

State of Minnesota**District Court**

Hennepin County

Judicial District:	Fourth
Court File Number:	27-CV-HC-20-1432
Case Type:	Housing

James Michael Tich,
Plaintiff,

vs.

 and her minor
children,

Defendant.

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

This matter came on for trial remotely by Zoom before the Honorable Tiffany Sedillos, Referee of District Court, on July 15, 2020.

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

Joel Van Nurden, Esq., Attorney for Landlord, appeared.

Jeffer Ali, Esq., 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 a residential property owned by Landlord located at 5417 34th Place N, Crystal, Hennepin County, Minnesota, 55422. (“Property”)

2. On or about, September 2018, Tenant and her children moved into the property with Landlord, as his girlfriend. The parties do not have a written lease agreement.

3. On June 30, 2020, Landlord commenced an eviction action against Tenant, alleging a breach of the statutory covenants not to allow unlawful activities by allowing controlled substances on the premises and holdover after notice to quit served on Tenant on June 17, 2020.

4. Tenant did not file a written answer to the complaint but filed a Motion to Dismiss and appeared on July 9, 2020 at the initial hearing in this matter to deny Landlord’s allegations.

5. The Governor’s Executive Orders 20-14 and 20-73 allows 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.” The Court set this matter for a court trial on the issue of whether Tenant allowed controlled substances on the premises in violation of Minnesota Statutes section 504B.171, subdivision 1(a)(1)(i). No other issues were tried based on the reasoning in the Court’s July 15, 2020, Order on Defendant’s Motion to Dismiss.

6. The Landlord called one witness to testify, Gregory Merchant. Mr. Merchant testified that he has known Tenant for about five years and Landlord for about 30 years. Mr. Merchant testified that about two months ago, when Landlord and Tenant were still co-habiting, he saw Tenant smoking marijuana in the Property with her children. Mr. Merchant testified that he did not call the police to report any illegal drug use but did eventually file a report with child protective services.

7. Tenant called one witness, herself, ██████████ to testify. Ms. ██████████ credibly denied the allegation of Mr. Merchant. Ms. ██████████ testified that Landlord has come to the property with a police escort approximately five times in June 2020 and she has not been arrested or charged with any crimes related to marijuana. Ms. ██████████ testified that she previously was friends with Mr. Merchant, but that about two years ago he developed romantic feelings for her which she did not reciprocate, at which point they were not friends anymore and that this was his motivation for making a false allegation.

8. Neither party introduced any exhibits into evidence during the trial.

9. 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).

10. The Court finds that Landlord’s witness, Mr. Merchant’s testimony was not credible, and was motivated by his loyalty to the Landlord his long-time friend, and animosity towards Ms. ██████████.

11. The Court finds that Ms. ██████████’ testimony was more credible, and was corroborated by the fact that despite frequent police visits to the Property in recent months, there have been no citations issued, arrests made, or charges brought related to controlled substances at the Property.

12. 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.

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. 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-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 27CVHC20-1432 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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By the Court:



Tiffany Sedillos
District Court Referee

July 24, 2020

District Court Judge

Dated: Jul 24, 2020

Judgment

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

Dated: Jul 24, 2020

By: 
Deputy Court Administrator