

ANTHONY OSUJI

Plaintiff,

HOUSING COURT
DECISION & ORDER

vs

File No. HC01991118524

SHAWNTELL COLEMAN, JACQUES BEECH
Defendant.

This case was heard by the undersigned on **NOVEMBER 30, 1999.**

Plaintiff:

- Appeared in person
- Did not appear and is in default

Represented by: agent counsel

Defendant:

- Appeared in person
- Did not appear and is in default

Represented by: advocate counsel

The Defendant has admitted denied the allegations in the unlawful detainer complaint.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. **COMPLAINT:** Plaintiff proved the following allegations by a preponderance of the evidence.
 - a. Compliance with MINNESOTA STATUTE § 504B.181
 - b. Nonpayment of rent.
 - c. Notice to vacate was properly given and Defendant(s) held over.
 - d. Breach of lease by _____
 - e. Other: _____
 2. **DEFENSES:** Defendant(s) proved the following defenses by a preponderance of the evidence.
 - a. Improper service by _____
 - b. Violation of the covenants of habitability by _____
 - c. Improper notice because _____
 - d. Waiver of _____ by _____
 - e. Other: _____
 3. **SETTLEMENT:** The parties have reached a settlement, which is approved and incorporated in this Decision and Order. _____
- Settled through Mediation: See attached settlement agreement
- Settled by the Litigants: See attached settlement agreement

App 411

ORDER

1. **JUDGMENT:** The Court Administrator shall enter judgment for:
 - a. **PLAINTIFF** for recovery of the premises. The Writ of Recovery of Premises and Order to Vacate shall be:
 - i. issued immediately
 - ii. stayed until _____, 1999
 - b. **DEFENDANT** to remain in possession of the premises.
 - c. **COSTS AND DISBURSEMENTS** to the prevailing party.
2. **DISMISSAL:** The case is dismissed **WITH** **WITHOUT** prejudice.
3. **REDEMPTION:** Defendant may redeem the premise (for nonpayment of rent) by paying to the Plaintiff \$ _____ by _____, 1999. If not, a judgment & writ shall issue by default.
4. **RENT ABATEMENT:** Defendant has had diminished use and enjoyment of the premises. Rent is abated for the months of _____ by a total of \$ _____, and abated by \$ _____ per month until the first month following completion of court ordered repairs.
5. **RENT DISBURSEMENT:** The rent now on deposit with the Court shall be released as follows:
 \$ _____ to Plaintiff \$ _____ to Defendant
6. **HEARING: THIS IS SCHEDULED FOR** **COURT TRIAL** **JURY TRIAL** **MOTION HEARING ON ISSUES OF** _____
ON _____, 1999, AT _____ (AM/PM). **BOTH PARTIES SHALL COME TO THE A-1700 GOVERNMENT CENTER (OR _____) FOR COURTROOM ASSIGNMENT.**
7. **DISCOVERY:** The parties shall provide to each other by _____, 1999, the following: a list of witnesses, with phone numbers and addresses, and the subjects about which they will testify, and copies of exhibits (documents, photographs, etc.) to be introduced at trial, and _____
8. **RENT INTO COURT:** Defendant shall pay into Court the rent of \$ _____ in cash or certified funds payable to the Court Administrator, on or before _____ (AM/PM) on _____, 1999, and all future rent on the _____ day of each month until further Order of the Court, or the Court will issue a Writ of Recovery of Premises and Order to Vacate.
9. **OTHER:** *Defendant's motion to dismiss for failure to provide written notice as required at paragraph 19 and failure to abide by the time of the 11/15/99 notice (EXH2) is granted.*

RECOMMENDED BY:

W C J 11/30/99
Referee Date

BY THE COURT:

Daniel H. Mabley
Judge Date

REQUEST FOR WRIT OF RECOVERY

By: _____

Date: _____, 1999

STATE OF MINNESOTA
COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT
DIVISION

ANTHONY OSUJI

Plaintiff,

HOUSING COURT
DECISION & ORDER

vs

File No. HC1991118524

SHAWNTELL COLEMAN, JACQUES BEECH
Defendant.

This case was heard by the undersigned on **DECEMBER 8, 1999.**

Plaintiff:

Appeared in person

Represented by:

agent

counsel

Did not appear and is in default

Defendant:

Appeared in person

Represented by:

advocate

counsel

Did not appear and is in default

Larry McDermott Michelle Gierke, stud atty

The Defendant has admitted denied the allegations in the unlawful detainer complaint.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. **COMPLAINT:** Plaintiff proved the following allegations by a preponderance of the evidence.

a. Compliance with MINNESOTA STATUTE § 504B.181

b. Nonpayment of rent.

c. Notice to vacate was properly given and Defendant(s) held over.

d. Breach of lease by _____

e. Other: _____

2. **DEFENSES:** Defendant(s) proved the following defenses by a preponderance of the evidence.

a. Improper service by _____

b. Violation of the covenants of habitability by _____

c. Improper notice because _____

d. Waiver of _____ by _____

e. Other: _____

3. **SETTLEMENT:** The parties have reached a settlement, which is approved and incorporated in this Decision and Order. _____

Settled through Mediation: See attached settlement agreement

Settled by the Litigants: See attached settlement agreement

ORDER

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 - b. **DEFENDANT** to remain in possession of the premises.
 - c. **COSTS AND DISBURSEMENTS** to the prevailing party.
2. **DISMISSAL:** The case is dismissed **WITH** **WITHOUT** prejudice.
3. **REDEMPTION:** Defendant may redeem the premise (for nonpayment of rent) by paying to the Plaintiff \$ _____ by _____, 1999. If not, a judgment & writ shall issue by default.
4. **RENT ABATEMENT:** Defendant has had diminished use and enjoyment of the premises. Rent is abated for the months of _____ by a total of \$ _____, and abated by \$ _____ per month until the first month following completion of court ordered repairs.
5. **RENT DISBURSEMENT:** The rent now on deposit with the Court shall be released as follows:
 \$ _____ to Plaintiff \$ _____ to Defendant
6. **HEARING: THIS IS SCHEDULED FOR** **COURT TRIAL** **JURY TRIAL** **MOTION HEARING ON ISSUES OF** _____
ON _____, 1999, **AT** _____ (AM/PM). **BOTH PARTIES SHALL COME TO THE A-1700 GOVERNMENT CENTER (OR _____) FOR COURTROOM ASSIGNMENT.**
7. **DISCOVERY:** The parties shall provide to each other by _____, 1999, the following: a list of witnesses, with phone numbers and addresses, and the subjects about which they will testify, and copies of exhibits (documents, photographs, etc.) to be introduced at trial, and _____
8. **RENT INTO COURT:** Defendant shall pay into Court the rent of \$ _____ in cash or certified funds payable to the Court Administrator, on or before _____ (AM/PM) on _____, 1999, and all future rent on the _____ day of each month until further Order of the Court, or the Court will issue a Writ of Recovery of Premises and Order to Vacate.
9. **OTHER:** Motion to expunge is granted.

RECOMMENDED BY:

Juan Ledray 12-10-99
Referee Date

BY THE COURT:

Daniel H. Mahoney
Judge Date

REQUEST FOR WRIT OF RECOVERY

By: _____

Date: _____, 1999

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT

Anthony Osuji,
Plaintiff (Landlord),

NOTICE OF MOTION AND
MOTION FOR EXPUNGEMENT
Minn. Stat. 504B.241

Shawntell Coleman and Jacques Beech,
Defendants (Tenants).

FILE NO: 1991118524

NOTICE OF MOTION

PLEASE TAKE NOTICE that at 1:30 p.m. on Wednesday, December 8th, the Motion set forth below shall be brought on for hearing before the Honorable Tom Haeg, Referee or Judge of District Court, at the following location: A-1700 Government Center, Minneapolis, MN 55487.

MOTION

1. We, Ms. Coleman and Mr. Beech ask the Court for the immediate expungement of this eviction case court file.
2. Under Minnesota statutes, the Court may order expungement upon finding that "the plaintiff's case is sufficiently without basis in fact or law . . . that expungement is clearly in the interests of justice and those interests are not outweighed by the public's interest in knowing about the record." Minn. Stat. 504B.241.
3. The landlord's case is sufficiently without basis in fact or law: Landlord filed this action prematurely. Provision 19 of the lease provides that lessee shall be given written notice of any default or breach, and termination and default shall not result within 30 days of notice if lessee has corrected the default or breach or has taken action reasonably likely to effect such correction within a reasonable time. Lessees defaulted on installment payment due November 12, 1999. On November 15, 1999 landlord gave a 30 day notice to vacate. Lessees attempted to cure the default on November 16, 1999. However, landlord refused

payment and on November 18, 1999 prematurely filed an unlawful detainer in violation of the lease. Defendants' motion to dismiss was granted November 30, 1999 for failure to provide written notice as required in paragraph 19 and failure to abide by the terms of the November 15, 1999 notice.

4. Expungement is clearly in the interests of justice: The unlawful detainer action lacked merit. Defendants' have not been in breach of their lease and therefore should not be punished. An unlawful detainer on their record would create an unjustified and undue hardship upon defendants.
5. The interests of justice are not outweighed by the public's interest in knowing about the record: Defendants have not been proven to be delinquent tenants. The purpose of the public record is to notify landlords of potential tenants who would pose rental risks based on poor rental history. Defendants' unlawful detainer was brought without merit and dismissed because the action had been brought prematurely. Absent finding any lease violations, defendants are good tenants and do not pose a rental risk that the public records need reflect.

6. I, Michelle L. Gierke, certify that, to the best of my knowledge:

- this document is not being filed for an improper reason, such as harassment or delay;
- my claims are supported by the law; and
- there is evidence for my claims and/or my denials.

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

Date:

Subscribed and sworn to before me
this 3rd day of Dec., 99.

[Signature]

DEPUTY CLERK DISTRICT COURT
MINNEAPOLIS COUNTY, MINNESOTA

Signature [Signature]
[Signature]