

State of Minnesota

Hennepin County

District Court

Judicial District:	Fourth
Court File Number:	27-CV-HC-20-1438
Case Type:	Housing

IH2 Property Illinois, L.P. dba Invitation
Homes,

Plaintiff,

vs.

**Eviction Action – Findings of
Fact, Conclusions of Law,
Order and Judgment
(Minn. Stat. § 504B.285, 504B.345)**

Defendant.

This matter came on for trial before the Honorable Tiffany Sedillos, Referee of District Court, on July 23, 2020.

Plaintiff was not present. Plaintiff shall hereinafter be referred to as Landlord. Defendant was present. Defendant shall hereinafter be referred to as Tenant.

Lindsay Cremona, Esq., Attorney for Landlord, appeared.

Based upon the verified petition, testimony, evidence, and arguments presented, and all of the files, records, and proceedings, the Court makes the following:

Findings of Fact and Conclusions of Law

1. This matter involves residential property located at 7897 Kingsview Lane North, Maple Grove, Hennepin County, Minnesota, 55311 (“Property”).

2. The parties entered a lease effective from February 29, 2020 to February 27, 2022. The current rent amount is \$2,075.00 per month.

3. On July 1, 2020, Landlord commenced an eviction action against Tenant. On July 16, 2020 Landlord filed an Amended Complaint alleging Tenant violated Minnesota Statutes sections 504B.171, subdivision 1(a)(1)(i) by unlawfully allowing controlled substances in the Property or in the common area and curtilage of the Property and (iv) by allowing stolen property or property obtained by robbery in those premises or in the common area and curtilage of the premises.

4. The Governor’s Executive Orders 20-14 and 20-73 allow for exceptions to the present eviction moratorium as follows, “eviction actions based on cases where the tenant seriously endangers the safety of other residents or for violations of Minnesota Statutes 2019, section 504B.171, subdivision 1” and therefore the Court set this matter for a hearing.

5. Tenant did not file a written answer to the complaint but appeared on July 16, 2020 at the initial hearing in this matter to deny Landlord's allegations.

6. The Court then set this matter for a July 23, 2020, court trial on the issues of the eviction case and defenses.

7. The Court did not require Tenant to deposit rent as security into Court.

8. Landlord called five witnesses to testify at trial including Tenant. Tenant called herself and one other witness to testify.

9. Colleen Conrad, an Assistant Portfolio Manager with Landlord credibly testified that Tenant signed a lease for the Property and that lease agreement was Exhibit 1.

10. On April 27, 2020, Ofc. Nordby of the Maple Grove Police Department testified that he responded to a call at the Property from a neighbor stating that people at the Property were smoking marijuana in the backyard. Ofc. Nordby spoke to two people in the home neither of whom were Tenant. Ofc. Nordby did not visually see anyone smoking marijuana in the home but did smell the odor of marijuana. Ofc. Nordby spoke to someone on the telephone who identified themselves as Tenant and his report indicates that Tenant stated "she had no knowledge that anyone was smoking marijuana inside her house."

11. On June 10, 2020, the Maple Grove Police Department was dispatched to Tenant's address after an anonymous report of marijuana use at the Property. An officer did not make contact with anyone inside the home and no citations were issued. The officer who attended this call did not testify at the trial.

12. Ofc. Marinello of the Maple Grove Police Department testified regarding a call to the Tenant's residence on June 30, 2020. Ofc. Marinello credibly testified that he stood by while Erik Huard, a Motorwerks BMW employee repossessed a vehicle parked at Tenant's residence. Ofc. Marinello credibly testified that he did not search the vehicle because it was not a criminal matter but a civil repossession matter. Ofc. Marinello testified that he spoke to a person at the scene that he later learned from Mr. Huard to be Rolanda Lott. Ofc. Marinello, stated that Ms. Lott stated that "her landlord would be mad if the police got called to her house."

13. Erik Huard credibly testified that he is a Service Manager at BMW-Motorwerks in Bloomington. He testified that Rolanda Lott took a loaner vehicle from the BMW dealership after dropping off her BMW to be repaired, and did not timely return the loaner vehicle. Mr. Huard credibly testified that the vehicle "pinged" in the driveway of the Property. Mr. Huard went to the Property and retrieved the vehicle and the vehicles keys from Rolanda Lott. Mr. Huard testified that the vehicle had not been reported stolen to the police. Mr. Huard testified that after driving the vehicle to a gas station he found a bullet and marijuana inside the vehicle which were later turned over to the police. Mr. Huard testified that he had never spoken to the Tenant prior to the trial.

14. Tenant called Rolanda Lott as a witness. Ms. Lott credibly testified that she works for Tenant as a Personal Care Attendant for Tenant's son and that she picks up the Tenant's son and takes him to places in the community. However, the Court finds that beyond her employment information, Ms. Lott's testimony was generally not credible as it related to the events with the BMW vehicle and was contradicted by the testimonies of Ofc. Marinello and Mr. Haurd.

15. Tenant credibly testified that she and her two children live in the leased Property. Tenant credibly testified that she has had an ongoing dispute with a neighbor because her neighbor is flying a Nazi flag and she previously had a Black Lives Matter sign in her yard. Tenant credibly testified that she believes this neighbor is the source of the anonymous police calls alleging marijuana use at the Property but that the actual motivation of the reports is racial bias.

16. Tenant credibly testified that she has not allowed marijuana in the Property, she has chronic asthma and does not allow smoking in the Property. Tenant's testimony was supported by the fact that no one was cited or arrested at her home for drug use despite repeated police visits. Tenant's testimony is further supported by the fact that she was not at the Property during any of these incidents.

17. An eviction action is a summary proceeding to determine only the extant possessory rights to property. *See* Minn. Stat. §504B.001 subd. 4 (2016). In an eviction proceeding, "the only issue for determination is whether the facts alleged in the complaint are true." *Minneapolis Cmty. Dev. Agency v. Smallwood*, 379 N.W.2d 554, 555 (Minn. Ct. App. 1985) *review denied* (Minn. February 19, 1986).

18. A landlord must prove grounds for eviction by a preponderance of the evidence. *Parkin v. Fitzgerald*, 240 N.W.2d 828, 832 (Minn. 1976).

19. The Court finds that Landlord presented no witnesses who testified that Tenant was aware of or allowed any controlled substances on the Property. Specifically, no one testified that Tenant was at home on April 27 or June 10, when marijuana was smelled coming from the direction of the home. The two officers did not testify that they observed marijuana in or near the Property but rather smelled marijuana smoke generally in the area of the home. The officers did not speak to or even see Tenant at the Property on these occasions. Officer Nordby spoke to someone on the telephone who identified themselves as Tenant and his report indicates that Tenant stated "she had no knowledge that anyone was smoking marijuana inside her house." Additionally, there was no evidence presented about the relationship between Tenant and the individuals that the officers did encounter on the Property that would suggest Tenant knew or should have known those individuals were bringing controlled substances into the Property.

20. Additionally, no one testified that Tenant was at the Property on June 30, 2020, when the BMW was repossessed from the Property or that Tenant would have any knowledge of what was inside of the vehicle. There was no evidence presented that Tenant drove the vehicle, was ever inside the vehicle, that Tenant had the keys to the vehicle, or that Tenant would have any knowledge that the vehicle was overdue to BMW. Further, Officer Marinello's testimony was that he believed the vehicle issues at the Property to be a civil one not a criminal one provides

additional weight to the finding that Tenant did not and could not have known the vehicle was stolen. Finally, the only credible evidence presented on the relationship between Tenant and Ms. Lott was that Ms. Lott was an employee of Tenant. Nothing about that relationship suggests that Tenant knew or should have known that Ms. Lott had controlled substances or an overdue loaner car on the Property.

21. Based on the foregoing, the Court finds that Landlord has not proven by a preponderance of the evidence that Tenant violated Minnesota Statutes section 504B.171, subdivision 1(a)(1)(i) by unlawfully allowing controlled substances in the Property or in the common area and curtilage of the Property or (iv) allowing stolen property or property obtained by robbery in the premises or in the common area and curtilage of the premises.

Order

1. **DISMISSAL:** The case is dismissed WITH prejudice. The Court Administrator shall enter Judgment accordingly.

2. **SERVICE OF ORDER:** The Clerk of Court shall serve/e-serve a copy of this Order on all parties or their attorneys as appropriate.

3. **EXHIBITS:** Parties are informed, pursuant to Rule 128 of the Minnesota General Rules of Practice for the District Courts, it is the duty of the party offering exhibits during a trial to remove the exhibits from the custody of the Court. Parties may request the return of their exhibits after 15 days from the time allowed for appeal of the final decision has passed. Failure to request removal of the exhibits could result in the exhibits being part of the public record or could result in the exhibits being destroyed by the Court.

4. **EXPUNGEMENT:** Landlord's case is sufficiently without basis in fact or law, which may include lack of jurisdiction over the case. Expungement is clearly in the interests of justice and those interests are not out-weighed by the public's interest in knowing about the record. Minn. Stat. §484.014. Minn. Stat. §504B.345, subd. 1(c)(2) authorizes the Court to expunge the file at the time judgment is entered. The Court Administrator shall expunge Court File HC201438 by removing evidence of the Court File's existence from the publicly accessible records.

Let Judgment Be Entered Accordingly

Recommended By:



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Tiffany Sedillos
District Court Referee

July 28, 2020

By the Court:



District Court Judge

Dated:
Jul 28, 2020

Judgment

I hereby certify that the above Order constitutes the entry of Judgment of the Court.

Dated: Jul 28, 2020

By: 
Deputy Court Administrator