legal recourse. The landlords objected to the fact that renters did not have to prove they were in financial straits.

"This law runs roughshod over property owners' constitutional rights to procedural due process and free speech, and it should be immediately enjoined—especially since Governor Cuomo has lifted virtually all other pandemic-related restrictions and formally declared an end to the State's COVID-19 'state of emergency,'" their lawyers argued in court papers.

The six right-wing justices on the court agreed with the landlords' association.

"This scheme violates the court's longstanding teaching that ordinarily 'no man can be a judge in his own case,'" the majority wrote.

In his dissent, Justice Stephen Breyer, joined by Justices Elena Kagan and Sonia Sotomayor, wrote that it was "unnecessary" to end the eviction moratorium because it was set to expire in "less than three weeks," at the end of August. Breyer also said landlords, who claimed they had lost millions, did not provide sufficient proof of hardship because the eviction moratorium did not stop them from seeking unpaid rent in a "common-law action."

The dissenting justices also noted that the lawsuit came as New York officials continued to struggle to distribute federal pandemic relief funds allocated to help tenants who fell behind on rent during the pandemic, as well as landlords who had lost rental income. This pending aid would alleviate the need for evictions, they wrote. Breyer warned that ending the moratorium early would lead to unnecessary evictions.

"The New York Legislature is responsible for responding to a grave and unpredictable public health crisis," Breyer wrote, adding that "it must combat the spread of a virulent disease, mitigate the financial suffering caused by business closures, and minimize the number of unnecessary evictions."

In a statement issued prior to the court's decision, New York Attorney General Letitia James urged the Supreme Court to leave the moratorium in place until it expired on August 31 and pointed to the billions in relief funds still being distributed.

James said blocking the moratorium "would disrupt the State's fragile and ongoing recovery from the pandemic by abruptly inundating the courts with eviction proceedings before they are fully equipped to resume such actions."

According to a statement from State Senator Alessandra Biaggi, only 55 New York households received financial assistance by the end of July. State

officials confirmed that only about \$100 million of the state's \$2.7 billion, or less than four percent, in federal funding had been spent.

Experts say it is unclear how many families could be immediately affected following Thursday's ruling. According to an analysis of census data by the National Equity Atlas, more than 830,000 households in New York State, the majority being in New York City, are behind on their rent, owing an estimated total of more than \$3.2 billion.

Federal government figures from late March of this year showed that 3.4 million renter households with incomes below \$35,000 reported being behind on rent. An additional 2.5 million households with the same income reported being late on their mortgage payments. As the Delta variant fuels a rapid surge of coronavirus infections, the eviction of millions of people threatens a severe social and public health crisis.

The nationwide eviction moratorium imposed by the Centers for Disease Control and Prevention (CDC) is expected to reach the Supreme Court soon. After Congress failed to pass legislation extending the moratorium before going into recess, the Biden administration issued a last-minute order barring evictions in many parts of the country, saying that "the evictions of tenants for failure to make rent or housing payments could be detrimental to public health control measures."

That order, which will expire in early October unless it is extended or blocked in court, applies to regions of the country "experiencing substantial and high levels of community transmission" of the virus. The Biden administration estimated the order would temporarily protect 90 percent of renters from eviction, including all of New York City.

However, Thursday's ruling bodes ill for the CDC moratorium. In June, the Supreme Court upheld a nationwide ban on evictions that had been set to expire at the end of July. Justice Brett Kavanaugh was one of the justices to uphold the moratorium, but he stated in a concurring opinion that any further extension on the moratorium had to be by virtue of an act of Congress. The Supreme Court's decision Thursday suggests a similar outcome for the CDC order.

Meanwhile, three key federal unemployment benefit programs established by the March 2020 CARES Act are set to expire on September 6. Nearly 13 million

people were still collecting unemployment aid as of mid-July, including 9.4 million drawing from programs covering gig workers and others not traditionally eligible for aid.



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