

**Statement of Rufus G. King, III**  
**Chief Judge, Superior Court of the District of Columbia**

**Before the**  
**Council of the District of Columbia Committee of the Whole**  
**April 11, 2006**

**Fiscal Year 2007 Budget Support Act**

Good morning, Chairman Cropp and Councilmembers. I am Rufus G. King, III, and I am here in my capacity as the Chief Judge of the D.C. Superior Court.

I am here today to support the request for city funding for civil legal services for low- and moderate-income persons in the District. I would like particularly to discuss the problems facing self-represented or "*pro se*" litigants in Landlord Tenant Court.

Judges must maintain a neutral role while trying to reach a just and correct result in each case before them. This can be difficult when one, or both of the parties involved do not have lawyers. Individuals who do not have lawyers may find it difficult to explain their case to the court. Often, they do not understand the law, lack the education or literacy to communicate effectively with the judge, or are nervous about appearing in court. On top of this, landlord-tenant law is very technical and individuals without lawyers frequently do not understand what claims and defenses are available to them.

In the vast majority of cases, the landlord is represented by an attorney and the tenant is not. Because of the legally required summary nature of landlord-tenant proceedings, tenants who are not represented by lawyers frequently are at a disadvantage. For example, if a tenant is not able to state a defense to the landlord's claim on the very first court date, the judge may have no choice but to enter a judgment giving the landlord the right to evict the tenant without any further court hearings. Sometimes, tenants who have defenses do not know it. Consequently, judgments may be entered against them that would not have been entered had a lawyer been present to articulate the defense.

For example, one of the most common defenses to a case based on nonpayment of rent is that the landlord failed to make the repairs necessary to bring the premises in compliance with the housing code. Although judges want to know about all of the defenses, concerns about maintaining the appearance of impartiality make many judges reluctant to initiate specific inquiries about the condition of the house or apartment. A tenant who does not know to tell the court about the condition of his or her home may be evicted, even though he or she may have a valid defense to the case.

In other types of cases, such as where a tenant violates his lease by not keeping the house or apartment clean, the tenant may have a defense under the federal Fair Housing Act or the D.C. Human Rights Act if the tenant's housekeeping problem is caused by a disability. Again, in these types of cases, absent an obvious and apparently pertinent disability, judges are reluctant to

ask the tenant about physical or mental disabilities that might be contributing to the lease violation and that would justify setting the case for a trial.

Many tenants in the District of Columbia receive federal housing subsidies or live in public housing. In these cases, the landlord must comply with a litany of federal and local regulatory requirements before the landlord is permitted to file suit against the tenant. If the tenant does not raise the issue, the judge may never know that the housing is subsidized and that additional legal requirements apply. Many tenants are understandably unfamiliar with their rights under these special programs.

While tenants without lawyers are more numerous there are a number of landlords who appear without counsel as well. Just as tenants can be disadvantaged without lawyers, landlords, usually small owners of a single dwelling unit or a very small number of units, can face real difficulties in court. For example, unrepresented landlords frequently fill out the complaint form incorrectly, fail to provide the tenant with proper notice prior to filing the complaint, don't know about the requirement for service in Spanish and English and do not understand their obligations under D.C.'s complex rental housing statutes and regulations. When a landlord has a valid claim against a tenant, these technical defects can cost the landlord months of lost rental income to which he or she is ultimately entitled.

Making effective arguments before a judge is only one way in which legal representation helps unrepresented parties. Lawyers also make a difference when cases are resolved through negotiated agreements.

Of the approximately 50,000 cases filed a year in the Landlord and Tenant Branch, nearly 75% are closed due to dismissals or default judgments when the defendant does not appear. Of the remaining 25% of cases, about two-thirds are closed by confessions of judgment or consent judgment agreements. These judgments are entered without regard to claims and defenses the parties might have been able to raise in a trial. In particular, experience shows that tenants who have legal representation rarely enter consent judgments, as opposed to settlement agreements, which can have a significant impact on the tenant's credit and future ability to obtain rental housing.

The lack of legal representation can have serious impacts on the lives of our vulnerable residents, be they tenants at risk for losing their dwellings or small landlords who are in financially precarious circumstances. The requested funds would help alleviate these difficulties for self-represented parties in Landlord Tenant Court. I join other members of the legal community in urging your support. Madam Chairman, Councilmembers, I thank you for this opportunity to address you on this important issue.