

State of Minnesota

Hennepin County

District Court

Judicial District:	Fourth
Court File Number:	27-CV-HC-20-1771
Case Type:	Housing

Supportive Living Solutions,
Plaintiff,

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

vs.

Tanisha [REDACTED]
Defendant.

This matter came on for trial before the Honorable Mark Labine, Referee of Housing Court on December 21, 2020. The record remained open until December 28, 2020 for final submissions of the parties.

The Plaintiff was present. Plaintiff shall hereinafter be referred to as Landlord. The Defendant was present. Defendant shall hereinafter be referred to as Tenant.

Robin Williams, Attorney for Landlord, appeared.

Dean Treftz, Attorney for Tenant, 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 property owned by Supportive Living Solutions which is located at 1818 Bryant Avenue North, #21, Minneapolis, Minnesota 55411, which is in Hennepin County. (hereinafter may be referred to as Leased Property).

2. The parties entered a written month-to-month lease effective beginning December 2018. The current rent amount is \$884.00 per month. (See Exhibit # 1).

3. The Parties' lease forbids Tenant or her guests from causing disturbances at the property. The lease also forbids Tenant from allowing a non-tenants to take control of the unit or allowing a non-tenant to be in the unit while Tenant is not there.

4. The lease does not hold Tenant responsible for the actions of former guests nor does it limit who may or may not be a guest.

5. On November 2, 2020 a homicide occurred at the Leased Property.

6. By letter dated November 4, 2020, Tenant was put on notice that Landlord intended to file an eviction action against her on November 12, 2020, claiming that one of her guests caused a disturbance at the Leased Property on November 2, 2020. (See Exhibit 2).

7. On November 19, 2020, Landlord commenced an eviction action against Tenant, alleging breach of paragraph 13. (5) & (8) of lease by allowing suspected drug dealers and drug users to enter the Leased Property who caused disturbances and also because a guest of Tenant caused a disturbance and was involved in illegal behavior (i.e., the shooting and killing of another person on November 2, 2020).

8. Tenant did not file a written answer to the complaint, but appeared on December 7, 2020 at the initial hearing in this matter to deny Landlord's allegations. The Court set this matter for December 21, 2020 court trial on the issue of whether or not Landlord is entitled to possession under one of the exceptions to the Governor's Emergency Moratoriums on evictions in Minnesota.

Green Doe and John Doe

9. On or about February 19, 2019, it came to Landlord's attention that Tenant was allowing guests to stay in her apartment when she wasn't home. According to Tenant's rental file, she was informed by an employee of Plaintiff named Trevor Morales that it was not permissible for her to have guests in her apartment when she was not present. (See Exhibit # 5).

10. On July 6, 2020, Tenant met with Senior Housing Advocate Victor Jumah. (See Exhibit #5). Mr. Jumah testified credibly and stated he advised Tenant that it was a violation of the lease for Tenant to allow guests into the rental property late at night. Two guests that Tenant was allowing into the property late at night were identified as Green Doe and John Doe and it was believed they were involved in illegal drug activity at the Leased Property.

11. On repeated occasions, Tenant was observed letting a person known as "Green Doe" into the Leased Property. Green Doe got that name by virtue of his wearing an olive-green jacket while on the Leased Property. Specifically, Green Doe was observed entering Tenant's unit on August 23, 2020.

12. Green Doe had been observed selling what appeared to be narcotics outside the building and was a cause for concern for Landlord and for other residents in the building.

13. Senior Housing Advocate Victor Jumah testified he told Tenant on July 6, 2020; August 25, 2020; September 23, 2020; and October 28, 2020 to not allow unwanted persons into the building. This included the person identified as "Green Doe."

14. Victor Jumah testified he observed Green Doe conducting what appeared to be a drug deal in front of the Leased Property building. After this transaction, another Tenant let Green Doe into the Leased Property.

15. On October 28, 2020, after Victor Jumah again warned Tenant about not allowing unwanted guests into the Leased Property, which included the person known as Green Doe.

Tenant promised that these unwanted guests would no longer be allowed in the property and that the issue of unwanted guests would no longer be a problem.

16. On November 2, 2020, the unwanted persons, hereby known as “John Doe” and “Green Doe” were involved in a shooting incident where a person was killed in the Leased Property’s parking lot. John Doe is observed shooting his gun and Green Doe is observed with a gun in his hand but is not observed actually firing his weapon. (See Exhibit #3).

17. John Doe, who committed the homicide, was observed in the apartment of another resident at the Leased Property named Jerome Copeland.

18. McCormick Gustafson testified that he believed the person known as Green Doe had been in Tenant’s apartment for approximately 2 hours on the afternoon of November 2, 2020. However, his testimony was based on his observing a video which was not presented as evidence during the trial.

19. Green Doe was observed with what appears to be a gun in his hand on the video at the Leased Property on November 2, 2020 when the shooting incident occurred. The video shows Green Doe knocking on the door of Jerome Copeland prior to the incident. Green Doe is not observed firing his weapon, however.

20. The video shows that someone propped open the security door at the Leased Property which allowed John Doe and Green Doe to enter and exit the building. It is unknown who propped the door open.

21. On November 3, 2020, Landlord conducted an inspection of Tenant’s unit looking for guns. No guns were found in Tenant’s unit.

22. On November 4, 2020, Tenant went into Landlords’ office and had a shouting match with Victor Jumah about the shooting incident on November 2, 2020. (See Exhibit #5).

23. Green Doe was observed in Tenant’s Unit on November 13, 2020. He was arrested outside the Leased Property. It is not clear whether or not Green Doe was charged with a crime related to the November 2, 2020 homicide. There is no evidence that the person known as Green Doe has ever committed a crime at the Leased Property. It is possible that his possession of a firearm was illegal, but there was no evidence presented to this court to show that.

24. Another Tenant at the Leased Property testified that she observed Green Doe enter Tenant’s apartment on December 8, 2020.

Serious Endangerment to Others

25. Under Emergency Executive Order 20-79, ¶ 2(a), evictions are allowed where a tenant seriously endangers the safety of other tenants. Under Emergency Executive Order 20-79, 2(d), evictions are allowed where a tenant materially violates the lease by seriously endangering the safety of others on the premises, including on or in common areas and the curtilage of the premises.

26. Plaintiff claims that Tenant violated the lease by allowing Green Doe onto the property, despite express warnings given to her.

27. Plaintiff argues that Tenant allowed Green Doe access to the Leased Property on November 2, 2020 and that Green Doe seriously endangered the safety of other Tenants on that date.

28. However, there is no evidence that Green Doe committed any acts that seriously endangered the safety of other Tenants on November 2, 2020. There is also no evidence that Tenant allowed Green Doe into the Leased Property on November 2, 2020.

29. It is possible that Landlord could evict Tenant for allowing unauthorized guests into the Leased Property in violation of the lease, however, at the present time that is not allowed under the Governor's moratorium. The court may only evict Tenant if one of her guests seriously endangered the safety of other Tenants. It is not clear if Green Doe seriously endangered the safety of other Tenants on November 2, 2020 and it is not clear if Green Doe was actually a guest of Tenant on November 2, 2020. Since this case rests on what happened on November 2, 2020, the court at this time has insufficient evidence to find that Tenant allowed Green Doe access to the Leased Property on November 2, 2020 or that Green Doe seriously endangered the safety of other Tenants on that date.

30. DEFENSES: Defendant(s) proved the following defenses by a preponderance of the evidence. Other: Failure of Plaintiff to establish that Defendant should be evicted under one of the exceptions of the Governor's Emergency Order E.O.70 et sec.

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 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. Minnesota Governor Tim Walz's Executive Order 20-79 ("EO 20-79") forbids evictions during the COVID-19 peacetime emergency that is still ongoing. EO 20-79 has exceptions that allow for evictions only in specific circumstances. The only three potentially relevant exceptions are that evictions are allowed when the tenant seriously endangers the safety of other residents, when the tenant materially violates a residential lease by seriously endangering the safety of others on the premises, and when the tenant violates Minn. Stat. § 504B.171—specifically Subdivision 1(1)(iii), which forbids the tenant from "allow[ing] the

unlawful use or possession of a firearm ... on the premises or in the common area and curtilage of the premises.” None of the exceptions apply because John Doe—the only person who put anyone in danger—was not Ms. [REDACTED] guest the night of November 2, and she did not allow anything that happened that night.

Order

1. JUDGMENT: The Court Administrator shall enter judgment for:

a. **Tenant** to remain in possession of the premises.

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

2. SERVICE OF ORDER: The Clerk of Court shall either give to the parties or mail to the parties by first class mail a copy of this Order, or e-serve the order to attorneys and/or parties if they are set up for e-filing.

☒ **Let Judgment Be Entered Accordingly**

Recommended by:

Approved by the Court:




Mark Labine, Referee
Dated: January 4, 2021

District Court Judge
Dated: Jan 04, 2021

Judgment

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

Dated: Jan 04, 2021

Court Administrator

By: Sharon C. Quinn
Deputy