

LANDLORD-TENANT  
AND RELATED ISSUES  
IN THE SUPERIOR COURT  
OF NEW JERSEY

STATUTES, COURT RULES, CASES  
AND COMMENTARY

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8<sup>th</sup> EDITION

MAHLON L. FAST, J.S.C., Ret.

and

BRUCE E. GUDIN, ESQ.



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## PERSONAL NOTE FROM JUDGE FAST

I created the first edition of this text in 1991 and it was then entitled “A Guide to Landlord/Tenant Actions in the Special Civil Part of the Superior Court of New Jersey.” There were six editions with that title. After my first retirement (2004), I expanded the subject to include “The Superior Court,” now in the 8th edition – 14 altogether. I have always intended it to be a “guide,” a starting point for further research, sometimes including my personal thoughts on a subject. Because this may well be my last edition, I want to thank my publisher, The New Jersey Institute for Continuing Legal Education, in particular, Donna Chamberlin, and my co-author, the well-renowned Bruce Gudin. I’m confident that you will continue to hear from him in future editions as the law evolves.

Although it is not binding in any case, this text has been cited in published opinions, and hopefully will be cited, not as authority, but for the common sense and justice that I have tried to bring to any subject.

Nothing has given my professional career more satisfaction than “taking my turn at justice” - judging, and secondarily my efforts to help, both by mentoring and writing. I did it “my way.” I am proud to say that I created the Special Civil Part “hot line” – an e-mail link for all special civil part judges to circulate questions, discuss legislation, rule changes, opinions, and comments of common interest - and I helped propose many of the L/T rules and forms still in use. I contributed almost 35 published special civil part opinions. And, for whatever it’s worth, I served 2 years and 8 months in the Criminal Division where I authored 3 published opinions (including one explaining “gap time”) and created a jury charge defining the word “proof.” I gave that charge in at least two cases and the attorneys for both sides objected. That’s an acknowledgement of fairness.

I have also had my frustrations along the way. The greatest was (and is) the failure of the Legislature to act on the three years effort by the Law Revision Commission to update the legislation, sometimes archaic and sometimes inconsistent, on this subject. But we do our best with what we have, and we hope. Another frustration was the (infrequent) attorney who made me wonder where the line is between zealous advocacy and unethical conduct. There’s more to the practice than “winning.”

I have dedicated past editions to my wife for the time that I have spent preparing past editions of this Text, committee meetings, and other services that I have rendered to the judiciary, and to my father who instilled in me his dedication to the law and reverence for the judiciary.

It’s been a long haul, admitted in 1960 – *60 years ago* - sworn onto the bench in 1986 (Thank you, Governor Kean), first retired in 2004, and recalled to the bench in 2004 (Thank you, Justice Poritz). [In the edition following my recall, I noted that I looked forward to service as a recall judge, rather than being elected New Jersey’s favorite “idle.”] I was again retired in 2014 (at 80) and began service with Ehrlich, Petriello, Gudin and Plaza, P.C. from 2014 to date (Thank you, hiring partners).

As I have said, at this time the horse is over the dam and the water is out of the barn. *For all we know ...*

December, 2020

## USING THIS TEXT

The law (and the interpretations of the law) are ever-changing and we have done our best to update the cases, statutes, court rules, and commentary in this edition in the same format as prior editions. We have deleted the inclusion of the Code of Federal Regulations; it is available on the Web, as is the United States Code (unlike our observations, available nowhere but through NJICLE.) With that thought in mind, we invite your comments and suggestions.

As Judge Fast stated in prior editions, “this text was never meant to be the final answer to any issue relating to Landlord-tenant matters. It was meant as a Guide, a starting place for further research.”

Each Chapter begins with a brief description: “THE SCOPE” of each chapter. We have tried to use plain language in the text, and have italicized words or phrases for emphasis. We have bold printed legislation, regulations, court rules, and “key” words or concepts that should be found in the index; many key words are found in several chapters, and once you find a word in the index, you should be able to find that word easily in other chapters because it will have been bold printed. Likewise, many cases stand for various propositions and the same case may be cited in different portions of the text as applicable.

Because legislation, court rules, and case law are always changing, it is incumbent upon you to confirm that they have not been changed since this edition was completed. The reader is cautioned that this text is not binding, although it may be used and cited as a reference. Unreported trial court and Appellate Division opinions have been included for their reasoning and logic and because they are actually what is happening out there, although they are not binding (see R.1:36-3), and we have deleted “N.J.Super” from the citation for unreported opinions, noting simply that they are unreported.

We hope that this text helps you understand the very complex, sometimes archaic, sometimes arcane, and sometimes seemingly conflicting body of statutory and case law relating to landlord-tenant issues. Our comments are not binding on any court, but are provided to stimulate you to engage in further thought or research. While this text is intended to relate to landlord-tenant and related issues (including, for example, when one occupies another’s property with permission and the relationship is not that of landlord-tenant, such as licensees), this text does not relate to other issues, such as the ownership of property (i.e., “title”) actions, contracts for specific performance, or tort claims by landlords, tenants, their guests, or others.

Practice forms used in L/T cases are found in the appendix to the court rules, most easily accessed on-line at [www. https://www.njcourts.gov/](https://www.njcourts.gov/) > self help resource center.

We invite you to contact us with your thoughts or comments on how to improve future editions of this text.

MAHLON L. FAST, J.S.C., RET.  
([mfast@epgprlaw.com](mailto:mfast@epgprlaw.com))

BRUCE E. GUDIN, ESQ.  
([bruce@epgprlaw.com](mailto:bruce@epgprlaw.com))

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