



## Housing Practice Tip (10.23.20)

### Practice Tip: 7-and 30-Day Notices

Under the temporary eviction moratorium laws passed since COVID-19 struck last winter, landlords must satisfy potentially two new additional notice requirements when filing evictions. These 7- and 30-day notice of intent to file requirements are not complicated, but they are in addition, and prior to, the service requirements in Minn. Stat. 504B. 331. And, because they add additional steps not listed in the Minnesota eviction statute or on pre-made court eviction forms; many pro se or smaller landlords fail to satisfy them. Failure to satisfy the requirements should result in the dismissal and expungement of the case.

#### 7-Day Notice of Intent to File under EO 20-79:

Minnesota [Executive Order 20-79](#) restricts landlords' ability to recover residential property in an eviction action during the Peacetime Emergency except for several narrow exceptions.<sup>1</sup> Under EO 20-79, in order to proceed with an eviction under one of the exceptions, plaintiffs must first give the tenant a written notice of the landlord's intent to file 7 days before filing the eviction in court. If the lease contains a notice provision longer than 7-days, then the landlord must use the longer notice period. However, most leases don't contain such a provision. This 7-day notice requirement applies to all evictions filed as an exception under EO 20-79. So, in essence, any residential eviction filed in Minnesota during the moratorium must include a 7-day, or longer, notice.

#### 30-Day Notice of Intent to File under the CARES Act

In addition to the 7-day notice under Minnesota's EO 20-79, the landlord of any property covered by the [Federal CARES Act](#) must also give an additional 30-day notice of intent to file an eviction. A property is considered a "covered property" under the CARES Act if it is supported by HUD, USDA, or the Treasury. For example, a covered property would be one where the tenant receives a federal subsidy, section 8 voucher, or lives in a subsidized rental unit or a building that takes voucher. A building could also provide affordable units based on tax credits. Covered buildings also include those with federally backed loans on the property through the Federal Housing Administration, Fannie Mae, or Freddie Mac.

Determining whether a property is a "covered property" can be problematic. There is a nationwide searchable [database](#) that should include most properties. But, properties with a federally-backed mortgage can be harder to determine and prove. Therefore, some jurisdictions are also requiring landlords to declare "covered property" status as part of the initial proceedings. For example, Hennepin County is requiring the landlord to make an affirmation of CARES Act status at the initial

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<sup>1</sup> For a discussion of those exceptions, see VLN Practice Tip on Minnesota's Updated Eviction Moratorium: Executive Order 20-79 (August 2020), available at: [https://www.vlnmn.org/volunteer/housing/practice\\_tips](https://www.vlnmn.org/volunteer/housing/practice_tips)

appearance hearing.<sup>2</sup> Ramsey County is requiring landlords to include a statement in eviction complaints on whether the property is covered by the CARES act and whether the 7- and 30-day notices have been complied with.<sup>3</sup>

**General Notes:**

For both the 7- and 30-day notices, there is no specific language required, just that the notice of an intent to bring an eviction action is made known to the plaintiff. It may, however, be argued that the notice must include a statement of the eviction exception upon which the eviction is proceeding.

Also of note, there is no requirement that the notices are consecutive. The notices can be given at the same time.

In conclusion, because cases can only move forward with proper notice and service, it is important that all notice and service defects are raised to the court every time they exist. Because the 7- and 30-day notice of intent to file requirements are new to 2020, it's important all our volunteers are carefully reviewing eviction cases for these issues.

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<sup>2</sup> See Hennepin County Standing Order re: 60-day period following the expiration of the Peacetime Emergency Declared in Executive Order 20-01, July 22, 2020, available at:

<sup>3</sup> See Ramsey County Administrative Order Regarding the Resumption of Housing Court Operations, August 19, 2020, available at:

[https://mncourts.gov/mncourtsgov/media/fourth\\_district/documents/housing%20court/Housing-Court-order-7-day-adjournalment-and-CARES-](https://mncourts.gov/mncourtsgov/media/fourth_district/documents/housing%20court/Housing-Court-order-7-day-adjournalment-and-CARES-)

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