

Eviction Actions During the Minnesota Eviction Transition



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Presenter



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Revised from Prior Presentations:

- New Lawyer's Leadership Conference, Minnesota State Bar Association - November 18, 2021
- National Lawyers Guild Minnesota - November 3, 2021
- Minnesota Elder Law Institute - October 26, 2021
- Community Legal Partnership for Health Clinic University of Minnesota School of Law - October 13, 2021
- Minnesota State Sheriffs' Association and Law Enforcement Training Services - October 11, 2021
- Dorsey & Whitney LLP - September 16, 2021
- Poverty Law Course, University of Minnesota School of Law - September 14, 2021
- HOME Line - August 18, 2021
- Minnesota Paralegal Association - August 17, 2021
- Minnesota Continuing Legal Education (MCLE) - August 5, 2021
- National Lawyers Guild Minnesota - August 3, 2021
- Mediation and Restorative Services - July 27, 2021
- Volunteer Lawyers Network - July 15, 2021

Topics



- Resources
- Minnesota Session Laws 2021, 1st Special Session, Chapter 8 H. F. No. 4, Article V
- Centers for Disease Control and Prevention (CDC) Eviction Suspension Order
- Eviction Action Basics
- Remaining Eviction Actions Filed under Emergency Executive Order 20-79
- Eviction Actions Filed on or After June 30, 2021
- Eviction Actions Filed on or After July 14, 2021
- Eviction Actions Filed on or After September 12, 2021
- Eviction Actions Filed on or After October 12, 2021
- Financial Assistance
- Looking for Housing
- Mediation
- What You Can Do

Resources



[Housing Law in Minnesota - http://povertylaw.homestead.com/HousingLawinMinnesota.html](http://povertylaw.homestead.com/HousingLawinMinnesota.html)

- Residential Eviction Defense and Tenant Claims in Minnesota
- Answers Forms
- [*Pandemic Eviction and Other Housing Laws and Rules: slides shows, manual, and answer forms*](#)
- Tenants of Landlords in Foreclosure
- Public and Subsidized Housing
- Criminal Activity Cases
- Personal Property Disputes after an Eviction Judgment
- Expungement of Eviction Court Records
- Motions to Vacate Judgments
- Habitability and Lockout Cases
- Security Deposits

HOME Line - <https://homelinemn.org/> HOME Line provides free and low-cost legal, organizing, education, and advocacy services so that tenants throughout Minnesota can solve their own rental housing problems.

Law Help - <http://www.lawhelpmn.org/> Answers to legal questions, finding legal aid offices, and court information.

Minnesota State Law Library - <https://mncourts.libguides.com/covid19/housing#s-lg-box-wrapper-27963214>
General information and resources for landlords and tenants.

Eviction Transition



Minnesota Session Laws 2021, 1st Special Session, Chapter 8 H. F. No. 4, Article V

<https://www.revisor.mn.gov/laws/2021/1/Session+Law/Chapter/8/>

It ended Executive Orders 20-14, 20-73, and 20-79 and replaced them with eviction moratorium phase-out on June 30, 2021.

The Centers for Disease Control and Prevention (CDC) Eviction Suspension Order had little impact on Minnesota when it was in effect. In *Alabama Association of Realtors, et al. v. Department of Health and Human Services, et al.*, 594 U. S. ____ (2021), the United States Supreme Court invalidated the order.

Eviction Action Basics



Eviction actions are summary proceedings in that they move quickly before and after trial, although trials are no different than other civil trials.

They are governed by

- [Minn. Stat. Chapter 504B](#)
- Contracts law
- Property law
- Court Rules
- Local ordinances

Appearances



- Artificial entities like corporations and LLCs must be represented by counsel, except in housing courts in the 2nd and 4th district courts.
 - *Hinckley Square Associates v. Cervene*, 871 N.W.2d 426 (Minn. Ct. App. 2015); *Walnut Towers v. Schwan*, No. A07-1311, 2008 WL 4224462 (Minn. Ct. App. Sept. 16, 2008) (unpublished);
 - Minn. Gen. R. Prac. 603; *The Community Cares v. Faulkner*, 949 N.W.2d 296 (Minn. 2020).
- Unincorporated businesses and individual can appear pro se.
- The action may be commenced only by the person entitled to the premises, or the authorized management company or agent for the owner of the premises.
 - Minn. Stat. § 504B.285, subd. 1; Minn. Stat. § 481.02, subd. 3(13).
- The tenant or landlord may be represented by a person who is not a licensed attorney, except that person cannot conduct a jury trial or appeal and cannot charge or collect a separate fee for services rendered.
 - Minn. Stat. § 481.02, subd. 3(13).

Appearances



Effective March 1, 2021, eligible legal paraprofessionals under the supervision of a member of the bar, may provide advice to and appear in court on behalf of tenants in housing disputes as defined in Minn. Stat. Chapter 504B and § 484.014 (expungements) in district courts that have established a Housing Court or a dedicated calendar for housing disputes, except the Housing Court in the Fourth Judicial District.

Order Implementing Legal Paraprofessional Pilot Project, No. ADM19-8002 (Minn. Sep. 29, 2020); Minn. Supervised Prac. R. 12.

<https://mncourts.gov/mncourtsgov/media/Appellate/Supreme%20Court/RecentRulesOrders/Administrative-Order-Implementing-Legal-Paraprofessional-Pilot-Project.pdf>

See Report and Recommendations to the Minnesota Supreme Court Implementation Committee for Proposed Legal Paraprofessional Pilot Project, No. ADM19-8002 (Mar. 2, 2020).

<https://www.mncourts.gov/mncourtsgov/media/Implementation-Committee/Report-and-Recommendations-to-Minnesota-Supreme-Court-reduced-size.pdf>

Complaint



- The plaintiff must plead in the complaint "the facts which authorize the recovery of possession."
 - Minn. Stat. § 504B.321; *Mac-Du Properties v. LaBresh*, 392 N.W.2d 315, 317, 318 (Minn. Ct. App. 1986).
- The state complaint form requires the landlord to plead compliance with Minn. Stat. § 504B.181, in that the landlord has disclosed:
 - the names and addresses of the authorized manager of the premises and,
 - the owner or agent authorized to accept service, and
 - posted said information in an obvious place on the property
- If names and addresses are not disclosed as required by the statute, the landlord must show that the tenant knew such information at least 30 days before the issuance of the summons.

Eviction Action Complaint form instructions

<https://www.mncourts.gov/mncourtsgov/media/CourtForms/HOU101.pdf?ext=.pdf>

Court Orders



- *Standing Order re 60 day period following the expiration of the Peacetime Emergency Declared in Executive Order 20-01* (Minn. Dist. Ct. 4th Dist. July 22, 2020) (Judge Robiner) (Appendix PED-19)
- *Administrative Order Regarding the Resumption of Housing Court Operations* (Minn. Dist. Ct. 2nd Dist. Aug. 19, 2020) (Judge Castro) (Appendix PED-19a)
- STANDING ORDER Re: 60 day period following the expiration of the Peacetime Emergency Declared in Executive Order 20-01 (Minn. Dist. Ct. 10th Dist. Anoka Cty. Oct. 29, 2020) (Judge Fountain Lindberg) (Appendix PED-36)
- Other Minnesota Supreme Court and District Court pandemic orders are posted at <http://www.mncourts.gov/Emergency.aspx>.

Methods of Service



Service must be complete at least 7 days before the first hearing

Minn. Stat. § 504B.331 (formerly § 566.06) provides:

- Personal service
- If the defendant cannot be found in the county, the summons may be served at least seven days before the date of the court appearance by leaving a copy at the defendant's last usual place of abode with a person of suitable age and discretion residing there
- Mail and posting sequence:
 - (1) Defendants cannot be found in the county,
 - (2a) For residential property, service has been attempted at least twice on different days, with at least one of the attempts between 6:00 p.m. and 10:00 p.m.,
 - (2b) For nonresidential property, no person actually occupies the property,
 - (3) A copy of the summons has been mailed to the defendant at the defendant's last address known to the plaintiff,
 - (4) The plaintiff or counsel files an affidavit (a) stating that the defendant cannot be found, or the affiant believes that the defendant is not in the state, and (b) that a copy of the summons has been mailed to the defendant at the defendant's last address known to the plaintiff, and
 - (5) Posting the summons in a conspicuous place on the property for not less than one week.
- [Residential Eviction Defense and Tenant Claims in Minnesota at VI.C.](#)

Service for Expedited Eviction Actions



Minn. Stat. § 504B.321

- Plaintiff requests an expedited procedure by affidavit
 - stating specific facts and instances under Minn. Stat. § 504B.171 (certain types of illegal activity), or
 - on the basis that the tenant is causing a nuisance or other illegal behavior that seriously endangers the safety of other residents, their property, or the landlord's property,
- Then the summons shall be served upon the tenant within 24 hours of issuance unless the court orders otherwise for good cause shown.

Strict Compliance and Server Requirements



Personal Jurisdiction and Proper Service of the Summons and Complaint

Strict compliance with service requirements, rather than mere substantial compliance, is a precondition to personal jurisdiction. *Koski v. Johnson*, 837 N.W.2d 739 (Minn. Ct. App. 2013); [Residential Eviction Defense and Tenant Claims in Minnesota at VI.C.1a.](#)

Service by the plaintiff is improper. Minn. R. Civ. P. 4.02. In *Lewis v. Contracting Northwest, Inc.*, 413 N.W.2d 154 (Minn. Ct. App. 1987), the court explained the reason for precluding parties from serving process: “The law has wisely entrusted the decision of disputes between citizens to persons wholly disinterested and free from bias and the acrimony of feeling so frequently, if not uniformly, engendered by litigation; and the same is equally true of the persons selected to execute the process necessary to the adjustment of such disputes.” *Id.* at 155. See [Residential Eviction Defense and Tenant Claims in Minnesota at VI.C.2.d.](#)

Scheduling



- Minn. Stat. § 504B.321
 - The first appearance shall be between 7 and 14 days from the day of issuing the summons.

- Expedited eviction action
 - the complaint and affidavit shall be reviewed by a referee or judge and scheduled for an expedited hearing only if
 - sufficient supporting facts are stated and
 - they meet the requirements of this paragraph, and
 - if so, the appearance in an expedited hearing shall be not less than five days nor more than seven days from the date the summons is issued.

The court may continue the trial for up to six (6) days without consent of the parties; or, in certain circumstances, up to three (3) months for a material witness if a bond is paid. Minn. Stat. § 504B.341.

Courts can relax these deadlines. *Rice Park Properties v. Robins, Kaplan, Miller and Cieresi*, 532 N.W.2d 556 (1995); [Residential Eviction Defense and Tenant Claims in Minnesota at V.E.](#)

Answer



“At the court appearance specified in the summons, the defendant may answer the complaint Minn. Stat. § 504B.335 (formerly § 566.07).

Since the statute uses “answer” as a verb rather than a noun, and since it does not require a written answer, the defendant can answer the complaint orally without a written answer. The Housing Court Rules do not require a written answer. Minn. Gen. R. Prac. 601-12. However, a written answer is useful to present to the court affirmative defenses and grounds for dismissal or summary judgment. See [Residential Eviction Defense and Tenant Claims in Minnesota at V.B.](#)

An *In Forma Pauperis* application is needed to waive the filing fee for an answer. [Housing Law in Minnesota: In Forma Pauperis \(IFP\).](#)

[Pandemic Answer Forms](#)
[Pre-pandemic Answer Forms](#)

Proof and Findings



- The plaintiff must prove claims supporting eviction by a preponderance of the evidence, and the court must make specific findings on the claims of the plaintiff.
 - *Chancellor Manor v. Thibodeaux*, 628 N.W.2d 193, 197 (Minn. Ct. App. 2001).
- The Minnesota Rules of Evidence, Civil Procedure, and General Rules of Practice apply to eviction actions
 - Housing Court rules of the General Rules of Practice apply only to the 2nd and 4th district courts.
- Hearsay statements in testimony or within documents should be excluded unless they meet an exception to the hearsay rule.
 - *Countryview Mobile Home Park v. Oliveras*, No. A04-160, 2004 WL 20049986 (Minn. Ct. App. Sept. 14, 2004) (unpublished).
- The parties and other lay witnesses have the right to testify about their observations without being experts.
 - *Stewart v. Anderson*, No. A06-1878, 2007 WL 2366528 (Minn. Ct. App. Aug. 21, 2007) (unpublished).

Precondition Issues and Defenses



- Plaintiff is not the person entitled to possession of the building or an authorized management agent.
 - Minn. Stat. § 481.02, subd. 3(13)
 - Hennepin and Ramsey Housing Courts: Minn. Gen. R. Prac. 603.
- The person appearing on behalf of Plaintiff does not have a proper Power of Authority.
- Principal and Address Disclosure: The defendant did not know the names of the manager of the building and person authorized to accept service of process, and addresses at which they could be served 30 days before filing this case.
 - Minn. Stat. § 504B.181
- Plaintiff, the landlord, the lessor, or the management company is a business which did not comply with the Secretary of State trade name registration statutes, entitling the defendant to \$250.00 in costs or by set off.
 - Minn. Stat. §§ 333.001-333.06.
- Plaintiff failed to state the facts which authorize recovery of the premises.
 - Minn. Stat. § 504B.321
 - Hennepin and Ramsey Housing Courts: Minn. Gen. R. Prac. 604(a).

[Residential Eviction Defense and Tenant Claims in Minnesota at VI.D.](#)

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Remaining Eviction Actions under Emergency Executive Order 20-79



Eviction actions filed before June 30, 2021, remain governed by [Emergency Executive Order 20-79](#). In *Fairmont Housing and Redevelopment Authority v. Winter*, 2021 WL 5441936, _____ N.W.2d _____ (Minn. Ct. App. 2021), the court held that [Minnesota Session Laws 2021, 1st Special Session, Chapter 8, H. F. No. 4, Article 5](#) terminated the executive orders effective June 30, 2021, but did not extinguish rights and defenses accrued under them.

Grounds for eviction included:

- Seriously endangering the safety of other residents
- Violation of Minn. Stat. § 504B.171, subdivision 1: controlled substances, prostitution, unlawful use or possession of a firearm, stolen property or property obtained by robbery, and acts under Minn. Stat. § 504B.206, subdivision 1, paragraph (a) (domestic abuse, criminal sexual conduct, and harassment)
- Material violation of the residential lease by:
 - Seriously endangering the safety of others or
 - Significantly damaging the property
- Termination of lease or nonrenewal of lease due to the need to move the property owner or property owner's family member(s) into the property and where the property owner or property owner's family member(s) move into the property within 7 days after it is vacated by the tenant following a notice to vacate or nonrenewal.
- Landlords must provide a written notice of intent to file an eviction action to the tenant at least 7 days prior to filing the action, or the specified notice period included in the lease, whichever is longer.
- ***Nonpayment of rent was not a basis for eviction.***
- Law enforcement officers were similarly limited in the writs of recovery they could execute.
- Willful violations of Emergency Executive Order 20-79 were punishable as a misdemeanor.
- Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota [at I](#) and [III](#).

Notice Claims under Emergency Executive Order 20-79



Procedure, Service and Precondition Defenses: *see* [slides 7-17](#).

Required Notices:

- Lease termination notices:
 - Landlord family residency
 - CARES Act covered properties (public and subsidized housing and federally backed mortgages): 30-day notice. [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at I.B.](#) Public and some subsidized housing program have additional pre-filing requirements. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.F.10.](#)
 - Manufactured home parks: various notice requirements. Minn. Stat. §§ 327C.09, 327C.095, 327C.10
 - Mortgage foreclosure and contract for deed cancellation. Minn. Stat. § 504B.285, subd. 1a., 1b.
 - Some cities have additional notice requirements.
 - Some leases have additional notice requirements.
 - [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at III.B.1](#)

Notice Claims under Emergency Executive Order 20-79



- Notice of intention to file eviction action
 - [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at III.B.2.](#)

Notice Defenses:

- Landlord retaliation
 - Minn. Stat. § 504B.285, or
 - Common law. *Cent. Hous. Assocs., LP v. Olson*, 929 N.W.2d 398 (Minn. 2019).
- Landlord waived the notice to end the lease by accepting rent after the move out date.
 - *Pappas v. Stark*, 123 Minn. 81, 83, 142 N.W. 1042, 1047 (1913).

[Residential Eviction Defense and Tenant Claims in Minnesota at VI.F.](#)

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Substantive Claims under Emergency Executive Order 20-79



Minn. Stat. § 504B.171

- **Proof: Key word is allow.**
- **Defenses**
 - The landlord alleged the tenant unlawfully allowed certain unlawful activity on the property and the tenant did not know or have reason to know that there was unlawful activity on the property. Minn. Stat. § 504B.171
 - The tenant could not prevent the illegal drugs from being brought on the property. Minn. Stat. § 609.5317, subd. 3.
 - Medical marijuana use is legal under state law. Minn. Stat. § 152.32.
 - Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at [III.C.](#) and [VII.I.1.](#)
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.16.](#)

Substantive Claims under Emergency Executive Order 20-79



Significantly Damaging Property under the Lease

- Proof: key words are (1) significantly, (2) damaging, (3) property, and (4) material violation of the lease
- Cases
 - [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at III.D. and VII.I.2.](#)
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.19.e.](#)

Seriously Endangering the Safety of Residents and Others

- Proof: key words are (1) seriously, (2) endangering, (3) safety, and (4)(a) residents or (4)(b)(i) others and (4)(b)(ii) material violation of the lease
- Cases
 - [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at III.E. and VII.I.3.](#)
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.19.i.](#)

Landlord Family Residency

- Proper notice
 - [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at III.B.1.a.](#)
- Proof: need, family members, and timing:
 - [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at III.F.](#)

Substantive Claims under Emergency Executive Order 20-79



Substantive Defenses

- Conduct was not a material breach or substantial failure to perform under the lease. *See* [slide 33](#).
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.19.](#)
- Lease did not contain a "right of reentry" clause.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.1.](#)
- The landlord waived lease provisions by failing to enforce them or is estopped from enforcing them.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.4.](#)

Substantive Claims under Emergency Executive Order 20-79



- The landlord did not reasonably accommodate the tenant's disability.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.9.](#)
- The landlord is penalizing the tenant for calling for police or emergency assistance in response to domestic abuse or any other conduct.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.31.](#)
- The tenant is a victim of domestic abuse, criminal sexual conduct, or stalking.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.38.](#)
- The landlord retaliated for tenant complaints about material violations by the landlord of state or local law, residential covenants, or the lease.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.18.](#)

Substantive Claims under Emergency Executive Order 20-79



- Forfeiting the home would be a great injustice where Plaintiff's rights are adequately protected.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.28.](#)
- Manufactured home parks.
 - [Residential Eviction Defense and Tenant Claims in Minnesota VI.G.11.](#)
- Public and subsidized housing.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.10.](#)

[Breach of Lease Defenses in Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.](#)

[Pandemic Answer Forms](#)

[Pre-pandemic Answer Forms](#)

Relief under Emergency Executive Order 20-79



Relief:

- Entry of judgment for the plaintiff or defendant.
- For landlord improperly filing an expedited case, dismiss the case and fine the landlord \$500. Minn. Stat. § 504B.321.
- If the tenant loses, give the tenant seven days to move if the tenant did not cause a nuisance, or seriously endanger other tenants, their property, or the landlord's property, and if having to move in less than 7 days would be a substantial hardship. Minn. Stat. § 504B.345.
- Award costs and disbursements. [Residential Eviction Defense and Tenant Claims in Minnesota at VIII.E.4.b.](#)
- Expunge or seal the court file. [Residential Eviction Defense and Tenant Claims in Minnesota at VIII.E.5.](#)
- Attorney fees. [Residential Eviction Defense and Tenant Claims in Minnesota at VIII.E.4.a.](#)

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Eviction Actions Filed on or After June 30, 2021



Grounds for eviction [Minnesota Session Laws 2021, 1st Special Session, Chapter 8, H. F. No. 4, Article V:](#)

- The tenant seriously endangered the safety of others or significantly damaged property
- The tenant violated Minn. Stat. § 504B.171, Subd. 1.
- The manufactured home park resident violated Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other residents or park personnel
- Nonpayment of rent if the tenant is (1) eligible for state emergency rental assistance and (2) refuses to apply or provide information to the landlord or refuses to provide proof to the landlord that the tenant applied.
- The tenant or occupant abandoned the premises.
- ***Residential landlords cannot file eviction actions for nonpayment of rent against tenants with pending application for an emergency rental assistance program authorized under the federal Consolidated Appropriations Act, 2021, Public Law 116-260, or the federal American Rescue Plan Act, 2021, Public Law 117-2 (state emergency rental assistance).***
- These limitations apply to eviction court cases for commercial leases, mortgage foreclosure and contract for deed cancellation.
- Law enforcement officers are not specifically regulated as they were under Emergency Executive Order 20-79. However, officers cannot proceed with enforcing writs of recovery in eviction actions for nonpayment of rent against a tenant with pending application for an emergency rental assistance program.
- Unlike Emergency Executive Order 20-79, the law does not contain a misdemeanor provision for willful violations.
- [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.](#)

Eviction Actions Filed on or After June 30, 2021



Procedure, Service and Preconditions: *see* [slides 7-17](#).

Required Notices:

- The landlord family residency ground and its notice requirement under Emergency Executive Order 20-79 no longer are available.
- The notice of intention to file eviction action under Emergency Executive Order 20-79 no longer is required.
- Notice for nonpayment of rent: The landlord must give a pre-filing notice of 15 days prior to filing for nonpayment of rent, stating that the moratorium ended and the tenant may be subject to eviction, the total rent due, and the availability of assistance from calling 211 or going to [RentHelpMN](#). The notice was not limited to residential tenancies, so it included commercial tenancy, mortgage foreclosure, and contract for deed cancellation eviction court cases claiming nonpayment of rent. The court may exercise discretion in staying eviction proceeding if it finds improper notice. The lack of strict compliance not a defense. The requirement expired on October 12, 2021.
- Other notice requirements and defenses: *see* [slides 19-20](#) (except family residency and notice of intention to file an eviction action under Emergency Executive Order 20-79 that expired).
- [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.I.0.](#)

Eviction Actions Filed on or After June 30, 2021



Substantive Claims, Defenses and Relief:

- *See* [slides 21-26](#).
- The landlord family residency ground and its notice requirement under Emergency Executive Order 20-79 no longer are available.
- The manufactured home park resident did not violate Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other residents or park personnel. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.11](#).
- The tenant or occupant did not *abandon* the premises. [Residential Eviction Defense and Tenant Claims in Minnesota at XII.B.1.b.\(3\)\(j\)](#).
- [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII](#).

Eviction Actions Filed on or After June 30, 2021



Nonpayment of Rent Claims and Defenses:

- ***Residential landlords cannot file eviction actions for nonpayment of rent against tenants with pending state emergency rental assistance application.***
- Proof that the tenant is (1) *eligible* for state emergency rental assistance and (2) *refuses* to apply or provide information to the landlord or *refuses* to provide proof to the landlord that the tenant applied.
- [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.I.5.](#)
- Defenses:
 - Improper notice. [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.I.5.](#)
 - Tenant (1) is ineligible for state emergency rental assistance or (2) did not refuse to apply or provide information to the landlord or refuse to provide proof to the landlord that the tenant applied. [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.I.5.](#)
 - Landlord failure to maintain property conditions and habitability. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.1.](#)
 - Landlord failure to comply with city rental license ordinances. [Residential Eviction Defense and Tenant Claims in Minnesota VI.E.2.c.](#)
 - Landlord nonpayment of utilities or illegal shared metering of utilities. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.18.](#)

Eviction Actions Filed on or After June 30, 2021



- Landlord charging improper late fees or other fees. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.10.](#)
- Landlord waiver of rent claim by accepting a partial payment of rent without a written nonwaiver clause. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.13.](#)
- Landlord retaliation for complaints about material violations by the landlord of state or local law, residential covenants, or the lease. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.9.](#)
- Redemption: There is no limit by statute or case law on the amount of time the court can give the tenant to pay rent due or conditions the court can consider.
 - [614 Co. v. D. H. Overmayer, 297 Minn. 395, 396, 211 N.W.2d 891, 893 \(1973\), affirming First and Second Interlocutory orders, No. 204678 \(Minn. Dist. Ct. 2nd Dist. Apr. 22 and July 9, 1972\) \(Appendix 54\) \(Affirmed trial court orders allowing commercial tenant one month to pay amount in default\);](#)
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.20.](#)

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Eviction Actions Filed on or After July 14, 2021



Grounds for eviction [Minnesota Session Laws 2021, 1st Special Session, Chapter 8, H. F. No. 4, Article V](#):

- ***New: Residential and commercial landlords can file eviction actions where the tenant commits material lease violations.***
- The tenant seriously endangers safety of others or significantly damages property
- The tenant violates Minn. Stat. § 504B.171, Subd. 1.
- The manufactured home park resident violates Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other residents or park personnel
- Nonpayment of rent if the tenant is (1) eligible for state emergency rental assistance and (2) refuses to apply or provide information to the landlord or refuses to provide proof to the landlord that the tenant applied.
- The tenant or occupant abandons the premises.
- These limitations apply to eviction court cases for commercial leases, mortgage foreclosure and contract for deed cancellation.
- [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.J.](#)

Eviction Actions Filed on or After July 14, 2021



Procedure, Service and Preconditions: *see* [slides 7-17](#).

Notice Issues: *see* [slides 19-20](#) (except family residency and notice of intention to file an eviction action under Emergency Executive Order 20-79 that expired) and [28](#).

Substantive Claims, Defenses and Relief:

- *See* [slides 21-26](#) and [29-31](#).
- New: The tenant did not commit a material breach or substantial failure to perform under the lease. *Cloverdale Foods of Minnesota, Inc.*, 580 N.W.2d 46, 49 (Minn. Ct. App. 1998); *Skogberg v. Huisman*, No. C7-02-2059, 2003 WL 22014576 (Minn. Ct. App. Aug. 2003) (unpublished) (a material breach goes to the root or essence of the contract, so substantial and fundamental that it defeats the object of the parties in entering into the contract, and where the injury is irreparable or damages would be inadequate or difficult or impossible to determine).
- [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.J.](#)
- [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.19.](#)

[Pandemic Answer Forms](#)

[Pre-pandemic Answer Forms](#)

Eviction Actions Filed on or After September 12, 2021



Grounds for eviction [Minnesota Session Laws 2021, 1st Special Session, Chapter 8, H. F. No. 4, Article V](#):

- ***New: Residential and commercial landlords can file nonpayment eviction actions for those ineligible for state emergency rental assistance.***
- The tenant commits material lease violations.
- The tenant seriously endangers safety of others or significantly damages property
- The tenant violates Minn. Stat. § 504B.171, Subd. 1.
- The manufactured home park resident violates Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other residents or park personnel
- Nonpayment of rent if the tenant is (1) eligible for state emergency rental assistance and (2) refuses to apply or provide information to the landlord or refuses to provide proof to the landlord that the tenant applied.
- The tenant or occupant abandons the premises.
- These limitations apply to eviction court cases for commercial leases, mortgage foreclosure and contract for deed cancellation.
- [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.K.](#)

Eviction Actions Filed on or After September 12, 2021



Procedure, Service and Preconditions: *see* [slides 7-17](#).

Notice Issues: *see* [slides 19-20](#) (except family residency and notice of intention to file an eviction action under Emergency Executive Order 20-79 that expired) and [slide 28](#).

Substantive Claims, Defenses and Relief:

- *See* slides [21-26](#), [29-31](#), and [33](#).
- New: nonpayment of rent: proof that the tenant is ineligible for state emergency rental assistance.
- [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.K.](#)

[Pandemic Answer Forms](#)

[Pre-pandemic Answer Forms](#)

Eviction Actions Filed on or After October 12, 2021



Under [Minnesota Session Laws 2021, 1st Special Session, Chapter 8, H. F. No. 4, Article V](#), most eviction restrictions end but some remain.

Procedure, Service and Preconditions: *see* [slides 7-17](#).

Nonpayment of Rent Cases:

- The eviction transition law rent notice requirement ended for residential and commercial landlords.
- Notice requirements continue under federal (CARES Act), state, and local law. *See* slides [19-20](#) (except family residency and notice of intention to file an eviction action under Emergency Executive Order 20-79 that expired).
- Residential landlords can terminate or not renew leases for file eviction court cases for any reason allowed by law ***except landlords cannot file eviction actions for nonpayment of rent against tenants with pending state emergency rental assistance application.***
- Defenses: notice, habitability, utilities, late fees, waiver, vulnerable adults, domestic violence, retaliation, and redemption. *See* [slides 30-31](#); [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.](#), [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.L](#), [Answer Form Aiv3](#).

Eviction Actions Filed on or After October 12, 2021



Notice and Holding Over Cases:

- Notice requirements continue under federal (CARES Act), state, and local law. *See* slides [19-20](#) (except family residency and notice of intention to file an eviction action under Emergency Executive Order 20-79 that expired).
- Notices without cause (like a standard month-to-month termination notice) could not predate October 12, 2021.
- Defenses: improper notice, failure to attach notice, retaliation, waiver, and discrimination. *See* [slide 20](#) and [Residential Eviction Defense and Tenant Claims in Minnesota at VI.F](#), [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.L](#), [Answer Form Aiv3](#).
- Retaliation for participating in RenthelpMN: If the tenant applied for RenthelpMN and the landlord discussed with the tenant dissatisfaction with waiting during the period 90 days before issuance of a no-cause termination notice, the notice would be presumptively retaliatory under Minn. Stat. § 504B.285 for the tenant enforcing the right to not be evicted with a pending application for emergency rental assistance. If the landlord tries to rebut the presumption by claiming the real reason is the rent the tenant owes, that reason would violate the prohibition on not evicting tenants with pending applications for emergency rental assistance. *See* [Residential Eviction Defense and Tenant Claims in Minnesota at VI.F.3](#) and [VI.F.3a](#).

Eviction Actions Filed on or After October 12, 2021



Breach of Lease Cases:

- Notice requirements continue under federal (CARES Act), state, and local law. *See* slides [19-20](#) (except family residency and notice of intention to file an eviction action under Emergency Executive Order 20-79 that expired).
- Landlords claiming breach of the lease still must prove a material violation of the lease under Minnesota court decisions. *See* [slide 33](#).
- Defenses: notice, failure to attach lease, breach was not material, did not receive lease, lack of right of reentry clause, waiver, discrimination, disability, Minn. Stat. § 504B.171 defenses, police call penalty, domestic violence, equitable relief from forfeiture, and retaliation. *See* [slides 23-25](#) and [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.](#), [Pandemic Eviction Claims and Defenses and Other Housing Claims in Minnesota at VII.L.](#), [Answer Form Aiv3](#).

Through June 1, 2022



- ***Landlords cannot file eviction actions for nonpayment of rent against tenants with pending state emergency rental assistance application.***
- Tenants must provide landlords or the court with proof of pending state emergency rental assistance application and the reason for delay in processing the application if the tenant reasonably has access to the information.
- Emergency rent assistance only includes an emergency rental assistance program authorized under the federal Consolidated Appropriations Act, 2021, Public Law 116-260, or the federal American Rescue Plan Act, 2021, Public Law 117-2, is prohibited.

Eviction Transition Financial Assistance



[COVID-19 Emergency Rental Assistance](#)

- The Minnesota Housing Finance Agency (MHFA) emergency rental assistance program is called COVID-19 Emergency Rental Assistance, which is operating under the banner of RentHelpMN.
- Online: <https://www.renthelpmn.org/>
- Call 211. The 211 helpline has dedicated multilingual staff available to answer questions about RentHelpMN, 8:00 a.m. – 8:00 p.m. Monday through Saturday.
- Information sessions: <http://youtu.be/2nTW9VQ7zWg>
- [Foreclosure prevention and forbearance](#)
- [RentHelpMN Dashboard of Program Statistics](#)
- [Program Updates](#)
- [RentHelpMN program announced it would begin accepting applications for vacated unit rent and utility assistance on October 15, 2021](#)
- [RentHelpMN COVID-19 Emergency Rental Assistance Program Guide](#)
- [Housing Justice Center Slideshow](#)

Denials: Applicants can appeal in writing by mail or by fax within 10 days. There is no specific form. A letter will do. State the following in the letter: (1) who you are; name, address, application ID # (if known), (2) why you were denied (if known), (3) why this denial was in error, and (4) why you should be eligible. Reapplying is another option. For assistance, contact the Housing Justice Center (HJC) at (800) 403-0476.

Eviction Transition Financial Assistance



The Zero Balance Project: Rental Assistance in Dakota, Hennepin and Ramsey Counties, and Minneapolis and St Paul <https://housinglink.org/List/emergency-rental-assistance>. In the Zero Balance Project, landlords start and lead the application on behalf of their renters.

Utilities:

- Tenants can include utilities except phone and internet when applying with RenthelpMN.
- Tenants also can apply for financial assistance to pay for utilities with the [Minnesota Energy Assistance Program](#).
- Utility rights information and advocacy: [Citizens Utility Board \(CUB\) of Minnesota](#)

Other Financial Assistance



- [Hennepin County Emergency Rental Assistance](#)
- [Neighborhood House](#)
- [Ramsey County Economic Assistance](#)
- [Anoka County](#)
- [HousingLink: Housing Tip: How to Get Emergency Assistance in the Twin Cities](#)
- [Minnesota Department of Human Services](#)
 - Use ApplyMN for apply for Cash Assistance, Supplemental Nutrition Assistance Program (SNAP) benefits, Child Care Assistance, and Emergency Assistance.
- [United Way 211](#)
 - Call 211TM or 651-291-0211: State-wide list of community resources, like housing assistance, shelters, and food shelf locations
- [State and Local Rental Assistance \(National Low Income Housing Coalition\)](#)

Looking for Housing



Housing Link

International Market Square

Suite 509

275 Market Street

Minneapolis, MN 55405

612-522-2500

info@housinglink.org

<http://www.housinglink.org>

Mediation Programs



Community Mediation Minnesota consists of several member organizations across the state with staff and volunteers to help resolve disputes. Community Mediation Minnesota has a centralized intake and referral system so anyone in Minnesota can call a single phone number and be connected to a mediator who can provide services via video conferencing.

Community Mediation Member Organizations:

- Community Mediation & Restorative Services, Inc.
- Conflict Resolution Center
- Dispute Resolution Center
- Mediation & Conflict Solutions
- Mediation and Restorative Services
- Restorative and Mediation Practices

Contact:

<https://communitymediationmn.org>

1-833-266-2663

info@CommunityMediationMN.org

What You Can Do: Get Help, Volunteer and Donate



Free Legal Aid Programs Representing Tenants:

- Anishinabe Legal Services - <https://alslegal.org/>
- Central Minnesota Legal Services - <https://www.centralmnlegal.org/>
- Judicare of Anoka County - <http://www.anokajudicare.org/>
- Legal Aid Service of Northeastern Minnesota - <http://lasnem.org/>
- Legal Assistance of Dakota County - <http://www.dakotalegal.org/>
- Legal Assistance of Olmsted County - <http://laocmn.org/>
- Legal Services of Northwest Minnesota - <https://lsnmlaw.org/>
- Mid-Minnesota Legal Aid - <https://mylegalaid.org/>
- Southern Minnesota Regional Legal Services - <https://www.smrls.org/>
- Volunteer Lawyers Network - <https://www.vlnmn.org/>

What You Can Do: Get Help, Volunteer and Donate



Advice:

- Online Advice: Minnesota Legal Advice Online (MLAO) - <https://www.mnlegaladvice.org/>
- Tenant Hotline Advice: HOME Line - <https://homelinemn.org/>
- See Free Legal Aid Programs ([prior slide](#))

Law Students:

- Minnesota Justice Foundation (MJF) - <https://www.mnjustice.org/>

Mediation:

- Community Mediation Minnesota - <https://communitymediationmn.org/>

Tenant Organizing:

- HOME Line - <https://homelinemn.org/>
- United Renters For Justice/Inquilinxs Unidxs Por Justicia - <https://www.inquilinxsunidxs.org/>

What You Can Do: Get Help, Volunteer and Donate



Housing Litigation and Policy Advocacy:

- HOME Line - <https://homelinemn.org/>
- Housing Justice Center - <https://www.hjcmn.org/>
- Housing Law in Minnesota - <http://povertylaw.homestead.com/HousingLawinMinnesota.html>
- Mid-Minnesota Legal Aid - <https://mylegalaid.org/>
- Minnesota Anti-Eviction Project, Lawyers' Committee for Civil Rights Under Law - <https://www.lawyerscommittee.org/>
- United Renters For Justice/Inquilinxs Unidxs Por Justicia - <https://www.inquilinxsunidxs.org/>
- Volunteer Lawyers Network - <https://www.vlnmn.org/>

National Housing Litigation and Policy Advocacy:

- National Housing Law Project - <https://www.nhlp.org/>
- National Low Income Housing Coalition - <https://nlihc.org/>

What You Can Do: Advocate



Minnesota Government:

- Governor Tim Walz - <https://mn.gov/governor/about/timwalz/>
- Attorney General Keith Ellison - <http://www.ag.state.mn.us/>
- Minnesota Housing Commissioner Jennifer Ho - <http://www.mnhousing.gov/sites/np/leadership>
- Minnesota Department of Human Rights Commissioner Rebecca Lucero - <https://mn.gov/mdhr/about/staff/commissioner.jsp>
- Minnesota Senators - <https://www.senate.mn/>
- Minnesota House of Representatives - <https://www.house.leg.state.mn.us/members/>

Local Government:

- County Commissioners - <https://mn.gov/portal/government/local/counties/>
- City Mayors and City Councils - <https://mn.gov/portal/government/local/cities/>

What You Can Do: Advocate



Courts:

- Minnesota Supreme Court - <https://www.mncourts.gov/SupremeCourt.aspx>
- District Courts- <https://www.mncourts.gov/Find-Courts.aspx>

United States:

- President Joe Biden - <https://www.whitehouse.gov/>
- Senate - <https://www.senate.gov/>
- House of Representatives - <https://www.house.gov/>
- Centers for Disease Control and Prevention (CDC) - <https://www.cdc.gov/>
- Department of Housing and Urban Development (HUD) - <https://www.hud.gov/>

Questions



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