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NCLA Urges NJ Court to Nix Order Directing Landlords to Use Security Deposits to Offset Rent

Chuck Kravitz, et al. v. Philip D. Murphy, et al.

Washington, DC (December 16, 2020) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, is taking its case challenging New Jersey Governor Philip Murphy’s [Executive Order 128](#) to the Superior Court of New Jersey in Cumberland County. In the case, *Chuck Kravitz, et al. v. Philip D. Murphy, et al.*, NCLA represents New Jersey property owners who have been impacted by the order requiring them to use their tenants’ security deposits toward rent and criminalizing their failure to do so. NCLA’s [complaint](#) filed today argues the order violates the New Jersey Constitution by re-writing private contracts and the state’s landlord-tenant laws.

Without statutory authority to do so, Governor Murphy has interfered with the contractual rights and obligations of private citizens under the Civilian Defense and Disaster Control Act. However, none of the authority granted to Governor Murphy by the Act during the pandemic includes any mandate even remotely connected to a power to modify the terms of residential leasehold contracts or to waive the statutory provisions relating to those leases. The specifically enumerated powers granted by the Act involve military defense, coordination between governments, and the taking of private property.

On its face, EO 128 claims to waive numerous state laws governing security deposits that were adopted by proper, constitutional legislative process. Targeting a single group—residential tenants—for relief in this manner undermines freedom of contract, due process, and equal protection of the laws. It also ignores the governor’s limited role and disregards the separation of powers among branches of New Jersey government.

The order is clearly picking winners and losers in duly established contractual relations between tenants and landlords. More than six months after Governor Murphy’s unlawful order was issued, the Kravitzes are still struggling to track down their former tenants to recover funds needed to repair their damaged property. NCLA is asking the court to issue a declaratory judgment that EO 128 was an unlawful waiver of law that violates the Contracts Clause, Due Process Clause, and Separation of Powers Clause of the New Jersey Constitution and to issue permanent injunctive relief prohibiting Governor Murphy from enforcing the unlawful order.

NCLA released the following statements:

“Governor Murphy has unfairly scapegoated landlords, most of whom depend on their rental income to make ends meet. The pandemic and the business closures are hurting all New Jerseyans. But rather than seeking a legislative solution that treats everyone fairly, Governor Murphy circumvented the legislature and singled out landlords to take away their rights.”

— **Jared McClain, Litigation Counsel, NCLA**

“Almost eight months have passed since Governor Murphy issued his executive order, which effectively rewrites every lease agreement in the state. This unilateral action not only directly harms property owners like our clients, but it is also an affront to the carefully crafted separation of powers laid out in the state constitution.”

— **Kara Rollins, Litigation Counsel, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

NCLA is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar Philip Hamburger to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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