

Time to Move:

The Denial of Tenants' Rights in Chicago's Eviction Court

A Report by The Lawyers' Committee for Better Housing, Inc.

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TABLE OF CONTENTS

ACKNOWLEDGMENTS.....	i
PREFACE.....	1
CHAPTER I.....	3
<i>SUMMARY OF FINDINGS</i>	
<i>Introduction.....</i>	<i>3</i>
<i>Summary of Findings.....</i>	<i>4</i>
 CHAPTER II.....	 13
<i>THE EVICTION PROCESS IN CHICAGO—AN OVERVIEW</i>	
 CHAPTER III.....	 15
<i>THE INSTITUTIONAL PRACTICES THAT DENY THE RIGHTS OF PRO SE TENANTS</i>	
<i>The Court Routinely Fails to Require Landlords to Bear their Burden of Proof.....</i>	<i>16</i>
<i>The Court Favors Even Defaulting Landlords.....</i>	<i>21</i>
<i>The Court Fails to Enforce Well-Established Law by Refusing to Recognize Tenant Defenses.....</i>	<i>21</i>
A) <i>The Court Ignores Enhanced Protections for Section 8 and Public Housing Residents.....</i>	<i>22</i>
B) <i>The Court Fails to Enforce Well-Established Illinois Law Requiring the Landlord to Maintain the Premises.....</i>	<i>25</i>
C) <i>The Court Fails to Enforce the Well-Established Defenses of Cure, Waiver, and Discrimination.....</i>	<i>27</i>
<i>The Court Accommodates the Needs and Schedules of Plaintiff-Landlords while not Doing the Same for Defendant-Tenants.....</i>	<i>28</i>
A) <i>Pro Se Materials Are Made Available Only To Landlords, Placing Tenants At A Distinct Disadvantage.....</i>	<i>30</i>
B) <i>The Court's Practice Of Initiating Settlements Is Misleading And Unfair To Pro Se Tenants.....</i>	<i>31</i>
C) <i>The Court Fails To Clearly Articulate The Bases For And Effect Of Its Disposition.....</i>	<i>32</i>
<i>The Court Is Largely Insensitive To The Position Of Tenants.....</i>	<i>34</i>
<i>Legal Representation Dramatically Impacts The Outcomes Of Cases.....</i>	<i>35</i>
<i>Pro Se Tenants Have Little Likelihood Of Success—Whether Or Not They Appear In Court.....</i>	<i>36</i>
 CHAPTER IV.....	 38
<i>EVICTIONS, HOMELESSNESS, AND THE LACK OF HOUSING OPPORTUNITIES FOR LOW-INCOME TENANTS</i>	
<i>The Impact of Evictions in Chicago.....</i>	<i>38</i>

<i>Evictions and Homelessness</i>	39
<i>The Lack of Housing Opportunities for Low-Income Tenants</i>	41
<i>The Court's Role in Maintaining a Hostile Housing Market</i>	43

CHAPTER V	45
CONCLUSION AND RECOMMENDATIONS	
<i>Conclusion</i>	45
<i>Recommendations</i>	46

APPENDICES:

APPENDIX A: Study Methodology and Data Forms

APPENDIX B: Model Eviction Defense Programs

APPENDIX C: List of Poor Conditions Cited by Tenants and Sample Complaint Form

PREFACE

It's getting brutal out there for renters.

—*The Chicago Tribune*, (Tuesday, March 26, 1996.)

The housing market in Chicago grows continually hostile to tenants, particularly those with low and moderate incomes. As the affordable housing market shrinks, the stakes to maintain housing rise, as does the value of possessing an affordable unit. When a tenant loses possession of her home, she has lost something of significant value. When a landlord loses the value of his rental unit (the monthly rent), he has lost something of significant value. Laws have been passed by state and local legislatures to define and govern the important landlord-tenant relationship. These laws recognize the relationship as a contractual one, in which an exchange occurs: rent money in exchange for a habitable place to live. When one of the parties fails to meet his part of the exchange, the judiciary often is called upon to make a ruling about who has the superior right to possession of the premises

Unfortunately, experience and anecdotal evidence over the years indicated that eviction court was largely a landlord's forum, a place where landlords could count on securing relief often without regard to the merits of their claim, while tenants remained severely underrepresented and unable to enforce their rights. This in fact was the conclusion reached in *Judgment Landlord: A Study of Eviction Court in Chicago*, a report published in 1976 by the Legal Assistance Foundation of Chicago, the National Lawyers Guild, Chicago Chapter, and the Chicago Council of Lawyers. Therefore, in the summer of 1995, Lawyers' Committee for Better Housing (LCBH) undertook a study of Chicago's eviction court to determine the extent to which pro se tenants (tenants without legal representation) are able to assert and defend their legal rights.

This study, funded in part by the Policy Research Action Group of Loyola University, Chicago, took place between June and November, 1995. The primary data collection methods used to gather information about forcible actions included: 1) court observations by trained interns; 2) brief interviews with tenants after they had appeared in and exited the court; and 3)

review of court files to obtain information not readily identifiable in court. Each of these methods provided different information about the operation of eviction court. Overall, data was captured on over 2,100 cases from the court observations which took place over a six week period, almost 60 tenants were interviewed and over 250 files were reviewed.

The data collected indicates that tenants' rights continue to be routinely disregarded by the court, almost twenty years after *Judgment Landlord* was published. Many tenants are, in fact, improperly evicted by the Court. Many of the tenants who are improperly evicted are at great risk of homelessness. It is the hope of LCBH that this study can serve as catalyst to bring attention to, and action on behalf of, tenants in Chicago who suffer improper and unjustified, evictions. The results of the study clearly indicate strategies that should be immediately implemented to address the problem of improper evictions.

CHAPTER I SUMMARY OF FINDINGS

Introduction

Eviction cases in Chicago are heard in the Forcible Entry and Detainer Section of the 1st Municipal Division in the Circuit Court of Cook County ("Eviction Court"). Over the last several years, eviction cases have consistently made up approximately 26% of the total cases filed in the 1st Municipal Civil Division. At present, five courtrooms are dedicated to hearing forcible eviction cases in Chicago. All are located downtown at the Richard J. Daley Center. If the forcible complaint is filed by a landlord proceeding *pro se* (without an attorney), the case is heard initially in room 1302, the *pro se* forcible courtroom, with the Honorable Judge Thomas Chiola currently presiding. Cases are moved out of 1302 if a jury trial request is made or the landlord later obtains legal counsel. If the landlord has an attorney, the case is heard initially in one of the three bench trial courtrooms: room 1402 with the Honorable Judge Sheldon Garber currently presiding, 1406 with the Honorable Judge Raymond Funderburk currently presiding, or 1408 with the Honorable Judge Willie Whiting currently presiding. If a jury request is made by either party, the case is routed to room 1303, the Office of the Chief Presiding Judge of First Municipal for reassignment to room 1409, the jury trial courtroom, presided over by the Honorable D. Adolphus Rivers, Presiding Judge of Forcible Court.¹ While a complete description of the data collection methods used to gather information about the Eviction Court is contained in the Study Methodology in Appendix A, a brief description is provided herein.

During the four weeks between July 17 and August 11, 1995, court monitors observed the proceedings in courtrooms 1302, 1402, 1406, and 1408, four days per week (Monday through Thursday). Court monitors again observed in these courtrooms for several days during the weeks of September 18 and September 25, 1995. Monitors did not observe in room 1409, the jury call courtroom. This is because cases assigned to the jury call proceed quite slowly and on any given day, a disposition on the merits is entered in very few cases. As a result, to capture valid information about case outcomes, it would have been necessary to observe a prohibitively high number of court days. Also, relatively few cases are actually heard in room 1409. In fact, based on information contained in the Court docket during the four week period of court observations, only an average of 14.5 cases were heard per day in room 1409, whereas the other courtrooms heard almost five times this number.²

¹ Several additional judges presided over forcible cases in these courtrooms during the course of this study. The additional judges include The Honorable John McElligott, The Honorable Saul Perdomo, The Honorable Robert Cepero-Lopez, and The Honorable Edna Mae Turkington.

² Court personnel provided LCBH with the morning and afternoon dockets for all five Eviction Courtrooms for the four week period between July 17 and August 11, 1995 [hereinafter "Court docket"]. Because some dockets were unavailable or incomplete, the figures reported from the Court docket are based on 37 of 40 dockets for room 1302, 37 of 40 for room 1402, 33 of 40 for room 1406, 37 of 40 for room 1408, and 28 of 40 for room 1409. (With a morning and afternoon docket each day, a total of 40 possible dockets existed for each courtroom.)

Court monitors were trained in advance and worked in teams of two. Each monitor collected distinct data about each case. One monitor recorded information about the parties, grounds for eviction, defenses and dispositions, while the other monitor recorded information about the evidence presented, the way the proceeding was administered, the conduct of the judge and parties, and the judge's rulings.³ Cases included in the final case sample of 2,114 cases are those which were "return day" cases—cases which were before the Court for the first time and set for trial. To the extent they could be identified, commercial cases, cases which were not before the Court for the first time, and cases in which the data collected by the monitors was incomplete or irreconcilable were excluded from the final case sample.

In addition to the court observations, exit interviews were conducted with 59 tenants as they exited the Eviction Court between July 5 and July 14, 1995, and during several weeks in September 1995. The exit interviews were performed to capture information about the eviction from the tenant's point of view and to gather demographic information about tenant households. Finally, during November 1995, over 250 case files were reviewed to collect information not readily identifiable from court observations. The Study Methodology in Appendix A provides more detailed information about this aspect of the study.

Information gained through these three data collection methods is set forth and discussed throughout this report. For the most part, the information is presented as a whole, not divided by courtrooms. Thus, the issues and problems documented and raised by this study are, for the most part, not attributed to particular judges or their respective courtrooms. This report treats the Eviction Court as an institution, not as separate and distinct courtrooms. While the findings in this report may occur in some courtrooms more than others, the Eviction Court, as an institution, is responsible for applying the law and ensuring that constitutional norms of due process are met. This study finds it is the Eviction Court, as an institution, that is failing this task rather profoundly.

Summary of Findings

1. *The majority of tenants attempt to defend themselves against eviction by appearing in court or settling the case with the landlord.*

Yet, tenants overwhelmingly did so without benefit of legal representation, information, or advice. The majority of tenants (62%) either appeared in court, sent a family member or friend to appear on their behalf, were working to settle their case or indeed settled their case with the landlord on or before the court date.⁴ Tenants appeared in court either *pro se* or with legal representation in 962 cases. *Ninety percent of tenants who appeared did so pro se, i.e., without representation (863 of 962); only 99 tenants had legal*

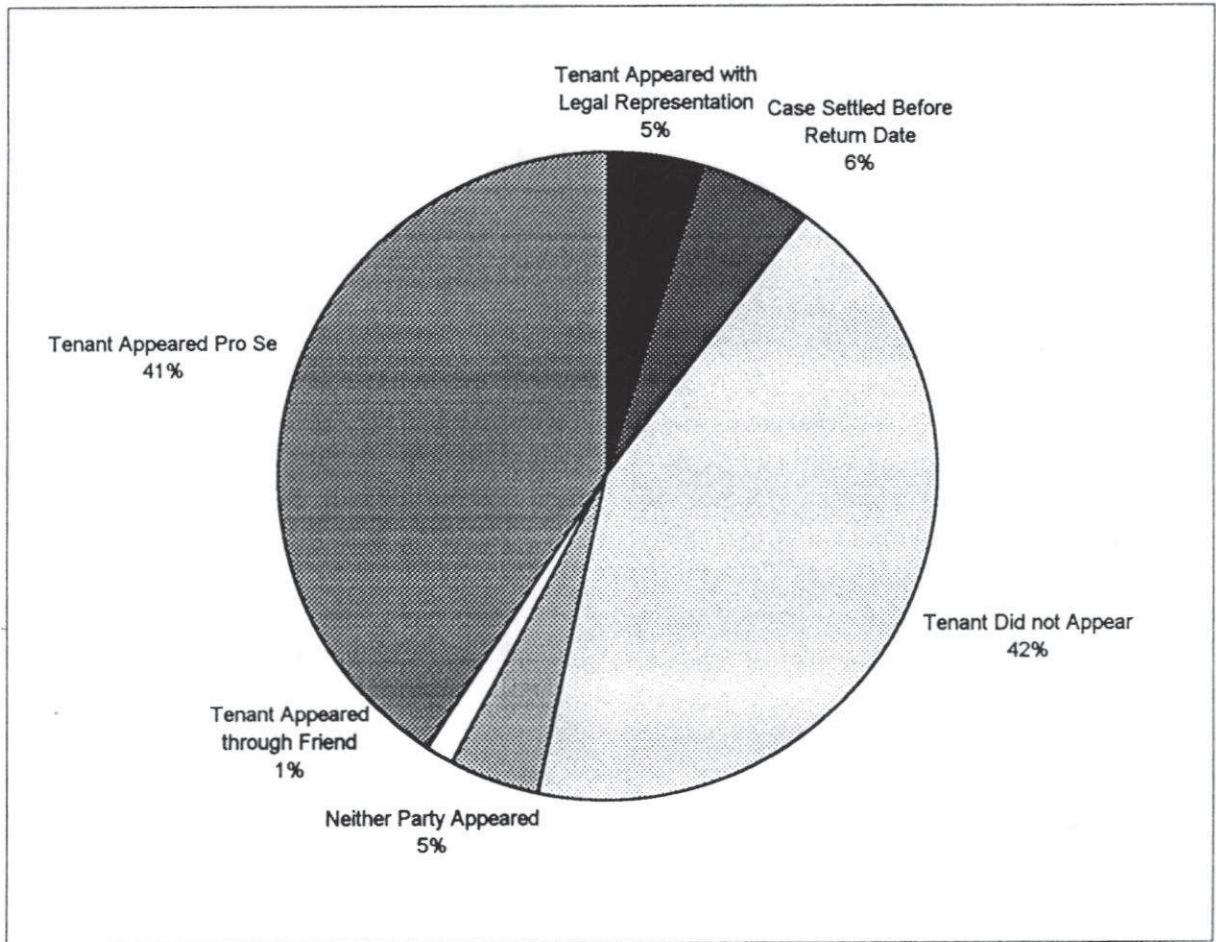
³ Copies of the data collection forms and corresponding Glossary of Terms are provided in Appendix A.

⁴ This figure is based on the fact that 962 tenants appeared in court, 117 had no need to appear because they and the landlord agreed to the disposition of the case through an agreed order, 28 sent a relative or friend to court on their behalf, and in an additional 193 cases, when the tenant did not appear, the landlord dismissed the complaint, continued the cases, or had the matter transferred to the jury call. Based on the disposition of this last group of cases, it can be assumed that the tenant was working with the landlord to address the underlying complaint.

representation.

Moreover, very few tenants received legal assistance or advice prior to appearing in court. Of 59 tenants who participated in an exit interview, 58 responded to our inquiry regarding whether they had spoken to someone about what happens in Eviction Court.⁵ Thirty-four reported that they had not spoken with anyone, 10 spoke with an attorney (but received advice only), 8 spoke with a friend or relative, 3 spoke with the Metropolitan Tenant's

Chart 1: The Tenant's Appearance in Court



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Organization Tenant Hotline, and 4 spoke with either the Police, the City's Department of Human Services or the landlord. The most common reasons cited by tenants for not receiving legal help included not having money (16) and not believing legal assistance was

⁵ While 59 tenants participated in exit interviews, due to time constraints, not all of these tenants were able to complete the entire interviews.

necessary (16). Other reasons included that the tenant wanted to move, the tenant did not know they could get help or the tenant thought such help would be futile. As set forth in Chapter IV, based on the severe difficulties *pro se* tenants face when attempting to present their case to the Court, it is ironic that 27% of those interviewed did not think they needed legal help prior to appearing in court (16 of 58 respondents).

2. *Pro Se Tenants do attempt to raise defenses, but they are disregarded by the Court.*

Overall, tenants asserted defenses 642 times; 91% of these defenses were raised by *pro se* tenants. Yet, as set forth fully in Chapter III of this report, while many tenants raised defenses, the Court disregarded such defenses in most cases.

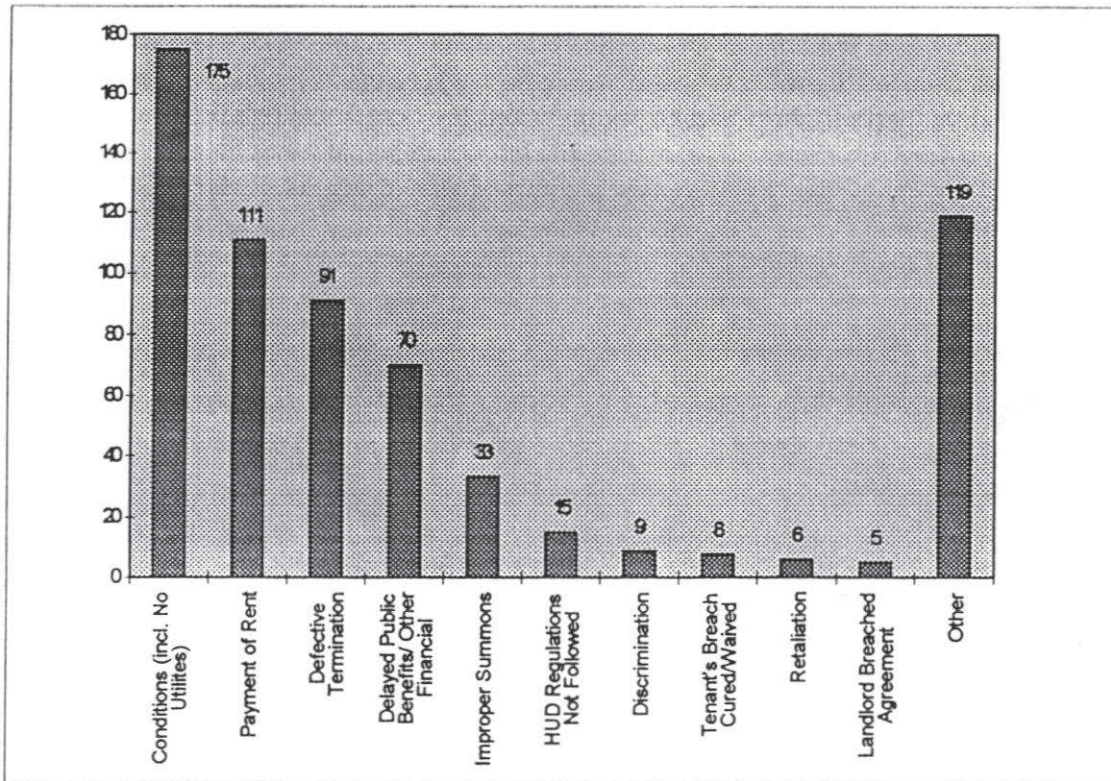
As for the specific defenses raised, a total of 175 defenses were raised that were grounded in the landlord's failure to maintain the premises. These defenses included citing defective conditions (93 of 175), the landlord's failure to repair (67), and failure to provide utilities (15). Thus, as a group, these defenses constitute the most common basis upon which tenants attempted to contest the eviction.

The second most common defense raised by tenants, a total of 111 defenses, was payment/tender of rent.⁶ The remaining of the 642 defenses raised by tenants included, in order of prevalence: a defective Notice of Termination or service thereof (70 and 21, respectively, 91 total), delayed public benefits/financial emergency (70)⁷, improper service of the complaint and summons (33), HUD housing-due process (15), discrimination (9), retaliatory eviction (6), landlord's breach of the lease (5), waiver (4) and cure (4). A complete definition of these defenses for the purposes of this study can be found in the Form A, Glossary of Terms in Appendix A.

⁶ However, monitors did record 119 defenses as "other."

⁷ While not a defense to an eviction, this "defense" was captured for the purpose of recording the number of tenants who had some type financial emergency which precipitated the eviction. Such information is useful for purposes of determining the need for homeless prevention programs which provide cash assistance to tenants facing eviction. Clearly, with 70 tenants raising this defense, such programs are badly needed in Chicago.

Chart 2: Common Defenses Asserted by Tenants



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3. *The Court often failed to recognize the well-established defense to an eviction for nonpayment of rent: that the landlord failed to provide and maintain a safe and sanitary dwelling for the tenant.*

Among the 108 *pro se* tenants who asserted substandard conditions/failure-to-repair as a defense to the eviction for nonpayment of rent, only 2 tenants prevailed using such a defense, only 2 tenants secured a repair order from the Court, and only 1 tenant succeeded in having the landlord's case involuntarily dismissed. Moreover, over twenty years after such defenses were recognized as proper in eviction actions in Illinois, the Court repeatedly held that such defenses could not be raised in Eviction Court.

4. *Out of the entire sample of 2,114 eviction cases, only 28 tenants succeeded in obtaining an order from the Court that allowed them to maintain possession of their home.*

Tenants who appeared in court to defend themselves were about as likely to lose their homes as tenants who failed to show up (95% of tenants who appeared in court and whose cases were disposed of on the merits were evicted, and 98% of tenants who failed to appear were evicted).

5. *Individual cases were heard and disposed of in less than 3 minutes on average.*

In fact, three minutes overstates the amount of time spent per case—this figure was derived by dividing the number of minutes per call by the number of cases heard during the call. Thus, it includes time spent while the parties approached the bench, time spent on administrative matters, short breaks, motions and the occasional lengthy trial.⁸ Moreover, the average does not clearly demonstrate the large number of cases disposed of in seconds—even more likely when cases are part of an extraordinarily large daily call.

6. *The volume of the Eviction Court's docket varies dramatically from call to call.*

The Court docket revealed that over a four week period, the actual number of cases set for trial on any given day in a courtroom ranged from a low of 9 to a high of 167.⁹ Dockets regularly had a differential of times five. In other words, on any given day a judge may have five times more or less cases to dispose of than on other days. Surely such a widely fluctuating docket impedes the ability of the Court to provide adequate time and attention to each individual case.

Despite having five courtrooms available to hear eviction cases, the Eviction Court maintains a rather high volume docket. Based on information from the Court docket, over this four week period in the summer of 1995, approximately 1,349 cases were set to be heard in room 1302; 1,104 in room 1402; 987 in room 1406, and 1,294 in room 1408.¹⁰ To hear this number of cases over the four week period, judges would have to hear a high of 72 cases on average per day in room 1302 (the *pro se* landlord courtroom), and an average of 59, 59 and 69 cases in rooms 1402, 1406 and 1408, respectively.

While the Court certainly has a large number of cases to dispose of daily, to hear this number of cases at three minutes a piece, a courtroom need only be in session, on average, for approximately 3 to 3.5 hours per day. Thus, the high volume alone does not justify the vast majority of cases receiving only a few minutes of the Court's time.

7. *The vast majority of landlords did not personally appear in court but were represented only through an attorney.*

In contrast to tenants, the vast majority of landlords did not personally appear in court but were represented only through an attorney. Sixty-nine percent of landlords had legal

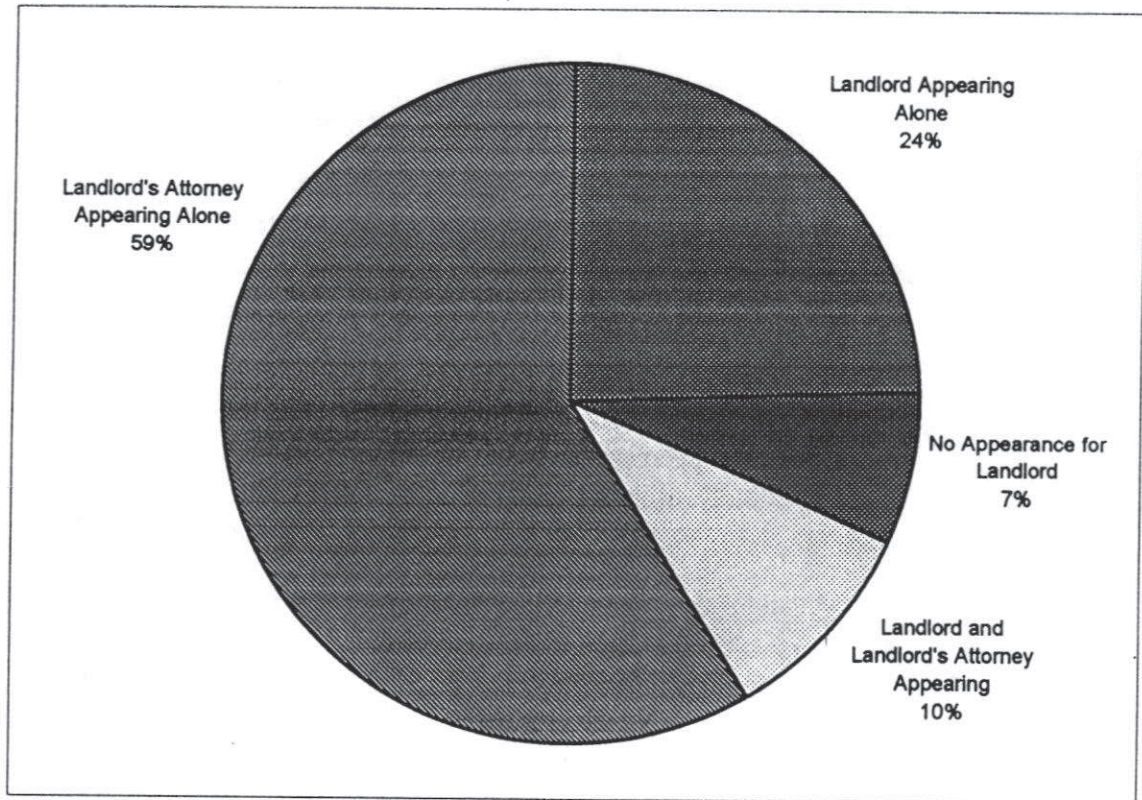
⁸ Monitors captured useful time information in 82 of the 97 calls observed. In the other 15 calls, the monitors failed to identify a beginning or end time or failed to identify which part of the call was covered in the time period recorded (trials, statuses, motions, etc.). Thus, these calls were not included for the purposes of estimating the average time per case set for trial.

⁹ These numbers do not apply to room 1409, the jury call courtroom. As discussed, this courtroom maintains a much smaller docket than the other four courtrooms.

¹⁰ Court docket, *supra* note 2. Because some dockets were missing, the actual number of cases docketed for each courtroom was somewhat higher over this time period than the number reported here.

representation. Of those, the landlord's attorney appeared alone 85% of the time; landlords appeared with their attorneys only 14% of the time. Landlords appeared *pro se* in 24% of all of the cases.¹¹

Chart 3: The Landlord's Appearance in Court



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8. *The disparity in rates of legal representation between tenants and landlords is enormous.*

Based upon information in the Court docket, across all five courtrooms (including 1409), while 71% (2,353) of landlords had attorney representation, only 5% (175) of tenants had representation. Similarly, of the 2,114 cases observed by monitors, landlords were represented in 1,447 cases (68%), whereas tenants were only represented in 99 cases (4.6%).

Broken down by courtroom, the disparity in rates of legal representation is even more stunning. In room 1402, 98% of plaintiff-landlords were represented by counsel, and only 3.9% of defendant-tenants; 100% of plaintiff-landlords in room 1406 were represented by

¹¹ Landlords and/or their representatives appeared in a total of 1,962 cases; in 152 cases, neither the landlord nor a representative of the landlord appeared.

counsel and only 2.2% of defendant-tenants; 99% of plaintiff-landlords were represented by counsel in room 1408, and only 2% of defendant-tenants were represented by counsel.¹² In room 1302, the *pro se* landlord courtroom, 1.5% of plaintiff-landlords and 0.3% of defendant-tenants were represented by counsel. Although in room 1409, the jury courtroom, slightly more tenants than landlords had counsel (74% and 73% respectively), the overall tenant representation rate for the entire Eviction Court remains around 5%. (While tenants had a relatively high representation rate in room 1409, the number of cases actually heard there is extremely low compared to the other courtrooms, so the total number of tenants represented is unaffected.) Thus, the Eviction Court can fairly be characterized as one in which landlord's attorneys dominate, and tenants remain severely underrepresented.

9. *Tenants with legal representation were six times more likely to prevail against landlords than pro se tenants, while legal representation made little difference to the outcome of the landlord's case.*

Tenants prevailed in only 23 of the 518 cases (4% of the time) in which a tenant appeared *pro se* and the Court disposed of the case on the merits. The landlords in these cases were awarded possession of the premises 95% of the time. Whether or not a tenant had legal representation substantially influenced the outcome of the case. *In fact, tenants with legal representation were six times more likely to prevail against landlords than pro se tenants.*

In contrast, *pro se* landlords were awarded possession of the premises in 93% of the cases which were disposed of on the merits. Moreover, whether or not a landlord had legal representation barely influenced the outcome of the case. *While pro se landlords were awarded possession of the premises in 93% of the cases, landlords with legal representation were awarded possession of the premises in 96% of the cases.*

10. *Most eviction actions were filed alleging nonpayment of rent.*

In the sample of 2,114 cases, the monitors were able to record the grounds for termination of the tenancy as alleged by the landlord in 1,427 cases. Of those, 93% were for nonpayment of rent, 4% were based on a 30-day notice, 2% involved a breach of the lease, and another 1% was based on an expired lease or recorded as "other." Monitors were unable to record the bases for many of the evictions they observed because such bases were either not made apparent to the Court or not understood by the monitors.

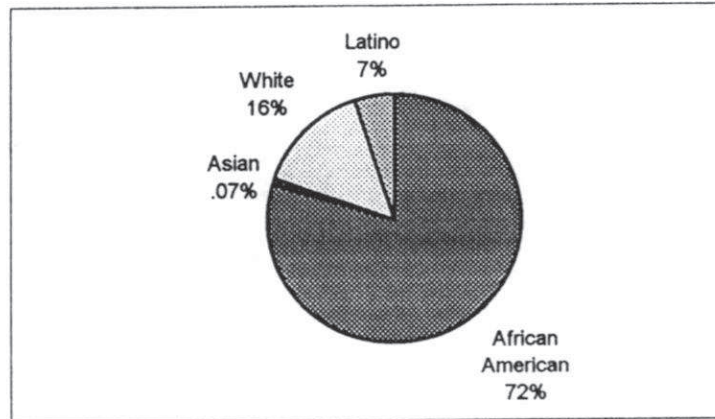
11. *The majority of the tenants who appeared in Eviction Court were poor, working minorities.*

In fact, 72% of all tenants appearing were African-Americans—49% women and 23% men. Whites made up 16% of all tenants appearing—9% men and 7% women. Latinos

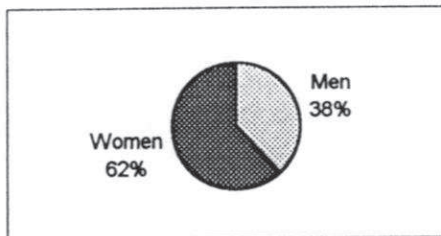
¹² Again, some dockets were incomplete in that they had no information about party representation. The reported total for Rooms 1302, 1402 and 1408 is based on 19 of 20 daily dockets and for room 1406 on 17 of 20 daily dockets.

constituted 7% of tenants who appeared (3% men, 4% women) and 0.7% of tenants were Asians (0.5% men and 0.2% women). Overall, 38% of tenants were men, 62% were women.

Chart 4: Tenants Appearing in Eviction Court



**Tenants Appearing in Eviction Court:
More Women than Men**



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Of the 59 tenants interviewed, 43 responded to the question about the number of children in the household.¹³ Of those, 65% reported having children in the home. Another 29% of households reported that one or more disabled people lived in the household. Seventy percent of the tenants interviewed had extremely (less than \$800/month) to very low (less than \$1,200/month) incomes. Of 48 tenants who provided information about their source of income, the majority (54%) were employed, while the remaining tenants relied solely on some type of government assistance (AFDC, SSI, Unemployment Insurance, and/or Social Security) or received foster care or child support payments. The tenants were paying an average monthly rent of \$420.

Of the landlords who appeared in court, 51% were African-American, 33% were white, 10% Latino, 3% Asian and 3% "other." Sixty-seven percent of landlords who appeared were men and 33% were women.

¹³ While 59 tenants were interviewed, due to time constraints, not all tenants were able to complete the entire interview.

12. Thousands of people are evicted every year in Chicago and are at great risk of homelessness.

Of the roughly 40,000 eviction actions filed annually, between 13,000 and 14,000 are placed with the Sheriff's Office for execution of the eviction. Six to seven thousand households—approximately 20,000 people—are physically ejected from their homes every year in Chicago by Court order. In 1994, the second leading cause of homelessness cited by persons in Chicago's shelters was eviction.

13. The predominant issue disposed of in Eviction Court is not which party has a right to possession of the premises but how much time tenants will be given to move from their home and, in joint actions, how much money will be awarded to the landlord.

As set forth in detail in chapter iii, the court often fails to require landlords to prove their cases, fails to recognize tenant defenses, and tries cases in a manner which can be misleading and confusing to tenants, thereby increasing the risk that tenants are unable to assert their rights. In fact, as a general rule, the only consistent inquiry by the court to tenants, was whether the tenant paid or owed the rent and/or whether certain facts existed which warranted that the tenant be given some time, usually between 7 and 30 days, to move.¹⁴

¹⁴ Facts such as the length of tenancy, number of children in the home, and whether the tenant was employed, were often considered by the Court in considering how many days the tenant would be given to move (i.e., how many days the judgment for eviction would be stayed).

CHAPTER II

THE EVICTION PROCESS IN CHICAGO—AN OVERVIEW

The law governing evictions in Illinois is set forth in the Forcible Entry and Detainer Act, 735 ILCS 5/9-101 *et seq.*, The Municipal Code of Chicago, the “Residential Landlord Tenant Ordinance,” also governs many landlord tenant relationships within the City of Chicago. The eviction process typically begins with a landlord serving the tenant a written notice of termination of tenancy. The notice can take several forms including a five-day notice for nonpayment of rent, a ten-day notice for violation of a lease provision, a 30-day notice to terminate a month-to-month tenancy, or a seven-day notice to terminate a week-to-week tenancy. Once the notice has expired and no tender of rent or cure of violation has occurred, the landlord may file a complaint for forcible entry and detainer, i.e., an eviction case.

Within approximately a week of the filing of the complaint, the tenant is served with a summons and a copy of the complaint and is ordered to appear for trial at a certain date which cannot be less than seven days after summons is served. Eviction actions are summary proceedings in Illinois—designed to move through the courts very quickly. Thus, the vast majority of cases are tried and completed on the first appearance date. Both the landlord and tenant have a right to a jury trial, and if one is desired, a jury demand must be filed on the first court date. Late jury demands are subject to the Court’s discretion.

Although the law requires that defendant-tenants file an appearance and pay a fee in order to appear in court, the practice seems to be that *pro se* tenants are allowed to appear in court without first filing a written appearance.¹⁵ However, practice also suggests that *pro se* tenants who request a jury trial are then asked to file and pay for their initial appearance when filing their motion and fee for a jury trial.

The plaintiff-landlord may sue either for possession of the property and rent (“joint action”) or for possession only. Annually, joint actions are filed two to three times more often than single actions for possession only.¹⁶ Tenants are not required to file an Answer to the Complaint; their appearance in Court is treated as a general denial of all the allegations contained in the complaint. Also, the defendant-tenant may raise any affirmative defense and file any counterclaim which is “germane” to the issue of possession. Thus, defenses and counterclaims may be brought pursuant to the implied warranty of habitability or Chicago Residential Landlord Tenant Ordinance (RLTO) asserting that defects in the condition of an apartment offset all or some part of the rent claimed by the landlord (and can serve to defeat the eviction or reduce a damage award). Also, defenses and counterclaims which assert that the eviction is brought for an improper purpose (i.e., to retaliate against a tenant for some protected conduct or to discriminate against a tenant) can be brought. Such defenses are of course in addition to every defendant’s right to challenge the

¹⁵ Under Illinois Supreme Court Rule 298, tenants who are eligible may have filing fees waived. Eligibility is generally based on federal poverty guidelines.

¹⁶ This figure is based on 1988 to 1994 figures provided to LCBH from the Clerk of the Circuit Court of Cook County.

plaintiff's complaint as insufficiently plead or for failure to state a cause of action, or to assert that the plaintiff cannot prove the elements necessary to entitle him to relief. Moreover, tenants can seek equitable relief from the Court, such as a rent abatement or an injunction to enforce compliance with the Building Code. However, while such defenses and counterclaims are properly raised in eviction actions, as set forth in this report, the Court very often fails to properly recognize or enforce them.

If a judgment for possession is entered for the landlord, it is the practice of the Court to ask the tenant how many days she needs to move. The Court will typically take into consideration the tenant's length of tenancy, number of children residing with the tenant or physical condition of the tenant when deciding how many days to stay enforcement of the judgment. Depending on these factors, typically the Court will give tenants a stay of between seven and thirty days. Tenants who are not ill, have a short tenancy or are without children residing with them, will typically be given a stay of seven to ten days. Tenants who fail to appear in court and have a default judgment entered against them will typically be given a stay of seven days.¹⁷

In joint actions, the landlord can also be awarded a money judgment.¹⁸ During the course of this study, monitors reported that some judges automatically amended complaints during the trial to add on rent amounts not requested in the initial complaint. For example, if the case is tried in July and the complaint claims rent for May and June, several judges will also award July's rent to the plaintiff-landlord without requiring the landlord to initiate an amendment of his complaint or even request the additional money.

Once the final judgment is ordered, the landlord must wait until any stay of eviction has expired before filing the judgment with the Sheriff of Cook County for execution of the eviction order. It is generally understood by judges and attorneys who regularly practice in Eviction Court that the Sheriff's Office is usually one week behind schedule in carrying out evictions and will typically hold off on evicting tenants during the Thanksgiving or Christmas holiday season. The Sheriff can, but is not required, to send a letter to the tenant 24 hours before coming out to execute the eviction. The Sheriff's practice of sending such a letter to tenants is sporadic at best.

¹⁷ A judgment instanter is also possible, which means an order of possession can be placed with the Sheriff immediately. This is typically used when there is a week-to-week tenancy.

¹⁸ However, landlords should not be granted a money judgment if they have only served the tenant by posting, which is proper only if the landlord has been unable to obtain personal service and the sheriff returns the summons stating that service "could not be obtained." 735 ILCS 5/9-107. In such a case, the Court may only rule on the claim for possession and may not enter a money judgment unless the defendant appears, thereby submitting to the jurisdiction of the Court.