Holding Over & Criminal Activity

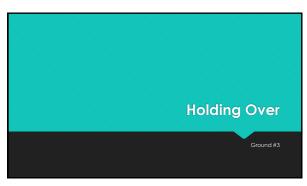
Intro 2/Module 4

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But first, a look back . . .

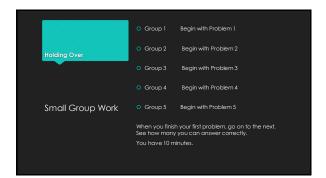
2

Judgment on the pleadings is available for	YES BLC	NO FIPR
which ground?		
 A LL can accept partial rent without waiving SE by including a non-waiver provision in which ground? 	BLC	FTPR
 A LL must demonstrate strict compliance with lease provisions re procedure for termination in which ground? 	BLC	FTPR
4. Tender is a complete defense for which ground?	BLC	FTPR
 Rent of \$800 is due on the first and was not poid. You hear it on the 15th. The amount of your judgment is costs + 	\$800	\$400
Rent of \$800 is due on the first and was not paid. You hear it on the 15 th . The amount the tenant must tender is costs +	\$800	\$400



	has a definite ending date.
\	repeats until someone ends it.
If the lease states how	it must be ended,
If the lease is silent on	how it may be ended,
If the lease is silent on	how it may be ended,
If the lease is silent on G.S. 42-14 establishes notice	periods when you have to fill in the blank.
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Tholds over & LL accepts rent When a lease for a fixed term of a year, or more, expires, a tenant holds over, and "the lessor elects to treat him as a tenant, a new tenancy relationship is created as of the end of the former term." *Keameyr. Hare*, 265 N.C. 70; 573, 144 S.E. 266, 663 1895). This is, by presumption of law, a tenancy from year to year, the terms of which are the same as those of the former lease in so far as they are applicable" *Id*Cogdill V. Sylva Supply Co., Inc., 265 N.C. App. 129, 134, 828 S.E. 2d 512, 515 (2019), affed, 373 N.C. 326, 837 S.E. 2d 871 (2020)





Art. 7: Expedited Eviction of Drug Traffickers & Other Criminals National States of the Criminal States of the Criminals National States of the Criminal Stat

Complete Eviction/Essential Elements Ciminal activity within rental unit Ciminal activity on or in immediate vicinity of entire premises Rental unit used in furtherance of ariminal activity Consenting to return of banned person to property Failure to notify LL/LEO of banned person's return

Defenses to complete eviction* T proves that T was not involved and neither knew nor had reason to know OR T proves T did everything reasonably expected under circumstances to avoid it. OR T proves by clear & convincing evidence that immediate eviction would be serious injustice. * Second time is harder.

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Not defenses O Waiver not available. O Isolated incident/wrongdoer no longer a resident/guest.

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Other defenses that might apply Watch out for criminal acts when T is victim! Fair Housing Act requirement of accommodations for tenants with disabilities may sometimes be relevant.

Partial Eviction is Available Remedy Note that person evicted must be named detendant for this to be available. Service of process requirements very unclear (to me, at least). Additional unanswered questions related to barred tenants.

Conditional Eviction

- O Directed at T: don't allow barred person to return or fail to report if they do so.
- Note signature requirement.
- O Enforceable by motion in original case or by filing new case

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Final notes

- This civil action is independent of criminal charges. Neither conviction nor charges are required for plaintiff to present.
- O Be aware of potential evidentiary concerns about police repor
- O Potentially complex interaction with breach of a lease condition when forfeiture clause triggered by criminal activity. (What does "not contrary to this Article" mean?)
- O Additional complexity when rental property is government-subsidized

