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No transcripts, no appeals for Cook County's wrongfully evicted

Citizens in Cook County are losing their right to challenge wrongful evictions for an easily fixable reason: The court that determines whether tenants should be evicted does not provide a court reporter and, unlike other courts in the state, has not adopted digital recording.

As a result, people fighting evictions are not guaranteed a transcript of their proceedings, which makes it impossible for some to effectively appeal their wrongful evictions.

It seems unbelievable that something like a transcript could be the difference between spending winter under a roof or on the streets, but that is exactly what's happening.

Consider the following emblematic scenario: Your landlord delivers a notice of eviction to you. The notice says that you're being evicted for failure to pay rent. That's a lie; you never missed a rent payment. Your landlord doesn't want to hear it, though, so you're going to have to resolve it in a Cook County Municipal District court.

You can't afford a lawyer, so — like 88 percent of the tenants who appear in Cook County's landlord-tenant court — you're going to represent yourself. Luckily, your case should be simple: You just have to show the judge that you paid your rent, which you plan to do by showing your lease and your bank statements.

The day of the hearing arrives and you take an unpaid day off work to attend. In the hour you wait for your case to be called the judge disposes of 36 cases. That's

one case every 100 seconds (approximately the average amount of time given to cases between landlords and tenants in Cook County). The judge's clerk calls your case. You walk to the front of the courtroom. You state your name. And it's all downhill from there.

Your landlord's lawyer says something about criminal activity around the apartment. That wasn't in the eviction notice, but before you can object the judge asks, "Can you explain why the police were called to the apartment?"

Frazzled, you nervously try to explain that the eviction notice didn't say anything about criminal activity, that you're a good tenant and that you always paid your rent.

But before you can show your evidence, your 100 seconds are up and the judge is ready to rule. The judge says that she finds your landlord's arguments about your criminal activity to be compelling and decides that it would be "best

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for all parties involved if you found other housing."

She signs your landlord's order for possession; that's it: You're evicted.

There's still hope, though, because the eviction was issued on a basis for which you weren't given notice. So you can appeal the incorrect decision ... right? Not so fast.

By DANIEL EPSTEIN AND KEN THOMAS

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You need to include a transcript in your appeal as proof of what happened at the trial. But courts in Cook County's Municipal District — like many Illinois civil courts — do not provide court reporters and you didn't hire your own (nor could you have, since they charge hundreds of dollars per hearing). So you can't get a transcript, but there is one other option.

Parties who can't get official transcripts can write down their recollection of what happened in

it off ... right? Wrong.

Agreed statements of facts and bystander's reports have a major vulnerability: They need to be certified by the opposing party or the trial judge, respectively. In sum, to have a viable appeal, you need to get approval from the party who only stands to lose by helping you appeal or the judge you're claiming made a mistake.

And this problem is not merely theoretical. Judges actually refuse to certify (take a look at *Chicago Housing Authority v. Jenkins*, 2018 Ill.App. 171865 (Ill. App. Ct. 2018), for just one grievous example).

You don't have another option, so you write your bystander's report and ask for it to be certified. Sure enough, the judge refuses. She doesn't give you a reason for refusing, and she's not required to. Tough luck. Pack your things and vacate the premises.

But there is good news: This problem is easy to fix. So easy in fact, that other courts in Illinois have already done it. All that needs doing is to set up digital recording in the courtrooms without court reporters.

Digital recording is relatively cheap and highly effective. The Illinois Supreme Court's Administrative Office of the Illinois Courts is responsible for funding this kind of effort, and it has done so in other counties, but not fast enough for the legions of poor people for whom the right to appeal remains merely theoretical.

There is no time to waste. Cook County residents are being wrongfully evicted. Now is the time for the court to make the right to appeal real.