



## Housing Practice Tip (11.24.20)

### **A Step-by-Step Guide to Eviction Expungement:**

*And an update on COVID changes which make it easier for volunteers to take cases full rep.*

Thanks to new procedures in Hennepin, Ramsey and Anoka County, fully representing tenants who need help with eviction expungement motions has become an easier, more streamlined process. Courts in these jurisdictions have started deciding many motions to expunge through administrative review proceedings only. What does this mean? It means that for most eviction expungement motions, there are **no in person hearings**.

We're hoping that this simplification of the process will encourage even more volunteers to agree to take full rep eviction expungement cases. In addition to the step-by-step overview of the eviction expungement process below, VLN also has a 1-hour eviction expungement training and examples of all the necessary paperwork on its website here: <https://www.vlnmn.org/volunteer/housing/eviction-expungement>. We've given you everything you need to get started!

Here are the step-by-step instructions for taking on a full rep eviction expungement case:

#### **1. Review initial paperwork**

Once a volunteer attorney decides to take an eviction expungement case, VLN will send the attorney the contact and demographic information for the client and all the documents filed with the court in the underlying eviction(s).

#### **2. Interview client and enter into representation agreement:**

Next, the volunteer attorney interviews the client and enters into a representation agreement. VLN is now using digitally signed representation agreements. With the volunteer's approval, VLN will send out the agreement to the volunteer, who will review and approve it first, and then send it to the client for review and signature.

#### **3. Draft necessary documents:**

After reviewing the court filings and interviewing the client, the attorney drafts three documents: (1) motion for eviction expungement, (2) affidavit for proceeding in forma pauperis (IFP), and (3) certificate of representation.<sup>1</sup> Blank versions of all these documents are available on VLN's website here: <https://www.vlnmn.org/volunteer/housing/eviction-expungement>.

Once you have completed a first draft of these documents, VLN staff is happy to review and provide suggestions, in particular for newer volunteers.

#### **4. Obtain client approval/signatures and efile the documents:**

Once the documents are complete, the client will need to approve and sign the Motion for Eviction Expungement and IFP. Again, VLN can assist with digital signatures.

After appropriate signatures have been obtained, the volunteer attorney e-files all the documents. VLN has specific, step-by-step, instructions for how to efile eviction expungement motions on its website. If you have never efiled or don't have an efilings account, VLN has also instructions on how to create your own Electronic Filing and Service (eFS) account for pro bono purposes on our website.

#### **5. Wait for Orders from the Court:**

Once filed, the court will issue an order approving the IFP and an order setting the date for an administrative review. The order will be served on the tenant's attorney electronically by the court. VLN has seen a few eviction expungement motions set for a remote hearing, but the vast majority of cases are set for administrative review, meaning there is no in person hearing. The court will decide the motion on the paperwork alone.

#### **6. Serve the Motion and Order for Administrative Review or Remote Hearing on the Landlord:**

Next, the volunteer attorney needs to serve the landlord with a copy of the motion for expungement and the court order on administrative review. The court order will specifically state when the landlord must be served by and when any objections must be filed with the court.

If there is an attorney of record for the landlord that is still active in eFS, the volunteer attorney can e-serve that attorney through the efilings system. However, because the court cannot see any documents that are only e-served in eFS, the attorney will also need to file an affidavit of e-service with the court.

If the landlord in the original case was pro se or the attorney of record withdrew, the volunteer attorney will need to mail a copy of the Motion for Expungement and the Order for

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<sup>1</sup> Some jurisdictions also request draft Orders to be filed along with Eviction Expungement Motions. Hennepin and Ramsey county, where we do most of our eviction expungement work, do not.

Administrative Review to the landlord at the address listed on the eviction action complaint. Again, the volunteer attorney will need to file an Affidavit of Service after mailing is complete.

### **7. The Administrative Review Date**

On the administrative review date, the court will review the motion for expungement as well as any objection filed by the landlord and will decide the motion on the papers. The court will enter an Order and the attorney will receive a copy of the Order through the efilings system.

On the slight chance a remote hearing is scheduled, all parties will be asked to appear via Zoom to state their arguments briefly and answer any questions raised by the court. Zoom hearings are similar to the in-person hearings previously held in court, but are much faster as there is no need to travel to court or wait for your case to be called. VLN staff can also easily attend the hearing with you or take the primary role in your hearing the first time around.

### **8. After the Administrative Review Hearing**

After the motion is granted, the last steps are to mail a copy of the expungement order to all the tenant screening agencies and close the case with your client and VLN. VLN maintains a sample tenant screening letter and case closing letter on its website.

### **Conclusion:**

We're hopeful that this step-by-step description of the process will help encourage new volunteers to give eviction expungement a try! VLN staff thinks full rep eviction expungement is a great way for new volunteers to get involved in housing work.

And, for those of you that do take a case, thank you for helping make it a little easier for an individual to find housing!