

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
JUDICIAL DISTRICT
DIVISION: _____
CASE TYPE: UNLAWFUL DETAINER
(EVICTION)

Plaintiff (Landlord),

v.

Defendant(s) (Tenant).

**NOTICE OF MOTION AND
MOTION TO VACATE
DEFAULT JUDGMENT
AND/OR FOR OTHER
RELIEF UNDER MINN. R. CIV. P. 60.02**

Pov. Law Form No. V-1 (March 2017)

Case No. _____

NOTICE OF MOTION

TO: _____

PLEASE TAKE NOTICE that at _____ a.m./p.m. on _____, the Defendant(s) will bring the following motion on for hearing before the Honorable _____, Referee or Judge of District Court, at the following location: _____.

MOTION

_____, Defendant(s), being duly sworn, move(s) the Court as follows:

1. Since _____, Defendant(s) has/have been:
 - a. A residential tenant at the address of _____ ("the premises")
under written oral rental agreement with _____
_____, providing for rental of \$ _____ per month; or

- b. A mortgagor, contract for deed vendee, or other authorized occupant at the address of _____ (“the premises”), with the following relationship to Plaintiff and the premises:

_____.

2. Plaintiff is the _____ of the premises.

Plaintiff's address is _____.

3. Plaintiff filed this eviction action alleging the following:

- a. Defendant(s) failed to pay rent due and owing for the premises. Minn. Stat. § 504B.291.
- b. Defendant(s) committed a material violation of the conditions or covenants in the lease. Minn. Stat. § 504B.285, subd. 5.
- c. Defendant(s) is/are holding over after termination of the time for which the premises was leased or after termination of the tenancy by proper notice to vacate. Minn. Stat. § 504B.285, subd. 1(2), (3).
- d. Defendant(s) is/are holding over after expiration of the time for redemption on foreclosure of a mortgage for the premises or after proper termination/cancellation of a contract to convey the premises. Minn. Stat. § 504B.285, subd. 1(1).
- e. Defendant(s) unlawfully detains possession of the premises. Minn. Stat. § 504B.301.
- f. Other: _____

_____.

4. After Plaintiff filed this eviction action, Defendant(s) did the following:

- a. Defendant(s) failed to appear.
- b. Defendant(s) appeared and denied Plaintiff's allegations in an oral or written Answer, or otherwise.
- c. Defendant(s) appeared and settled the dispute with Plaintiff. The parties reached the following Settlement Agreement:

_____.
- d. Defendant(s) appeared and admitted Plaintiff's allegations, or the Court found in Plaintiff's favor after a hearing/trial.

e. Other: _____

5. On _____, a hearing/trial was held before the Honorable _____. At the hearing or trial, by order dated _____, the court did the following:

- a. Found that Defendant(s) was in default for failing to appear.
- b. Allowed Defendant(s) to redeem the tenancy by paying rent in arrears and/or costs of the action in the amount of \$ _____.
- c. Ordered Defendant(s) to vacate the premises immediately.
- d. Ordered Defendant(s) to vacate the premises by _____.
- e. Scheduled another hearing/trial for _____.
- f. Ordered Defendant(s) to pay rent or other moneys into Court in the amount of \$ _____ in cash or certified funds payable to the Court Administrator, on or before _____ a.m./p.m., on _____.
- g. Approved the parties' Settlement Agreement.
- h. Other: _____
_____.

6. The Court authorized the issuance of a Writ of Recovery of the premises on the following time line or under the following conditions, set out in an Order dated _____:

- a. Immediately, following default by Defendant(s).
- b. On _____, a date and time determined following default or appearance by Defendant(s) and a record made before the Court.
- c. Upon failure by Defendant(s) to redeem the tenancy by payment of the amount of \$ _____ on or before _____.
- d. Upon failure by Defendant(s) to pay rent or other moneys into Court, as described in Paragraph 5.f above.
- e. Upon failure by Defendant(s) to make payments required by a Court-approved Settlement Agreement.
- f. Upon failure by Defendant(s) to vacate by _____, as agreed by the parties in a Court-approved Settlement Agreement.

g. Other: _____
_____.

7. Defendant(s) failed to deposit with the Court rent or other moneys by the Court's deadline, as described in Paragraph 5.f above. Defendant(s) presently has or can obtain does not have the funds the Court ordered Defendant(s) to deposit with the Court.

8. Defendant(s) took the following action to comply with the Court's Order and/or the parties Settlement Agreement: _____

_____.

9. On _____, the Clerk of Court issued the Writ of Recovery and entered judgement for Plaintiff based on the following:

a. The Court's Order and/or the parties' Settlement Agreement, dated _____, described in Paragraph 6. ____ above;

b. Plaintiff's Affidavit of Default, which states the following as a basis for the issuance of an immediate Writ of Recovery: _____

_____ and/or

c. Other: _____

_____.

10. Defendant(s) was/were informed of the issuance of the Writ on _____
when _____

_____.

Grounds for Relief

11. Defendant(s) has/have grounds for relief from judgment under Minn. R. Civ. P. 60.02 as described below.

14. Defendant(s) has/have taken the following action to notify Plaintiff of Defendant's intent to bring this motion: _____

Defendant Requests an Order as Follows:

1. Determining that Defendant(s) is/are entitled to relief from the judgment on the following grounds:

- a. Mistake, inadvertence, surprise, or excusable neglect. Minn. R. Civ. P. 60.02(a).
- b. Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial. MINN. R. CIV. P. 60.02(b).
- c. Fraud, misrepresentation or other misconduct by Plaintiff or Plaintiff's agents. Minn. R. Civ. P. 60.02(c).
- d. The judgment is void. Minn. R. Civ. P. 60.02(d).
- e. The judgment has been satisfied, released, or discharged, or a prior judgment on which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application. MINN. R. CIV. P. 60.02(e).
- f. Relief is justified under the circumstances because _____

_____. Minn. R. Civ. P. 60.02(6).

2. Granting Defendant(s) relief from the judgment as follows:

- a. Vacating the judgment and the order granting judgment.
- b. Re-opening the record in this matter for a hearing on the merits.
- c. Other: _____
_____.

3. Directing the _____ County Sheriff's Department not to take any action to enforce the Writ of Recovery, to cease from enforcing the Writ of Recovery if it already has begun to enforce the Writ of Recovery, and to take all measures necessary to immediately restore possession of the premises to Defendant(s).

4. Directing Plaintiff to immediately restore possession of the premises to Defendant, and to cease efforts to enforce the Writ of Recovery.

5. Scheduling a hearing on the issues raised in this Motion.

6. Ordering no bond as a condition of hearing this Motion, since Defendant(s) alleges facts to support a claim that the judgment is void under MINN. R. CIV. P. 60.02(d). *See Village of Zambrota v. Johnson*, 280 Minn. 390, 161 N.W.2d 626 (1968); *Pugsley v. Magerfleisch*, 161 Minn. 246, 201 N.W. 323 (1924).

7. Other: _____

8. Awarding Defendant(s) costs, disbursements, and/or reasonable attorney's fees pursuant to the following:

a. Minn. Stat. §§ 549.02, 549.04.

b. The parties' lease. Minn. Stat. § 504B.172.

c. Other: _____

9. Granting Defendant(s) such other and further relief as may be just and equitable under the facts and circumstances outlined above.

10. Under Minn. R. Civ. P. 11, I certify that, to the best of my knowledge:

a. this document is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

b. the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

c. the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;

- d. the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief; and
- e. this document does not include any restricted identifiers and that all restricted identifiers have been submitted in a confidential manner as required by Minn. R. Gen. Prac. 11.

I know that I may be fined or sanctioned by the court if this certification is false.

11. Under Minn. Stat. § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date	Signature
County and State Where Document Is Signed	Name: _____
County: _____	Address: _____
State: _____	City, State, Zip: _____
	Telephone: _____