



## Tip of the Month July 2021

### Overview of Minnesota's Eviction Moratorium Phaseout

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Starting in March of 2020, all Minnesota renters received increased protection from evictions pursuant to Executive Orders [20-14](#), [20-73](#) and [20-79](#). The Executive Orders prohibited lease termination, non-renewal of leases and evictions except in a few narrowly defined situations. [It has been estimated](#) that Minnesota's eviction moratorium protected Minnesotans from at least an additional 22,200 COVID-19 infections and 680 of COVID-19-related deaths.

On June 30, 2021, [a phasing-out period, or off-ramp](#), to the moratorium was enacted. The phasing out period immediately revoked the previous Executive Orders mentioned above and began phasing in specific types of evictions over a period of 105 days ([Eviction Moratorium Phaseout at Sec. 1](#)). A detailed chart of which evictions are phased in when is below.

The Eviction Moratorium Phaseout gives greatest continued protection to those tenants who are eligible for and actively seek rental assistance from [Rent Help MN](#) or [The Zero Balance Fund](#).<sup>i</sup> These programs are generally open to anyone with income at 80% AMI (area median income) or less. Also of note, a tenant with a pending application for rental assistance receives protection under the new law from eviction for non-payment of rent through June 1, 2022 ([Eviction Moratorium Phaseout at Sec. 4](#)). Additionally, the statute does not require tenants to have filed for rental assistance prior to the landlord filing an eviction. Specifically, the act states that the "filing of an eviction or proceeding with an eviction" will be prohibited where an application is pending. *Id.* at Sec. 4. This suggests that an application can be filed even after the eviction has been filed.

### Notice Requirements

#### 15-Day Notice Requirement for Non-Payment of Rent:

The Eviction Moratorium Phaseout creates a 15-day notice requirement for landlords who are evicting tenants for non-payment of rent during the 105-day phase-out period. *Id.* at Sec. 3. As of June 30, 2021, the 7-day notice requirement for any eviction under EO 20-79 has been eliminated. The 15-day Eviction Moratorium Phase-Out notice must include the following information: (1) that the eviction moratorium has ended, and the tenant may soon be evicted, (2) the total amount of rent past due, (3) that the tenant should contact RentHelpMN.org or call 211 to determine if they are eligible for rental assistance. *Id.* at Sec. 3(a). The 15-day eviction moratorium phaseout notice does not require strict compliance to the notice requirements. The statute clearly states that where the landlord has substantially complied with the notice requirements, lack of strict compliance does not constitute grounds for dismissal. *Id.* at Sec. 3(c).

#### 30-Day Notice Requirement under the CARES Act:

The 30-day notice prior to eviction under the CARES Act applies to properties defined as "covered properties" under the CARES Act (see [Coronavirus Aid, Relief, and Economic Security Act \("CARES Act"\), P.L. 116-136, effective March 27, 2020](#)). While this may be tricky to determine, "covered properties" are generally properties that receive

any federal subsidy, including a federally backed mortgage. *Id.* at §4042(a)(2). Thus, [all public housing is considered a “covered property.”](#) It is also not yet settled law whether the CARES act notice applies only in non-payment cases or in all evictions.

The chart below depicts the dates and types of evictions permitted during the Eviction Moratorium Phaseout.

Date	Landlords can file evictions for:	Notice Required?
June 30	Tenants that: <ul style="list-style-type: none"> <li>• Seriously endanger the safety of others;</li> <li>• Significantly damage property; or</li> <li>• Engage in criminal behavior prohibited by Minn. Stat. 504B.171, subd. 1 (guns, drugs, prostitution or stolen property on the premises)</li> </ul>	No. Except if a “covered property” and the 30-day CARES Act notice applies to non-payment cases.
June 30	Tenants that owe rent and refuse to: <ul style="list-style-type: none"> <li>• Apply for Rent Help MN;</li> <li>• Provide the landlord information necessary to apply for Rent Help MN; or</li> <li>• Provide proof of application for Rent Help MN</li> </ul>	Yes. Minimum of 15 days, or 30 days if a “covered property” under the CARES Act.
June 30	Manufactured homes: Evict pursuant to 327C.09 due to endangering the safety of others or park personnel.	Yes. See Minn. Stat. 327C.09.
July 14	Material breach of lease	No. Except if a “covered property” and the 30-day CARES Act notice applies to non-payment cases.
Sept. 12	Non-payment of rent for tenants <b>ineligible</b> for rental assistance	Yes. 15 days or 30 days if a “covered property” under the CARES Act.
Oct. 12	For non-payment EXCEPT if the tenant has a <b>pending</b> application for rental assistance	No. 15-day notice under Phase Out expires. Yes, if 30-day CARES Act notice, <a href="#">14-day City of Mpls</a> , or <a href="#">7-day notice if in St. Louis Park</a> apply.
June 1, 2022	Non-payment of rent regardless of rental assistance application status.	Same as above.

Similarly, the moratorium phase-out also permits lease terminations and non-renewal of leases in a gradually increasing manner.

Date	Landlords can terminate/non-renew leases for:
June 30	<ul style="list-style-type: none"> <li>• Tenants who seriously endanger the safety of others</li> <li>• Tenants who significantly damage property</li> <li>• Violation of Minn. Stat. 504B.171, subd. 1</li> <li>• Material violation of lease</li> </ul>
June 30	Manufactured Homes: Tenants who endanger the safety of other residents or park personnel.
August 13	Non-payment of rent for tenants ineligible for Rent Help MN
October 12	Non-payment of rent for tenants without a pending application for Rent Help MN
June 1, 2022	All non-payment of rent

**Conclusion:**

As with any new law, there remain many unanswered questions which will be decided as enforcement begins. Issues surrounding “eligibility” for rental assistance and what constitutes a “pending application” are likely to be litigated, along with what constitutes “substantial compliance” with the 15-day notice requirement. Regardless of whether the law is reasonably settled or in a dynamic state of change, we are going to need many more volunteers for eviction defense work over the coming months. I’m hopeful that this description, along with other resources we have available [here](#) (including upcoming recorded trainings, a defense check-list and other practice tools), and support from VLN Housing staff attorneys will encourage many more lawyers to volunteer during the moratorium phase out. Please see VLN’s Housing Program [website](#) or contact [Muria.Kruger@vlnmn.org](mailto:Muria.Kruger@vlnmn.org) to learn more!

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<sup>i</sup> The statute specifically names rental assistance programs through the Consolidated Appropriations Act (2021) and the American Rescue Plan Act (2021). *Id.* at Sec. 4. Currently, in Minnesota, RentHelpMN.org and the Zero Balance Project are the two rental assistance programs stemming from this funding.