

STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT

CASE TYPE: HOUSING (EVICTION)

Kumok Hwang,

Plaintiff (Landlord),

FINDINGS OF FACT, CONCLUSIONS OF
LAW, ORDER FOR EXPUNGEMENT

v.

Jean Barker, Earl Murphy,

Case No. 19WS-CV-09-1876

Defendant (Tenant).

The above matter came before this Court on November 25, 2009 on an eviction hearing brought by Plaintiff, Kumok Hwang.

Defendant, Jean Barker, present at both hearings on behalf of the Defendants, was pro se at the first appearance and subsequently represented by Tovah Flygare of Southern Minnesota Regional Legal Services, Inc.

Kumok Hwang was present for Plaintiff.

Based on the evidence presented at the hearing, the agreement presented at the hearing, the court file, verified petition, and all the records and proceedings herein, the Court makes the following:

FINDINGS OF FACT

1. Plaintiff, Kumok Hwang, is "directly and indirectly in control of the rental property" at 1475 Highview Ave. Eagan Minnesota 55121 ("the Property") and meets the definition of landlord as set forth in Minn. Stat. §504B.001 Subd. 7.

2. The Property is currently in foreclosure.

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CAROLYN M. RENN, Court Administrator

JAN 26 2010

3. In August 2008 changes were made to Minn. Stat. §504B.151 effecting the rights of tenants who are leased foreclosed residential rental properties.
4. The Property was sold at a sheriff's sale on June 23, 2009 per Dakota County Sheriff's Certificate of Sale and other county records.
5. Defendant, Jean Barker, along her family, entered into a lease agreement for the Property with Plaintiff, Kumok Hwang, on September 1, 2009.
6. Prior to lease signing for the Property, Plaintiff failed to inform Defendant of the foreclosure and failed to inform Defendant of the date the redemption period ends for the Property.
7. When this matter came before the Court the testimony showed that the redemption period was over on approximately December 23, 2009 and the Plaintiff was attempting to sell the property.
8. Defendant agreed before this Court that Defendant would not interfere with Plaintiff's reasonable actions during business hours to make repairs to the property and show the property in an attempt to sell it before the end of the redemption period and that Defendant would submit a Proposed Order for Expungement for this matter, Case No. 19-WS-CV-09-1876, after these repairs and showings of the property within the remaining redemption period were completed.
9. The Court dismissed the eviction action brought by Plaintiff pursuant to Plaintiff's failure to comply with Minn. Stat. §504B.151.

10. Defendants must move due to the foreclosure of the Property and this eviction tarnishes their rental history making it difficult to find a new rental unit.

11. Prospective landlords and the general public are not harmed by expungement of this eviction record as there was no basis in law or fact for bringing this action and this case was dismissed as such.

CONCLUSIONS OF LAW

1. Under Minn. Stat. §504B.151 subd. 1(b) Plaintiff was required to give written notice to Defendant of the foreclosure before collecting any rent or deposit or entering a lease for the Property.

2. A building owner may not maintain an action for rent when the owner has permitted occupancy of the premises in violation of the law. (*Miller v. Pouliot*, 199 Minn. 331, 332, 271 N.W. 818 (1937); *Leuthold v. Stickney*, 116 Minn. 299, 302-303, 133 N.W. 856, 857 (1911)).

3. Under Minn. Stat. §484.014 the Court may order expungement of an eviction case if the Court finds that the Plaintiff's case is sufficiently without basis in fact or law; that expungement is clearly within the interests of justice; and those interests are not outweighed by the public's interest in knowing about the record.

ORDER

1. Defendant, Jean Barker, along her family, is entitled to expungement for Case No. 19-WS-CV-09-1876 under Minnesota Statute §484.014 pursuant to the finding

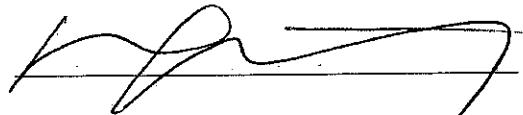
by this Court that Plaintiff, Kumok Hwang, violated Minnesota Statute §504B.151 and therefore was not entitled to collect rent or maintain an eviction action for the Property.

THERE BEING NO CAUSE FOR DELAY, LET JUDGMENT BE ENTERED FORTHWITH.

Order Approved by:

Dated: _____

1-25-10

A handwritten signature in black ink, appearing to read 'Rex D. Stacey', written over a horizontal line.

The Honorable Judge Rex D. Stacey

State of Minnesota
Dakota County

District Court
First Judicial District

Court File Number: **19WS-CV-09-1876**

Case Type: Eviction (UD)

Notice of Filing of Order

FILE COPY

Kumok Hwang vs Jean Barker, Earl Murphy

You are notified that on January 26, 2010, the following was filed:

Findings of Fact, Conclusions of Law and Order

Dated: January 26, 2010

Carolyn M. Renn
Court Administrator
Dakota County District Court
One Mendota Road West, Suite 140
West St. Paul MN 55118
651-554-6200

cc: Kumok Hwang
Jean Barker
Earl Murphy

A true and correct copy of this notice has been served by mail upon the parties herein at the last known address of each, pursuant to Minnesota Rules of Civil Procedure, Rule 77.04.

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CAROLYN M. RENN, Court Administrator

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