

Eviction Expungement Checklist

	Do you have the Court documents and Register of Action for each eviction, if available?
	Consider contacting Landlord to gather further information
	<ul style="list-style-type: none"> • Will Landlord stipulate to an expungement?
	<ul style="list-style-type: none"> • Or will Landlord agree to not oppose expungement
	<ul style="list-style-type: none"> • If there is an outstanding balance owed to the landlord and it is likely to stand in the way of an expungement: <ul style="list-style-type: none"> ○ Will Landlord consider setting up a payment plan if client is in position to make payments? ○ Request a copy of the ledger for the client’s tenancy to confirm outstanding balance.
	Which <i>Type of Expungement</i> applies to your client’s case?
	Mandatory Expungement/No Motion Required: Court must expunge and no motion is required – file a letter/affidavit explaining the facts and asking that the eviction be expunged if:
	<ul style="list-style-type: none"> ○ Tenant lived in property subject to contract for deed or foreclosure AND <ul style="list-style-type: none"> ○ Time for contract cancellation or foreclosure redemption has expired and Tenant vacated property prior to commencement of eviction action ○ OR Tenant during contract cancellation or foreclosure redemption and did not receive notice to vacate prior to commencement of eviction case
	○ Tenant prevailed in the eviction action
	○ The eviction case was dismissed for any reason
	○ The parties have agreed to an expungement
	○ It has been three years since the eviction was ordered
	Mandatory Expungement/Motion Required: The court must expunge upon a motion if:
	○ The case settled and the defendant fulfilled the terms of the settlement agreement
	<ul style="list-style-type: none"> ○ The grounds for the eviction were: <ul style="list-style-type: none"> ○ Violation of section 504B.171 (Covenant of landlord and tenant not to allow illegal activities); and ○ Breach of lease solely for possession of marijuana/ tetrahydrocannabinols; or ○ The tenant could receive an automatic expungement under Section 609A.055 (Automatic expungement of certain cannabis [criminal] offenses).
	Statutory Discretionary Expungement
	○ Is expungement in the interests of justice?
	<ul style="list-style-type: none"> ○ Will expungement yield a benefit to the tenant which outweighs the disadvantages to the public from elimination of the record and burden on the court in issuing, enforcing and monitoring an expungement? ○ Use the facts of your case: will the expungement make it easier or possible for the tenant to find housing? Are there children? Is the tenant living in a shelter? Was the eviction improper in the first place? Was the eviction caused by a one-time incident? Is the tenant in a better position now to pay rent and be a quality tenant?
	○ Are the interests of justice outweighed by the public’s interest in knowing about the record?

	<ul style="list-style-type: none"> • Factors to Consider <ul style="list-style-type: none"> ◦ Is back rent owed? Is there a payment plan? ◦ What is the tenant’s eviction history? ◦ Is the non-payment due to personal or economic hardship? ◦ Length of time since the tenant’s last eviction? ◦ Was it a material breach of lease case or something else other than non-payment of rent? ◦ Number of evictions with the same landlord as opposed to different landlords ◦ What are the terms of the lease? ◦ Was the eviction proper in the first place? (See Eviction Defense Checklist.) <ul style="list-style-type: none"> • Was a 14-day notice provided (if the case was filed after January 1, 2024)? • Was service proper? • Proper plaintiff? • Other defenses?
	<ul style="list-style-type: none"> • Are the records outside the Court’s record retention policy?
	<ul style="list-style-type: none"> • Other arguments based on the facts of your particular case...
	Expungement Motion or Affidavit to be filed In the existing eviction case
	Paperwork needed for Expungement Case
	<ul style="list-style-type: none"> • Signed Representation Agreement with client which includes ‘expungement of [insert court file number]’
	<ul style="list-style-type: none"> • Certificate of Representation (one for each case)
	<ul style="list-style-type: none"> • Fee waiver Affidavit Specific to Your County (one for each case and each tenant)
	<ul style="list-style-type: none"> • Expungement Affidavit OR Motion for Expungement (one for each case)
	<ul style="list-style-type: none"> • Proposed Order (in Anoka)
	File with Court
	<ul style="list-style-type: none"> • Certificate of Representation • Fee Waiver Affidavit Specific to Your County (and Proposed Orders for Anoka and Ramsey County) • Expungement Affidavit OR Motion for Expungement • Proposed Order (in Anoka)
	Service By E-Service
	<ul style="list-style-type: none"> • Wait to serve documents until Court has issued hearing date
	<ul style="list-style-type: none"> • Documents to serve <ul style="list-style-type: none"> ◦ Order for Administrative Review or other scheduling order from court ◦ Expungement Motion and any attachments
	<ul style="list-style-type: none"> • Serve by E-Service <ul style="list-style-type: none"> ◦ Plaintiff listed in case, or ◦ Plaintiff’s Attorney if listed in Register of Action <p>Service by Mail, if no attorney listed in EFS</p>
	<ul style="list-style-type: none"> • File Affidavit of Service with Court at least 7 days before the hearing
	After court decision
	<ul style="list-style-type: none"> • If Expunged <ul style="list-style-type: none"> ◦ Send a closing letter to the client with a copy of the expungement order. ◦ Confirm on MNCIS that case has been expunged from Court record (wait 7-14 days to confirm)

	<ul style="list-style-type: none">○ Complete VLN closing form: https://vln.formstack.com/forms/closing
	<ul style="list-style-type: none">● If not expunged<ul style="list-style-type: none">○ Discuss with client why not expunged and what client needs to do to help get it expunged in the future or if waiting a year would be likely to change the outcome.○ Explain that once client does more or waits a full year, contact VLN about filing again.
	<ul style="list-style-type: none">● Eviction expungements remove record of eviction, but not record of debt owed. If client needs additional help with credit reports or other credit reporting issues, please refer to VLN's creditor/debtor program.