

STATE OF MINNESOTA

FOURTH JUDICIAL DISTRICT

COUNTY OF HENNEPIN

DISTRICT COURT

██████████,
Plaintiff/Tenant,
vs.

Jon Bartelt and New Spirit Homes, Inc.,
Defendant/Landlord.

**DECISION AND ORDER ON PETITION
FOR POSSESSION OF RESIDENTIAL
RENTAL PROPERTY FOLLOWING
UNLAWFUL REMOVAL OR
EXCLUSION (LOCKOUT) PETITION
UNDER MINNESOTA STATUTE §
504B.375**

Court File: 27-CV-HC-20-1524

This matter came on for trial/hearing before the Honorable Melissa J. Houghtaling, Referee of District Court, on August 11, 2020..

Plaintiff appeared and was represented by legal counsel, namely: Riann Meyer, Esq.. Plaintiff may hereinafter be referred to as Tenant.

Defendants appeared and are self-represented. Defendant may hereinafter be referred to as Landlord.

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. The property is located at 3613 2nd Avenue S, Minneapolis, Hennepin County, Minnesota 55409.
2. Plaintiff is a Tenant at the property.
3. The name and address of the Landlord is New Spirit Homes, Inc. and John Bartelt.
4. Landlord is owner and/or manager of the property.
5. Landlord actually or constructively and unlawfully removed or excluded Tenant from the property by changing the access code to the door.
6. The Court has not issued an eviction judgment and writ of recovery in favor of Landlord and against Tenant.

7. In unlawful lockouts or unlawful exclusion of property, Tenant may be entitled to the following relief under Minnesota Law:

- a. Treble damages or \$500.00 whichever is greater, and reasonable attorney's fees under Minn. Stat. § 504B.231.
- b. A civil penalty, actual damages and attorney fees under Minn. Stat. § 504B.271.

ORDER

1. Tenant's request for relief is granted as set forth below.
2. Landlord shall allow Tenant to immediately move back into the property.
3. Landlord shall immediately stop the unlawful actions that are keeping Tenant out of the property.
4. If the Landlord fails to voluntarily allow the Tenant to immediately move back into the property then, the Sheriff of this County shall execute and enforce this Order by:
 - a. Making a demand upon Landlord or other person in charge of the premises to take the action ordered by the Court;
 - b. Taking whatever action may be necessary to cause the action ordered of the Landlord by the Court to be taken immediately, including putting Tenant back in possession and making property secure for Tenant. After the Sheriff or a Deputy Sheriff has made a public demand which has been refused or to which no response has been made, the Sheriff or his Deputy is authorized to cause the building or enclosure to be broken open to take the action ordered by the Court.
 - c. In the event that the Sheriff or a Deputy Sheriff is required to cause the building or enclosure to be broken open to take the action ordered by the Court, neither the Sheriff, Deputy Sheriff, Hennepin County, State of Minnesota, nor any person or entity hired or retained by the Sheriff or the deputy to assist the Deputy in effecting this Order shall be liable for any damages resulting therefrom.
 - d. All fees and costs associated with the performance of the duties required by this Order, including service fees of the Sheriff, shall be borne by the Landlord. Landlord may request a court hearing to contest any fees and costs assessed by filing a motion before this Court.
- 5, TRIAL. The Clerk of Court is directed to schedule a remote TRIAL on **August 28, 2020 at 1:30 p.m.** and provide timely notice to the parties. The parties may participate using Zoom or in person. **Failure to appear at the hearing may result in a default judgment entered in the appearing party's favor. Both parties must appear at the hearing either by video or by telephone as outlined below.**

6. REMOTE HEARING: The hearing in this matter will be held remotely through Zoom. The parties can access the hearing either by navigating to website link below or using the Zoom App, and connecting to the hearing via computer or smartphone, or by calling the number below and connecting to the hearing through via phone:

Website or App:

www.zoomgov.com

Meeting ID: 160 700 9461

Password: 407918

Telephone Call-in:

1 833 568 8864

Meeting ID: 160 700 9461

Password: 407918

Parties may also get more information on accessing Zoom hearings on the Court's website: <http://www.mncourts.gov/Remote-Hearings.aspx>. The Clerk of Court may be contacted by telephone 612-348-5882 for difficulties with accessing the hearing via Zoom on the day of the hearing.

7. DISCOVERY: The parties shall provide one copy of the parties' hearing exhibits to each other by **August 25, 2020 at 5 p.m.** Parties shall participate in informal discovery, provided each party exchanges documents so that the opposing party can adequately prepare their hearing exhibits.

8. PROPOSED EXHIBITS: The parties shall email all proposed exhibits (evidence) for trial (including photographs, documents, video, audio, etc.) to 4thRefereeHoughtalingChambers@courts.state.mn.us by **12:00 p.m. the day before the trial.** Plaintiff shall pre-mark exhibits 1-100. Defendant shall pre-mark exhibits A-ZZ.

1. SERVICE. The Clerk of Court shall serve/e-serve a copy of this Order on all parties or their attorneys as appropriate.

Recommended By: 2020.08.11

 15:19:21

Hon. Melissa J. Houghtaling
District Court Referee

By the Court:



District Court Judge

Dated:

Aug 11, 2020

5.