

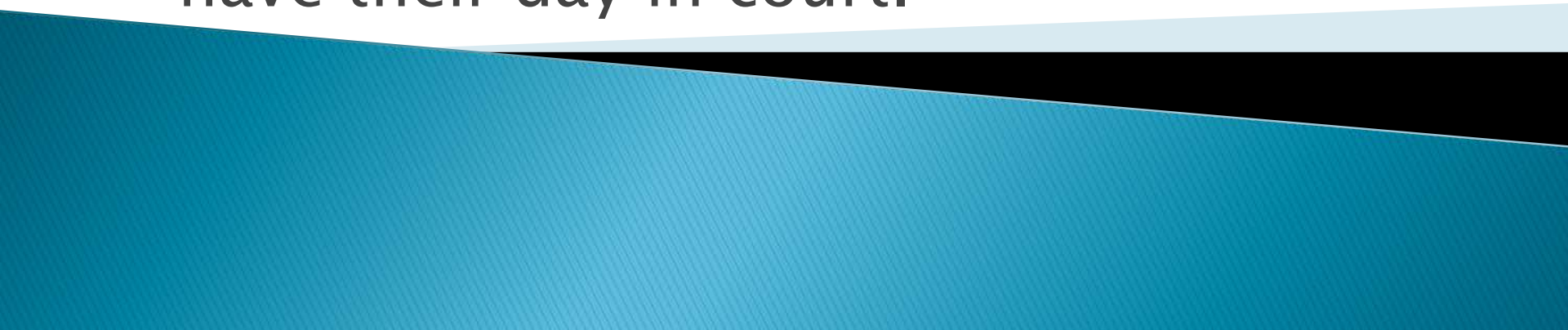
Tenants and Due Process

Legal Services of Greater Miami, Inc.

Sean Rowley, Esquire



The Housing Problem

- Tenants in Miami Dade County are denied access to courts in evictions, and their defenses and voices are not heard.
 - Evictions are the only lawsuits in Florida where the defendant has to pay money to have their day in court.
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Fla. Stat. 83.60(2)

LANDLORD FILES EVICTION



TENANT FILES ANSWER
w/ MERITORIOUS DEFENSES



TENANT POSTS \$ INTO COURT



TENANT GETS A TRIAL

Fla. Stat. 83.60(2)

FAILURE TO PAY...



“...constitutes an absolute waiver of the tenant’s defenses...and the landlord is entitled to an immediate default judgment for removal... without further notice or hearing.”

Changing the Law

1. Legislative Approach?
2. More Public Awareness about the Law?
3. Constitutional Challenge?

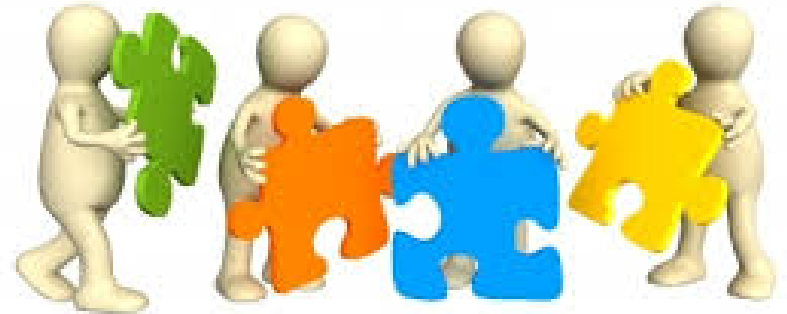


Basis for Challenge: Due Process

- The 14th Amendment to the United States Constitution states, “...*Nor shall any state deprive any person of life, liberty, or property without due process of law...*”
- SCOTUS says that a tenant cannot be denied an opportunity to present defenses in eviction proceedings based on failure to deposit rent. *Lindsey v. Normet*, 405 U.S. 56, 65 (1972).

Taking the First Steps

- A. Changes at the Clerk of the Courts
- B. Completing a New Study
- C. Public Education



Bringing a Lawsuit

Making It Happen!

- Time
- Resources
- Expertise
- Finding the Perfect Plaintiff



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