

State of Minnesota
Itasca County

District Court
9th Judicial District

Court File Number: 31-CV-20-2602

Case Type Eviction (UD)

Maureen Kluge, Robert Koehler vs [REDACTED]
[REDACTED]

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

This case was heard by the undersigned on November 19, 2020.

Date

PLAINTIFF:

- ☒ Appeared in person.
☐ Appeared through agent
☐ Did not appear and is in default.

Represented by: ☒ counsel ☐ agent

Jesse Powell
Name

DEFENDANT:

- ☐ Appeared in person.
☒ Did not appear and is in default.

Represented by: ☐ advocate ☐ counsel

Name

Defendant has ☐ admitted ☐ denied the allegations in the Eviction Action complaint.

Findings of Fact and Conclusions of Law

1. ☐ Plaintiff has failed to prove the allegations in the complaint.

2. ☒ COMPLAINT:

Plaintiff proved the following allegations by a preponderance of the evidence.

- ☐ a. Compliance with Minn. Stat. § 504B.181.
☐ b. Defendant has failed and refuses to pay rent for the month(s) of _____
_____ in the amount of \$ _____ per month payable on
the _____ day of each month for a total due of \$ _____.
☐ c. Notice to vacate was properly given and Defendant has failed to vacate said
property.
☐ d. Defendant has broken the terms of the rental agreement and Defendant has failed
to vacate the property.
☐ e. Defendant defaulted on the mortgage and the property has been sold at a Sheriff's
sale. The Redemption period has expired and Plaintiff is entitled to possession.
☐ f. Defendant defaulted on a contract deed and is holding over after proper
cancellation of the contract.
☒ g. Other: Defendant entered an oral lease to sublease a room in the home. Plaintiffs
credibly testified that Defendant, who is subleasing the house, is endangering the
safety of others. Defendant abuses heroin and brandished a handgun inside the
house. These allegations may allow for an eviction action under Emergency
Executive Order 20-79 because Defendant's actions allegedly seriously endanger
the safety of other tenants. However, Plaintiffs did not provide written notice of
the intent to evict Defendant seven days prior to filing the action as required in
Order 20-79. Mr. Koehler referenced text messages from November 6, 10, and 12,
2020 in which he asked Defendant to vacate the premises, but there was no formal

notice that he would be evicted if he refused. These text messages are not written notice of intent to evict Defendant and even if they satisfied that requirement, they were sent six days prior to filing, not seven. Plaintiffs did not comply with the notice requirements for an emergency eviction, and the Court cannot issue an eviction order.

Additionally, Plaintiff has not established proper service of the eviction action on Defendant. See Minn. Stat. § 504B.321 ("The summons, in an expedited hearing, shall be served upon the tenant within 24 hours of issuance unless the court orders otherwise for good cause shown."); Minn. Stat. §504B.331 (d)(1)-(d)(2); Koski v. Johnson, 837 N.W.2d 739, 744 (Minn. Ct. App. 2013).

Order

1. ☐ JUDGMENT:

The Court Administrator shall enter judgment for:

☐ **Plaintiff** for recovery of the premises. The Writ of Recovery of Premises and Order to Vacate shall be:

- ☐ i. issued immediately upon request and payment of fee.
☐ ii. stayed until

Date

☐ **Defendant** to remain in possession of the premises.

☐ **Allowable** costs and disbursements to the prevailing party.

2. ☒ DISMISSAL:

The case is dismissed ☐ WITH ☒ WITHOUT prejudice and the Court Administrator shall enter Judgment accordingly.

☒ **Let Judgment Be Entered Accordingly.**

Recommended by:

By the Court:

Filed in District Court
State of Minnesota

McBroom, Sarah

Sarah L McBroom

2020.11.19

14:48:21 -06'00'

Collins, Shari
Nov 19 2020 3:31 PM

11/19/20

Housing Court Referee

Date

Judge

Date

Judgment

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

Dated: _____

Sean R Jones
Court Administrator

By: _____

Shari Collins
Collins, Shari
Nov 19 2020 3:31 PM

Deputy