



OTTEN JOHNSON ALERT

Colorado Supreme Court Upholds Thirty-Day Eviction Notice under the CARES Act: What Landlords Need to Know

May 2023 • [Michael P. Davidson](#)

Recently, the Colorado Supreme Court made a significant ruling regarding the thirty-day notice to vacate required under the Coronavirus Aid, Relief and Economic Security Act (the “Cares Act”) which Congress passed in 2020 as a response to the COVID-19 pandemic. The court determined that the notice requirement in the CARES Act has not expired and remains in effect in Colorado. The decision carries significant implications for landlords in the state.

Background

In December 2022, an Arvada landlord served an eviction notice to its tenant who was paying her rent through a Section 8 Housing Choice Voucher. However, the landlord only provided its tenant with a twenty-three day notice instead of the thirty-day notice required under the CARES Act. In response, the tenant argued that the eviction should be dismissed due to the landlord's failure to comply with the notice requirement. Initially, the Jefferson County Court determined that the relevant notice provision in the CARES Act had expired, allowing the eviction to proceed. But on appeal, the Colorado Supreme Court disagreed.

Ruling

Under Colorado state law, a landlord generally must provide a tenant with ten-days' advance written notice prior to initiating an eviction. However, the CARES Act introduced specific restrictions for landlords evicting tenants from federally subsidized housing. Section 9058 of the CARES Act, titled "Temporary moratorium on eviction filings", provides that landlords with tenants in federally-subsidized housing are obligated to provide a thirty-day notice prior to initiating an eviction. This eviction notice provision was introduced alongside a temporary moratorium on eviction filings, which had a fixed duration of one hundred and twenty days. However, unlike the eviction moratorium, the thirty-day notice provision had no fixed duration.

The Colorado Supreme Court ruled that because Congress did not include an expiration date for the thirty-day notice provision, it remains in effect. This ruling sets a precedent, as it is the first time a state Supreme Court has explicitly reached this conclusion.

Implications for Landlords

This ruling has significant implications for landlords in Colorado who were planning to initiate eviction proceedings against federally subsidized tenants. It means that landlords must continue to comply with the mandatory thirty-day eviction notice rather than the ten-day notice required under Colorado law, even after the temporary moratorium on eviction filings and other COVID era restrictions have expired.

Failure to adhere to this ruling can lead to legal consequences and potential challenges to eviction actions. It's crucial for landlords to review their current eviction proceedings, policies, and practices to ensure compliance with the court's holding. This will help avoid potential legal complications or disputes with tenants.

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