



# Landlord-Tenant Law

Law Enforcement Training Services, LLC, and  
The Minnesota Sheriffs' Association

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Housing Law in Minnesota

<http://povertylaw.homestead.com/HousingLawinMinnesota.html>

Biography

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# *Hot Topics*

- Housing law materials
- Statutes
- Evictions: numbers, summary, service of summons and complaint, writ of recovery enforcement
- Subtenant evictions
- Lockouts
- Hotel and shelters
- Trespass
- Excluding relatives and guests
- Harassment, abuse, and vulnerable adults
- Manufactured (Mobile) Homes



# *Housing Law Materials*

## Housing Law in Minnesota

<http://povertylaw.homestead.com/HousingLawinMinnesota.html>

## Resources

<http://povertylaw.homestead.com/Resources-ResearchLinksandReferrals.html>



# *Statutes*

Landlord and Tenants, Minn. Stat. Ch. 504B

<https://www.revisor.mn.gov/statutes/?id=504B>

Manufactured (Mobile) Home Parks, Minn. Stat. Ch. 327C

<https://www.revisor.mn.gov/statutes/?id=327C>

# *Evictions: Numbers*

- 16,000 eviction court actions were filed in Minnesota in 2017, or 1,333 per month. S. Spaid, Evictions in Greater Minnesota Report (HOME Line June 1, 2018).
- Evictions were suppressed by the Emergency Executive Orders and the eviction transition law from March 2022 through May 2022.
- 2022: 16,560 January through September, estimated to be 22,080 for the year, or 38% higher than 2017. Source: HOME Line, October 7, 2022.



# *Evictions: Summary*

Residential Eviction Defense in Minnesota

[http://povertylaw.homestead.com/files/Reading/Residential\\_Eviction\\_Defense\\_in\\_Minnesota.htm#I.B.](http://povertylaw.homestead.com/files/Reading/Residential_Eviction_Defense_in_Minnesota.htm#I.B.)

# *Sheriff Eviction Statutes*

- 504B.33 | Summons; How Served
- 7 days
- Three options
- 1. Personal service
- 2. Substitute service on another person: (1) If the defendant cannot be found in the county, (2) leaving a copy at the defendant's last usual place of abode (3) with a person of suitable age and discretion (4) residing there.  
More information.

# *Sheriff Eviction Statutes*

- 3. Substitute service by mail and posting. The statute can be broken down into the following sequence:
  - (1) Defendants cannot be found in the county;
  - (2) 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.;
  - (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.

# *Sheriff Eviction Statutes*

- Violations of the statutory sequence can lead to dismissal.
- *The Freund Haus, LLC v. \_\_\_\_\_*, No. 27-CV-HC-1-6609 (Minn. Dist. Ct. 4th Dist. July 22, 2014)
- *Renne v. \_\_\_\_\_*, No. 27-CV-HC-14-5385 (Minn. Dist. Ct. 4th Dist. Oct. 17, 2014)
- *TCF National Bank v. Meldahl*, No. 27-CV-HC-14-2308 (Minn. Dist. Ct. 4th Dist. May 21, 2014)
- *Howard v. \_\_\_\_\_*, No. 62-HG-CV-13-469 (Minn. Dist. Ct. 2nd Dist. June 21, 2013)
- [More information.](#)

# *Sheriff Eviction Statutes*

- 504B.365 Execution of the Writ of Recovery of Premises and Order to Vacate.
- The writ of recovery is available in eviction actions and rent escrow actions counterclaims for possession.
- It is not available in tax forfeiture, lockout, tenant remedies, emergency tenant remedies, harassment, or order for protection cases.
- Subd. 3. Removal and storage of property.
- Two options
- (a) If the defendant's personal property is to be stored in a place other than the premises, the officer shall remove all personal property of the defendant at the expense of the plaintiff.

# Sheriff Eviction Statutes

- (d) If the defendant's personal property is to be stored on the premises, the officer shall enter the premises, breaking in if necessary, and the plaintiff may remove the defendant's personal property. [Section 504B.271](#) applies to personal property removed under this paragraph. **The plaintiff must prepare an inventory** and mail a copy of the inventory to the defendant's last known address or, if the defendant has provided a different address, to the address provided. The inventory must be prepared, signed, and dated in the presence of the officer and must include the following:
  - (1) a list of the items of personal property and a description of their condition;
  - (2) the date, the signature of the plaintiff or the plaintiff's agent, and the name and telephone number of a person authorized to release the personal property; and
  - (3) the name and badge number of the officer.
- **(e) The officer must retain a copy of the inventory.**
- (f) The plaintiff is responsible for the proper removal, storage, and care of the defendant's personal property and is liable for damages for loss of or injury to it caused by the plaintiff's failure to exercise the same care that a reasonably careful person would exercise under similar circumstances.

# Sheriff Eviction Statutes

- (g) ***The plaintiff shall notify the defendant*** of the date and approximate time the officer is scheduled to remove the defendant, family, and personal property from the premises. The notice must be sent by first class mail. In addition, the plaintiff must make a good faith effort to notify the defendant by telephone. The notice must be mailed as soon as the information regarding the date and approximate time the officer is scheduled to enforce the order is known to the plaintiff, except that the scheduling of the officer to enforce the order need not be delayed because of the notice requirement. The notice must inform the defendant that the defendant and the defendant's personal property will be removed from the premises if the defendant has not vacated the premises by the time specified in the notice.
- *Note: Posting an additional copy on the property, while not required by the statute, would be good. The more notice the landlord gives, the greater the chance that the tenant will move before enforcement of the writ.*

# *Sheriff Eviction Statutes*

- Subd. 5. Penalty; waiver not allowed.
- Unless the premises has been abandoned, a plaintiff, an agent, or other person acting under the plaintiff's direction or control who enters the premises and removes the defendant's personal property in violation of this section is guilty of an unlawful ouster under section [504B.231](#) and is subject to penalty under section [504B.225](#). This section may not be waived or modified by lease or other agreement.
- [More information.](#)

# 30-day Deadline for Enforcing the Writ?

- The landlord might only have 30 days to enforce the writ. *DePetro v. DePetro*, No.A03-727, 2004 WL 885552 (Minn. Ct.App.April 27, 2004) (unpublished) (noted that housing court would not reissue writ of recovery which has not been executed within 30 days of original issuance).
- The 30-day stems from the form that used to be part of Minn. Stat. § 504B.36 I. The Minnesota Legislature removed the form from the statute in 2007. [Minn. Laws 2007, Chapter 54, Art. 5, §12](#). Several law enforcement websites require the plaintiff to secure enforcement of the writ in 30 days.
- [More information](#).

# *Eviction of Subtenants*

- The writ cannot be enforced against a subtenant who was not a party to the eviction (unlawful detainer) action nor named in the writ of restitution. See *Kowalenko v. Haines*, No. C6-85-1365 (Minn. Ct.App., July 24, 1985). In *Kowalenko*, the petitioner had subleased the apartment from the former tenants. The writ was enforced against the petitioner, pursuant to an unlawful detainer action against former tenants, but not the petitioner. The petitioner was not named in the writ. The court ordered the landlord to return possession of the apartment and petitioners personal property to her, pursuant to [Minn. Stat. § 504B.375](#) (formerly § 566.175).
- [More information.](#)

# Lockouts

## Statutes

- [Minn. Stat. § 504B.225 Intentional Ouster and Interruption of Utilities; Misdemeanor](#)
- [Minn. Stat. § 609.606 Unlawful Ouster or Exclusion: Misdemeanor](#)
- [Minn. Stat. § 504B.375 Unlawful Exclusion or Removal; Action for Recovery of Possession](#)

## Who is a tenant?

- [Minn. Stat. § 504B.001, Subd. 12](#). Residential tenant. "Residential tenant" means a person who is occupying a dwelling in a residential building under a lease or contract, whether oral or written, that requires the payment of money or exchange of services, all other regular occupants of that dwelling unit, or a resident of a manufactured home park.
- *Cocchiarella*: held that the requirement that a "residential tenant" be "a person who is occupying a dwelling" included a person with a present legal right to occupy the dwelling. *Cocchiarella v. Driggs*, 884 N.W.2d 621 (Minn. Aug. 31, 2016).
- *Quinn*: Other regular occupant factors include the duration, continuity, and nature of the occupancy, the existence and terms of a lease or any other agreement related to the occupancy, and whether the landlord knew of or reasonably should have known of the person's occupancy. *Quinn v. LMC NE Minneapolis Holdings, LLC*, 972 N.W.2d 881 (2022).

# Lockouts

Who is a landlord, or who *are* the *landlords*? There are be several.

- [Minn. Stat. § 504B.001, Subd. 7](#) provides: “Landlord” means the owner or owners of the free hold of the premises or lesser estate therein, contract vendee, receiver, executor, trustee, lessee, agent, or any other person, firm or corporation directly or indirectly in control of a building.
- In *Barnes v. Alan Spaulding, Mike Cashill, At Home Apartments, Gateway Real Estate LLC, Cashill Spaulding Properties, and West River Commons*, No. 27-CV-HC-17-6053 (Minn. Dist. Ct. 4th Dist. Dec. 22, 2017), in an emergency tenant remedies action, the court concluded multiple people and entities were landlords under Minn. Stat. § 504B.001, and order the landlords to immediately repair the subject property to be fully compliant with the Minneapolis Codes of Ordinances and federal subsidized housing requirements, and immediately prepay the tenant to cover the costs of staying with her son at a hotel of her choosing in a room with kitchenette so that the tenant can avoid the costs of purchasing pre-made food.

# Lockouts

- In *Miller v. AZ Flatts*, No. 71-CV-16-653 (Minn. Dist. Ct. 10th Dist., Sherburne County, Jan. 31, 2017), (Appendix 725) (Judge Yunker), the district court found that two entities and one individual all were landlords under Minn. Stat. § 504B.001, Subd. 7 in the tenant's civil action.
- In *Otzin v. Smith, Washington, Dubra, Renters Warehouse, and Zupfer*, No. 27-CV-HC-15-5433 (Minn. Dist. Ct. 4th Dist. April 6, 2016) (Appendix 804), the tenant of the property owners who rented the property to plaintiff later excluded the plaintiff without the participation of the owners. Neither the owners of their management company allowed the plaintiff to repossess the property. The court rejected the argument of the owners and their agent son that they were not liable for the exclusion because they did not rent to the plaintiff or initiate the exclusion. The court found plaintiff more credible than the owner on whether the owners and agent knew that the plaintiff was a tenant, and found that they participated in the exclusion by not taking action to end it. The court awarded damages for lost personal property of \$2,900 and a penalty of \$5,800 under Minn. Stat. § 504B.271, costs, and attorney's fees.

# Lockouts

Relief in [504B.375 Unlawful Exclusion or Removal; Action for Recovery of Possession](#)

- Subd. 1(c) If it clearly appears from the specific grounds and facts stated in the verified petition or by separate affidavit of the residential tenant or the residential tenant's attorney or agent that the exclusion or removal was unlawful, the court shall immediately order that the residential tenant have possession of the premises.
- (e) The court shall direct the order to the sheriff of the county in which the premises are located and the sheriff shall execute the order immediately by making a demand for possession on the landlord, if found, or the landlord's agent or other person in charge of the premises. If the landlord fails to comply with the demand, the officer shall take whatever assistance may be necessary and immediately place the residential tenant in possession of the premises. If the landlord, the landlord's agent, or other person in control of the premises cannot be found and if there is no person in charge, the officer shall immediately enter into and place the residential tenant in possession of the premises. The officer shall also serve the order and verified petition or affidavit immediately upon the landlord or agent, in the same manner as a summons is required to be served in a civil action in district court.



# *Hotels and Shelters*

- Minn. Stat. § 327.70 Definitions
- Minn. Stat. § 327.72 Overstaying Guests
- Minn. Stat. § 327.73 Undesirable Guests; Ejection Of, and Refusal to Admit

# *Tenant versus Hotel Guest*

- A hotel is a building which is kept, used and advertised, or held out to the public as a place for sleeping or housekeeping accommodations or supplied for pay to guests for transient occupancy. Transient occupancy means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, if the unit occupied is the sole residence of the guest, the occupancy is not transient. There also is a rebuttable presumption that, if the unit occupied is not the sole residence of the guest, the occupancy is transient. [Minn. Stat. § 327.70, subds. 3, 5.](#)

# Tenant versus Hotel Guest

- In *Luten v. Salvation Army*, No. UD-1860324520 (Minn. Dist. Ct. 4th Dist. March 24, 1986) (Appendix 603) even though the respondent considered itself a hotel and not a landlord, the court noted that the nature of the tenancy is created by the conduct of the parties, as well as the written documents, and concluded that the petitioner was a tenant where he paid monthly rent for two years and reasonably understood that he was a tenant. See Residential Tenants' Remedies, Appendix 18. See *Gutierrez v. Eckert Farm Supply, Inc.*, No. C5-02-1900, 2003 WL 21500161 (Minn. Ct.App. July 1, 2003) (unpublished) (affirmed conclusion that hotel resident was a tenant and not a hotel guest).
- There are no laws that treat shelters any differently. They either are hotels if they fit the definitions above, or they landlords governed by Chapter 504B.

# Others Tenants

- Caretakers who live on the property: [Minn. Stat. § 504B.001, Subd. 12.](#)
- Shelters residents where the shelter is the sole residence: similar to hotels discussed earlier
- Nursing homes residents: [Minn. Stat. § 144A.13, Subd. 2.](#)
- Assisted living residents: [Minn. Stat. § 144G.11.](#)
- Board and lodging residents: while not stated in [Minn. Stat. Chapter 157](#), [Minn. Stat. § 504B.001, Subd. 12](#) should apply.
- Residences with services residents: while not stated in [Minn. Stat. Ch. 245D](#), [Minn. Stat. § 504B.001, Subd. 12](#) should apply.
- Group residential housing residents: while not stated in [Minn. Stat. Chapter 256I](#), [Minn. Stat. § 504B.001, Subd. 12](#) should apply.
- [More information.](#)

# *Tenant Guest and Trespass Rules*

- Some landlords have created trespass lists, under which the landlord seeks to exclude from the premises, persons whose names are contained on the list. In a tenancy, it is the tenant who has been given possession which is exclusive even against the landlord, with the only exceptions being the landlord's right to enter the premises to demand rent or make repairs, or exceptions provided by the lease. *Seabloom v. Krier*, 219 Minn. 362, \_\_\_, 18 N.W. 2d 88, 91 (1945).

# *Tenant Guest and Trespass Rules*

- It is the tenant who decides who may visit the tenant. The landlord does not have the right to exclude guests of the tenant without a court order, such as a harassment restraining order under Minn. Stat. § 609.748. See *State v. Hoyt*, 304 N.W.2d 884 (Minn. 1981); *State v. Holiday*, 585 N.W. 2d 68 (Minn. Ct.App. 1998).

# *Tenant Guest and Trespass Rules*

- A guest of a tenant cannot be a trespasser unless the tenant asks the guest to leave and the guest refuses. If a person is on the property and is not a guest of a tenant or the landlord, the landlord could exclude the person.
- The only legal method for the landlord to exclude a guest of the tenant would be to obtain a restraining order against the guest, such as one available under the harassment statute.
- However, in some cases, the tenant may be responsible for the actions of a guest of the tenant.
- [More information.](#)

# *Excluding Relatives and Guests*

- Adult members of the same family in the same dwelling might or might not be in a landlord and tenant relationship.
- The issue is whether the person residing on the property pays rent or provides services in lieu of rent under [Minn. Stat. § 504B.001](#).
- If one member owns the property and the other does not pay rent or provide services in lieu of rent, the other is not a tenant.
- If the other person pays rent or provides services in lieu of rent, the other is a tenant.

# *Excluding Relatives and Guests*

- Options for non-tenants
- File an eviction action to evict the other person as one unlawful detainer of the property under [Minn. Stat. § 504B.301](#). See *DePetro v. DePetro*, No. A03-727, 2004 WL 885552 (Minn. Ct.App. April 27, 2004) (unpublished) (affirmed eviction by owner of her adult daughter who was not a rent-paying tenant).
- Trespass (discussed earlier)
- Lockout (discussed earlier)
- We will discuss harassment and abuse shortly.

# *Excluding Relatives and Guests*

- Options for tenants
- File eviction action for nonpayment of rent or failure to provided services as agreed, or breach of other conditions of occupancy
- If tenant is compliant, give notice to terminate tenancy. The period of notice can range from one to three months. If the tenant does not comply, file an eviction action.
- We will discuss harassment and abuse shortly.
- Options not available: Trespass (discussed earlier); Lockout (discussed earlier)

# *Harassment and Abuse*

Tenants, non-tenants, landlords, and managers can be excluded through harassment and domestic abuse restraining orders.

- Minn. Stat. § 609.748 Harassment; Restraining Order
- Minn. Stat. § 518B.01 Domestic Abuse Act
- A vulnerable adult victim of financial exploitation
  - Minn. Stat. § 626.557, Subd. 20 Reporting of Maltreatment Of Vulnerable Adults
  - Minn. Stat. § 626.5572 Definitions

# *Manufactured (Mobile) Home Parks*

## Minn. Stat. § 327C.11 Eviction Proceedings, Subd. 4.

- Conditional writ. Where the interests of justice require the court may issue a conditional writ of restitution, which orders the resident and all those in the resident's household to stop residing in the park within a reasonable period not to exceed seven days, but which allows the resident's home to remain on the lot for 60 days for the purpose of an in park sale, as provided in section 327C.07. The writ shall also direct the park owner to notify any party holding a security interest in the resident's home and known to the park owner, of the provisions of the writ.

# *Manufactured (Mobile) Home Parks*

- If the court issues a conditional writ, the resident may keep the home on the lot for 60 days for an in park sale if: (a) neither the resident nor members of the resident's household reside in the park; (b) the resident complies with all rules relating to home and lot maintenance; and (c) the resident pays on time all rent and utility charges owed to the park owner. If the resident fails to meet any of these conditions, the park owner may, on three days' written notice to the resident, move the court for an order making the writ of restitution unconditional. Sixty-one days after the issuance of a conditional writ, the writ shall become absolute without further court action.

# *Manufactured Home Repossession*

Manufactured Home Repossession Security Act, [Minn. Stat. § 327.61-327.67](#)

- 30 day notice of default by secured party
- Failure to cure
- 30 day notice to reinstate
- Court action to repossess (can be during reinstatement period)
- Reinstatement suspends action
- Voluntary repossession by written agreement

# *Manufactured Home Collection Exemption*

## Minn. Stat. § 550.37 Property Exempt

- Subdivision 1. Exemption. The property mentioned in this section is not liable to attachment, garnishment, or sale on any final process, issued from any court.
- Subd. 12. Manufactured home. A manufactured home, as defined in section 168.002, subdivision 16, which is actually inhabited as a home by the debtor.

## Minn. Stat. § 168.002 Definitions

- Subd. 16. Manufactured home. "Manufactured home" has the meaning given it in section 327.31, subdivision 6.

# *Manufactured Home Collection Exemption*

## Minn. Stat. § 327.31 Definitions

- Subd. 6. Manufactured home. "Manufactured home" means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under this chapter.

# Questions

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