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DIVISION OF FINANCIAL ASSISTANCE**

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**Tenant Nonparticipation and Rental Protections Guidance
for COVID-19 Rent Relief Program**

This memo serves to provide guidance on treatment of nonparticipating tenant for COVID-19 Rent Relief Program application submitted by landlords.

It is important to remember that the SB 91 eviction protections and Rent Relief Program are in two separate lanes. A tenant could fully avail themselves of eviction protections but not participate in the Rent Relief Program, and vice versa (although the latter option is less likely given that the tenant has already risked eviction by not using the eviction protections).

In terms of a tenant being non-responsive to a landlord's Rent Relief Program application, the federal law is actually the controlling piece. The Federal bill requires that the landlord get a wet or electronic signature from the tenant on their application for funds on behalf of the tenant. So, if the tenant does not provide that signature, we cannot legally provide funds to the landlord.

If a tenant is completely non-responsive to their landlord (which would be defined as not filing a Declaration of COVID-19 Financial Distress and not having paid their 25 percent of rent) then they are not covered by the SB 91 protections and a landlord could start the eviction process.

At this time, the law is silent on a tenant's non-participation with the Rent Relief Program and cannot be read as compelling a tenant to participate in the Rent Relief Program to retain their SB 91 protections.

Thus:

- If the tenant filed their Financial Distress Form but did not participate in the Rent Relief application, they would not lose their SB 91 protections.
- If a tenant did not file their Financial Distress Form and did not participate in the Rent Relief Application than they do not have SB 91 protections.
- If a tenant is non participatory in the Rent Relief Program, but filed the form and have been able to pay the accumulated 25% rent by June 30, 2020 then they cannot be evicted, but landlord can go after them in court for unpaid rent.
- If the tenant is non participatory in the Rent Relief Program and unable to pay the accumulated 25% rent by June 30, 2020 than the landlord can start the eviction proceedings and go after them in court for unpaid rent.

In summary, participation in Rent Relief Program for the tenant is not a requirement to retain their SB 91 tenant protections.