

State of Minnesota

Hennepin County

District Court

Judicial District:	Fourth
Court File Number:	27-CV-HC-20-1360
Case Type:	Housing

Sela Group, LLC,
Plaintiff,
vs.

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

Defendants.

This matter came on for trial before the Honorable Tiffany Sedillos, Referee of District Court, on June 16, 2020 and June 30, 2020.

Amy Gonyea, Agent for Plaintiff was present. Plaintiff shall hereinafter be referred to as Landlord. Defendant [REDACTED] was present. Defendant [REDACTED] was not present. Defendant [REDACTED] shall hereinafter be referred to as Tenant.

Christopher Kalla, 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:

PROCEDURAL HISTORY AND FINDINGS OF FACT

1. This matter involves residential property located at 3852 West Broadway, #20, Robbinsdal, Hennepin County, Minnesota, 55422.

2. The parties entered a month-to-month lease effective beginning January 16, 2018. The current rent amount is \$840.00 per month. Landlord proved compliance with Minn. Stat. § 504B.181. Ex. A to Complaint.

3. On May 22, 2020, Landlord commenced an eviction action against Defendants, alleging a breach of lease and breach of the statutory covenants not to allow unlawful activities. Specifically, Landlord alleges in the complaint that [REDACTED] was in possession of a firearm and ammunition on March 14, 2020. Landlord alleges [REDACTED] was prohibited from possession of a firearm because of a prior criminal conviction. According to Landlord, the firearm was stolen and [REDACTED] assaulted another resident using the stolen firearm. Landlord states these actions violated Minnesota Statutes section 504B.171, subdivision 1(a)(1)(iii, iv) and violates paragraph 22 of the Lease.

4. On March 23, 2020, the Governor signed Emergency Executive Order 20-14, which suspended eviction actions from March 24, 2020, through the end of the peacetime emergency declared in Executive Order 20-01 or until the Order is rescinded. Emergency Executive Order 20-14 states, “[t]his suspension does not include 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.”

5. Based on Landlord’s representations, the Court found that Landlord had presented sufficient facts to proceed with an eviction action under the exception to the Governor’s Executive Order.

6. Defendants did not file a written answer to the complaint but Tenant [REDACTED] appeared on June 2, 2020 at the initial hearing in this matter to deny Landlord’s allegations.

7. The Court set this matter for June 16, 2020 court trial on the issues of breach of lease and breach of the statutory covenants. After Landlord presented his case in chief, the hearing was continued for a second day of testimony until June 30, 2020.

8. There is no dispute that [REDACTED] [REDACTED] is a residential tenant in the property. She is the only person named as a tenant in the lease agreement and currently resides in the property. Ex. A to Complaint. [REDACTED] however, is not named as a tenant or occupant in the lease agreement. Ex. A to Complaint.

9. Landlord’s General Manager, Amy Gonyea, credibly testified that [REDACTED] did not have a lease with Landlord and was not an authorized tenant at the property. None of the Landlord’s witnesses testified that they personally observed [REDACTED] [REDACTED] at the property, at any time before or after March 14, 2020.

10. Ms. [REDACTED] credibly testified that her adult son, [REDACTED] [REDACTED] was not a tenant but had occasionally been a guest at her apartment, a few days out of a month. Ms. [REDACTED] credibly testified that she allowed Mr. [REDACTED] to store some personal items and receive mail at her apartment because he is homeless and had nowhere else to store his personal property or get mail.

11. Landlord did not present any witnesses who identified [REDACTED] [REDACTED] as a tenant or regular occupant of the apartment.

12. Ms. Gonyea testified that on March 14, 2020, in the afternoon she was called to the property because a search warrant was being executed related to a shooting that happened near the property. Ms. Gonyea testified that she was not allowed into the apartment. Ms. Gonyea testified that other tenants told her that they were afraid after the shooting incident but she could not identify any specific tenants. Ms. Gonyea alleged that multiple residents told her a gun was fired and that the police found [REDACTED] [REDACTED] hiding in a laundry room. Despite these allegations, Landlord did not call any first-hand witnesses to the events on March 14, 2020.

13. Landlord’s Assistant to General Manager, Tina Quiel, testified that she went also to the property on March 14, 2020 after being advised that a shooting had occurred. Ms. Quiel credibly testified that she entered into the apartment and observed men’s clothing and mail that had [REDACTED] name on it.

14. Ms. [REDACTED] credibly testified and provided evidence that she was at work as a live-in caretaker from the afternoon of March 13 until March 16, 2020. Defendant’s Ex. 1. Defendant

credibly testified that she was not home on March 14, 2020 and had no first hand knowledge of the incident that occurred on that date at the apartment.

15. Ms. [REDACTED] credibly testified that she did not give [REDACTED] a key for her apartment and she did not know how [REDACTED] accessed her apartment on March 14, 2020. Landlord did not provide any first-hand accounts that [REDACTED] allowed [REDACTED] into the apartment on March 14, 2020.

16. The parties agree that on March 16, 2020¹, when Ms. [REDACTED] returned to the property after work there was a conversation between, Ms. Gonyea, Ms. Quiel and Ms. [REDACTED]. Ms. Gonyea testified that when she met with [REDACTED] she told Ms. [REDACTED] that there was a crime committed with her apartment unit and they found a gun in her apartment. Ms. Gonyea testified that Ms. [REDACTED] stated that it must have been her gun used in the crime. Ms. Quiel's version of the conversation was that Ms. Gonyea told Ms. [REDACTED] there was an incident with her apartment on the property. Ms. [REDACTED] then said she had a gun and that her son must have used her gun, she had purchased it to go to the gun range down the street and practice shooting. Ms. Quiel's stated that based on the conversation her understanding was that the gun used in the shooting came from Ms. [REDACTED] apartment. Ms. [REDACTED] version of the conversation was that Ms. Gonyea said "Lena did you have a gun in your unit?" Ms. [REDACTED] testified that she told Ms. Gonyea that she had purchased a gun for her protection but that it had previously been stolen. Ms. [REDACTED] account of this conversation was the most credible because it was subsequently corroborated by Landlord's witness, Detective Gates, who indicated that Ms. [REDACTED] had in fact reported her firearm stolen prior to the March 14, 2020 incident.

17. Ms. [REDACTED] credibly testified that she was not aware that [REDACTED] had stolen her gun.

18. Detective Gates testified that he assisted with the investigation of the incident on March 14, 2020. Detective Gates credibly testified that [REDACTED] has a prior felony conviction that makes him ineligible to possess a firearm. Detective Gates was not at the property on March 14, 2020, but he credibly testified that he reviewed a video of [REDACTED] "with a black object in his hand holding it like it was a gun, which was the basis of the criminal complaint."

19. Detective Gates testified that the gun that was used in the March 14, 2020, incident had been reported stolen to the police by Ms. [REDACTED] prior to March 14, 2020.

20. Ms. [REDACTED] testified that the last time she spoke to [REDACTED] was by phone in April 2020 and that to her knowledge Mr. [REDACTED] had not been at the property since March 14, 2020. Landlord presented no evidence to dispute that Mr. [REDACTED] had not been at the property since March 14, 2020 when he was arrested.

CONCLUSIONS OF LAW

1. An eviction action is a summary proceeding to determine only the extant possessory rights to property. *See* Minn. Stat. §504B.001 subd. 4 (2016). A landlord is entitled to

¹ Ms. [REDACTED] testified and her work schedule confirmed that she was at work until March 16, 2020 at 12:30pm and then returned to her apartment. Ex. 1.

possession by eviction when a tenant holds over “contrary to the conditions or covenants of the lease or agreement under which that person holds.” Minn. Stat. §504B.285 subd. 1(2) (2016).

2. On review of a district court judgment in an eviction action, the Court of Appeals shall defer to the district court’s credibility determinations and rely on its factual findings unless they are clearly erroneous. *See Cimarron Village v. Washington*, 659 N.W.2d 811, 817-18 (Minn. Ct. App. 2003).

3. 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).

4. Emergency Executive Order 20-14, which suspended eviction actions from March 24, 2020, through the end of the peacetime emergency states, “[t]his suspension does not include 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.”

5. Landlord alleged in the complaint that “Tenants have broken the terms of the Lease on or about March 14, 2020 by violation of: (a) Minn. Stat. § 504B.171, subd. 1(a)(1)(iii, iv), (b) paragraph 22 of the Lease. On March 14, 2020, [REDACTED] was in possession of a firearm and ammunition; he was prohibited from possession because of a prior criminal conviction. The firearm was stolen. [REDACTED] assaulted another resident using the stolen firearm.”

6. A “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. Minn. Stat. § 504B.001, subd. 12. Based on the facts outlined above, the court finds that [REDACTED] was a residential tenant and that [REDACTED] was **not** a residential tenant of the apartment.

7. In every lease or license of residential premises, whether in writing or parol, the landlord or licensor and the tenant or licensee covenant that neither will: allow the unlawful use or possession of a firearm in violation of section 609.66, subdivision 1a, 609.67, or 624.713, on the premises or in the common area and curtilage of the premises; or (iv) allow stolen property or property obtained by robbery in those premises or in the common area and curtilage of the premises. Minn. Stat. § 504B.171, subs. 1(a)(1)(iii) and (iv).

8. Landlord failed to prove by a preponderance of the evidence that [REDACTED] allowed the unlawful use or possession of a firearm on the premises or in the common area and curtilage of the premises nor did Landlord prove by a preponderance of the evidence that Ms. [REDACTED] allowed stolen property or property obtained by robbery in her premises or in the common area and curtilage of the premises.

9. The lease agreement states that Tenant shall not engage in any conduct or activities which are illegal, would constitute a nuisance, or will interfere with the comfort and enjoyment of other tenants. Tenant also assumes responsibility for the conduct of her family, guests, other occupants, and any other person affiliated with or related to Tenant. Ex. A, para. 22 to Complaint.

10. Landlord failed to prove by a preponderance of the evidence that based on the March 14, 2020, incident, [REDACTED] breached her lease agreement. Ms. [REDACTED] did not engage in any conduct or activities which are illegal, would constitute a nuisance, or interfered with the comfort and enjoyment of other tenants. Additionally, [REDACTED] was not a guest or a person affiliated with Ms. [REDACTED] on March 14, 2020. Ms. [REDACTED] did not have control over Mr. [REDACTED] on March 14, 2020; she credibly testified that she was at work at the time of the incident, did not allow Mr. [REDACTED] into the apartment on March 14, 2020, did not give Mr. [REDACTED] a key to access the unit, and did not allow Mr. [REDACTED] to reside with her.

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. Expungement is clearly in the interests of justice and those interests are not out-weighted 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 HC20-1360 by removing evidence of the Court File's existence from the publicly accessible records.

Let Judgment Be Entered Accordingly

Recommended By:

By the Court:

Tiffany Sedillos
District Court Referee

July 13, 2020

District Court Judge

Dated:

Judgment

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

Dated: _____

By: _____
Deputy Court Administrator