

STATE OF MINNESOTA
COUNTY OF KANABEC

DISTRICT COURT
TENTH JUDICIAL DISTRICT

Jenni Henry, Glen Henry
Plaintiff(s)

Court File No.: 33-CV-20-180

vs.

[REDACTED]
[REDACTED]
Defendant(s)

ORDER

The above matter came before Judge Stoney Hiljus on October 28, 2020 via Zoom for an Eviction Hearing.

Plaintiff Jenni Henry appeared by video and Plaintiff Glen Henry appeared by phone. Both plaintiffs appeared pro-se.

Defendants [REDACTED] appeared by video and were represented by Attorney Geoffrey Miller.

Findings of Fact

1. Plaintiffs originally filed an Eviction action against the above named Defendants on August 24, 2020 in file 33-CV-20-174. The Court held a hearing on August 31, 2020 and determined that pursuant to Governor Emergency Executive Order 20-79 property owners must provide tenants a written notice of intent to file an eviction action at least 7 days prior to filing an eviction action or the specified notice period provided in the lease, whichever is longer. The Court found Plaintiff had not provided timely notice of intent to

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Appendix PED-2

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file an eviction action to the Defendants. This Court determined that the eviction action could not proceed at that time under the Governor's Executive Orders due to Plaintiff not giving the required 7-day notice and the case was dismissed without prejudice.

2. Immediately after the hearing on September 1, 2020, Plaintiff re-filed the eviction action against Defendants in this file.

3. Due to the COVID-19 pandemic, Governor Timothy Walz declared a peacetime emergency on March 23, 2020 via Executive Order 20-14. Executive Order 20-14 and 20-73 created a statewide moratorium on residential evictions. Executive Order 20-79 carved out some limited exceptions that allow residential evictions to go forward in certain circumstances. These limited exceptions are available for as long as the peacetime emergency remains in place. There have been several extensions of the peacetime emergency and the most recent Executive Order 20-92 extends the peacetime emergency through November 12, 2020.

4. Paragraph 2(d)(ii) of Executive Order 20-79 allows for residential evictions to move forward if the tenant(s), “d. Materially violates a residential lease by the following actions on the premises, including the common area and the curtilage of the premises:...ii. Significantly damages property.” Plaintiffs in the case make a number of additional claims, however, our findings must be limited to whether the Defendants caused significant damages to the property because the other claims are barred by the moratorium.

5. Plaintiffs’ claims of significant damage primarily stem from accusations that Defendants did remodeling work to the property. Plaintiffs also state that one of the doors on the property was damaged and then secured with woodscrews through the door and

frame. Plaintiffs also submitted pictures of what they claim are unsanitary conditions on the property, but the pictures submitted by Plaintiffs are difficult to see. The remodeling consisted mainly of re-tiling portions of the property, including the bathtub surround and a backsplash in the kitchen. Defendants demolished the bathroom floor with the intent to re-tile it as well and Defendant began to re-tile the floor before they were told to stop. Defendants were told by plaintiffs to stop any further remodel work several times. Plaintiff eventually repaired the floor in the bathroom with vinyl flooring. Plaintiffs had a housing inspector visit the property. The housing inspector did not testify nor was an inspection report submitted into evidence.

6. Defendants do not deny remodeling or re-tiling the property, however, they claim that some of the old tile at the property was sharp or moldy and was dangerous to their family. They state the side door was secured with woodscrews after someone tried to break into the house as a temporary fix until the door frame could be repaired. Defendants introduced pictures of tiling work and other parts of the property. These pictures show little to no remaining damage and the property appears in at least as good a condition as it was originally, if not substantially better. Defendants did, though, damage the property when they did demo work to begin the remodel work. Plaintiff had never requested nor approved the remodel work done by Defendants.

Conclusions of Law

7. Across the state, country, and globe, courts are struggling to deal with unprecedented times. There is very little case law on how matters should proceed during a global pandemic. While there is no dispute Executive Order 20-79 governs this action, the executive order lacks detail in many ways. “Significant damage” is not defined in the

Executive Order. At the most basic level of context, the Court notes the Merriam-Webster definition of significant: a noticeably or measurably large amount. Additionally, the Executive Order does not speak to what a court should do if tenants had caused damage to the property, but repaired it before the eviction action (the current action) was filed.

8. This Court must decide two narrow issues. First, did the tenants significantly damage the property? If they have not significantly damaged the property this matter must be dismissed because it is unable to proceed under Executive Order 20-79. Second, if the tenants did cause significant damage to the property, but have since rectified the significant damage, can this action still proceed under Executive Order 20-79.

9. The Court concludes that the tenants materially breached the lease when they began demolition and remodel work. During this time, there may have been instances where damage to the property was “significant” as an English dictionary defines it. The demolition of the bathroom floor and tub surround by Defendants without permission are particularly concerning. The demolition work was significant. However, since it appears from the evidence submitted at the hearing that there is no longer any significant damage, the Court will use other context from Executive Order 20-79 to arrive at a legal conclusion on the second issue.

10. The first paragraph of Executive Order 20-79 states that the purpose of Executive Order 20-14, which declared a peacetime emergency, was “to protect the public health by ensuring that Minnesotans were stably housed during the COVID-19 pandemic”. The order goes on to say that moratorium on evictions “have been crucial to protect public health by promoting Minnesotans’ housing stability and preventing displacement during

the COVID-19 pandemic”. The exceptions for residential evictions in Executive Order 20-79 were created to “continue to strike a balance between the crucial importance of maintaining public health and stability for residential tenants, the economic impacts of the COVID-19 pandemic on tenants, and the interests of housing providers to maintain and protect their properties”.

11. A court cannot operate in a bubble. The COVID-19 pandemic is worsening throughout the country and in Minnesota. Infection rates are on the rise. The underlying purpose of this eviction moratorium is to protect the health and safety of not only tenants of rental units, but those elsewhere across the state. Tenants evicted from housing often move around, perhaps to family or friends’ houses, thus increasing travel and the potential for infection spread. The Court sympathizes with landlords and property managers across the state who do not have the options to regain possession they did before the pandemic and how this may be affecting their livelihood. The Court understands that the Plaintiffs in this case did not give Defendants permission to remodel any part of the property and in fact told them to stop. Plaintiffs will have remedies in conciliation court and housing court available to them once the eviction moratorium is lifted.

12. In this specific case, any significant damage to the property caused by the Defendants has now been rectified and balancing that fact against the public policy considerations in the Executive Order leads the Court to dismiss this action as unable to proceed due to Executive Order 20-79.

Based on the information in the file and the facts set out above the Court makes the following:

ORDER

1. This eviction action is hereby **DISMISSED** without prejudice due to Executive Order 20-79.
2. The Kanabec County Court Administrator shall serve a true and correct copy of this Order by U.S. Mail upon the above-named parties.



Hiljus, Stoney (Judge)
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Stoney L. Hiljus
Judge of District Court