**Eviction Moratorium Defense Checklist (updated 3.1.21)**

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| **Service (Minn. Stat. 504B.331)** | |
|  | Summons and complaint delivered *at least 7 days before court hearing* or if mail and posting for service, then mailed and posted *at least 7 days before* hearing.   * Weekends included in 7 days |
|  | No service allowed on legal holidays. Minn. Stat. 645.44 |
|  | No service by plaintiff or plaintiff’s agents (property manager, member of LLC…). Minn. R. Civ. P. 402 |
|  | Service only allowed at home address of tenant |
|  | If ***substitute service***, person served must:   * Be of suitable age and discretion * Live at the property |
|  | ***Mail and post*** if personal or substitute service not possible   * Tried to personally serve on 2 different days (1x between 6-10pm), and filed an affidavit of not found; * Mailed summons and complaint to tenant and filed an affidavit of mailing; and * Posted summons and complaint on property after affidavit of not found was filed, and filed an affidavit of posting |
|  | In Hennepin and Ramsey Counties, affidavits of service must be filed at least 3 days prior to the hearing. Minn. R. Gen. Prac. 605 |
|  | ***If expedited case*** must be served within 24 hours of the summons being issued. Minn. Stat. 504B.321 Subd. 2(c) |
| **EO 20-79 Requirements and exceptions** | |
|  | Did the landlord give a 7-day notice of intent of filing an eviction?   * If lease has a longer notice period, notice must be THAT notice period, not 7-day notice * Copy of notice attached to complaint? |
| Does the eviction reason fall under a Moratorium exception? | |
|  | Eviction for nonpayment of rent is not allowed. |
|  | **EXCEPTION:** Tenant materially violates residential lease by seriously endangering the safety of others or significant property damage   * Requires *written* lease * Does lease have a right of re-entry clause * Alleged actions must have occurred on the rental property |
|  | **EXCEPTION**: Tenant violates Minn. Stat. 504B.171, subd. 1, on premises or common area or curtilage of premises, by allowing:   * Controlled substances * Prostitution * Firearms * Stolen property |
|  | **EXCEPTION:** Landlord issues termination or non-renewal of lease because property owner or property owner’s family member needs to move into property AND where property owner moves in within 7 days after property vacated by tenant   * Was there a proper termination or non-renewal of lease? * Does landlord own multiple properties (google search)? * Is the landlord a LLC or other business entity? |
| **CARES Act and CDC Eviction Moratorium** | |
|  | If residential property is a covered property under the CARES Act, there is a 30-day notice requirement independent of 7-day notice period. *See Practice Tip on 7 and 30-day notices* |
|  | For non-payment of rent eviction actions (not currently allowed in MN), the CDC moratorium applies |
| **Preconditions for Recovery of Premises** | |
|  | Is Plaintiff owner of the property or authorized agent? Minn. Stat. 504B.285, subd. 1(a); Minn. Gen. R. Prac. 603   * Check property records. * *Hennepin County*: https://www.hennepin.us/residents/property/property-information-search * *Ramsey County*: <https://www.ramseycounty.us/residents/property-home/property-tax-and-value-lookup> * *Anoka County*: https://prtpublicweb.co.anoka.mn.us/search/commonsearch.aspx?mode=realprop * If agent, request proof of relationship from plaintiff. |
|  | In Hennepin and Ramsey County, if the person appearing on behalf of the plaintiff is not an attorney, a proper power of authority must be filed along with the complaint. Minn. R. Gen. Prac. 603. In all other counties, corporate entities must be represented by an attorney. *Nicollet Restoration, Inc. v. Turnham*, 486 N.W.2d 753 (Minn. 1992) |
|  | Did Plaintiff post principal names and physical address for service on the property or was this information disclosed to tenant at least 30 days before the eviction filing? Minn. Stat. 504B.181 |
|  | Did the complaint state facts which authorize recovery of the premises? Minn. Stat. 504B.321 |
|  | If landlord of residential building with 12 or more units, was a written lease provided? Minn. Stat. 504B.111 |
|  | If lease has a notice requirement, did Plaintiff give notice and attach to complaint? |
| **Other issues** | |
|  | Does landlord have a rental license under Ordinance requirements of city where property is located?   * City of Minneapolis: <http://www2.minneapolismn.gov/propertyinfo/> * City of St. Paul: https://online.stpaul.gov/stpaulportal/sfjsp?interviewID=PublicSearch |
|  | Are there repair issues in the rental unit?   * Is the eviction retaliatory after request for repairs? Minn. Stat. 504B.285 subd. 2, *Cent. Hous. Assocs., LP v. Olson*, 929 NW.2d 398 (Minn. 2019) * Are there repairs needed that mean rent abatement as part of settlement? |
|  | Does tenant have a disability that the landlord had not reasonably accommodated? 42 U.S.C. §3604(f)(3). |
|  | Tenant is a victim of domestic abuse, criminal sexual conduct or stalking and the basis for eviction is a result of this abuse. Minn. Stat. 504B.285, subd. 1(b); 504B.206, subd. 1(a). |
|  | Phone calls to police or other emergency services were made by tenant in response to domestic abuse or any other conduct. Minn. Stat. 504B.205 |
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