

State of Minnesota
Crow Wing County

Anderson, Dana
Aug 6 2021 1:00 PM

District Court
Ninth Judicial District

Court File Number: 18-CV-21-2162

Case Type Eviction (UD)

Matt Orr vs [REDACTED]

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

This case was heard by the undersigned on August 4, 2021. Attorney Edward Shaw appeared with and on behalf of the Plaintiff. Attorney Laurence Chamberlain appeared with an on behalf of the Defendant. The matter was hearing via zoom videoconference. Defendant moved to dismiss the matter for lack of proper notice pursuant to Governor Walz's Executive Order 20-79, paragraph 6. The motion to dismiss for lack of proper notice was opposed by the Plaintiff, and denied by the Court. The matter then proceeded to Court Trial upon Defendant's denial of the allegations in the Eviction Complaint. The Court heard testimony from Plaintiff and Defendant, and received exhibits into evidence. Based upon the evidence presented, the Court makes the following:

FINDINGS OF FACT

1. Plaintiff and Defendant were in a long term relationship and have a child together.
2. In 2017, Plaintiff and Defendant endeavored to purchase a home where they would reside together. Defendant looked for homes, and Plaintiff purchased a home at 2030 Crestview Lane, Brainerd, MN. Plaintiff financed the down-payment for the home through a loan on his retirement account and a loan from his parents. Plaintiff obtained the remaining financing from Quicken, which holds a mortgage on the property. Defendant's name is not on the deed or the mortgage.
3. The parties' relationship was marked by domestic abuse, and Plaintiff has been excluded from the residence due to Domestic Abuse No Contact Orders. At the time of the hearing on the matter, Plaintiff was residing with his parents, because he is prohibited from having contact with Defendant due to a No Contact Order as part of his conditions of probation. Despite these issues, Plaintiff Petitioned for and obtained – by default - sole legal and physical custody of the parties' minor child. The minor child resides with Plaintiff at his parents' home.
4. Plaintiff alleges in his complaint that he needs to move into the home within 7 days, pursuant to an exception of Executive Order 20-79. Plaintiff further alleged that Defendant was using illegal drugs on the property and was substantially damaging the property.
5. Proper notice of the Eviction action was given, by letter dated April 21, 2021, as required by Executive Order 20-79, paragraph 6.
6. Defendant was properly served with the Eviction Complaint.
7. There is no lease agreement between the parties. Defendant does not pay rent.
8. There was no evidence presented by the Plaintiff that Defendant was using illegal drugs on the property.
9. There was no evidence the Plaintiff that Defendant was causing significant damage to the property. Defendant testified that she has removed sheetrock from a wall because it needs to be replaced due to Plaintiff damaging the wall by throwing objects at the wall or punching the wall. This testimony by Defendant was supported by Plaintiff's criminal convictions and his exclusion from the residence as a result of a No Contact Order.

10. There was no evidence presented by the Plaintiff that he needed to move into the residence within seven days. Plaintiff did not present evidence that he and his child were about to be evicted from his parents' residence and would be homeless absent the ability to move into the residence at 2030 Crestview Lane.
11. Defendant would be homeless if she were evicted within seven days.
12. The Court has taken judicial notice of Court Files 18-FA-20-3487, 18-CR-20-3605, and 18-CR-21-324, without objection.

CONCLUSIONS OF LAW


1. At the time of the filing of the action, Executive Order 20-79 was in effect.
2. Executive Order 20-79 was voided by Minnesota Session Law Chapter 8, Article 5 (2021) on June 30, 2021.
3. Session Law Chapter 8, Article 5 (2021) continues the requirements that a Plaintiff must prove that a residential tenant has engaged in illegal activity on the premises or has significantly damaged the property.
4. Plaintiff has not proved by a preponderance of the evidence that conditions exist at this time that would allow eviction of Defendant under either Executive Order 20-79 or Session Law Chapter 8, Article 5 (2021).

Order

1. The Court Administrator shall enter judgment for DEFENDANT, who shall remain in possession of the premises.
2. The Case is dismissed without prejudice and the Court Administrator shall enter Judgment accordingly.

Let Judgment Be Entered Accordingly.


Recommended by:

 Davies, Heidi
2021.08.05 17:47:37
-05'00'

Housing Court Referee

Date

By the Court:

 Askegaard, Erik
Aug 6 2021 12:53 PM

Judge

Date

Judgment

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

Dated: 8/6/21

Alice R. Middendorf
Court Administrator

By: Lois J. Nacey
Deputy