



EVICITION DEFENSE: DOMESTIC VIOLENCE, SEXUAL VIOLENCE, HARASSMENT

Legal Protections

Minnesota law provides protection from eviction for tenants who are victim/survivors of domestic or sexual violence and stalking. Additionally, the Violence Against Women Act (VAWA) provides protections from eviction for tenants of federally funded properties (i.e. Public housing, Section 8 housing, Section 42 tax credit housing, etc.) who are victim/survivors of domestic violence, sexual assault, dating violence or stalking¹.

1. A landlord may not commence an eviction action against a tenant or other authorized occupant solely on the basis that the tenant or other authorized occupant has been the victim of domestic abuse, criminal sexual conduct, or harassment. Minn. Stat. § 504B.285 Subd. (b); 504B.206, Subd. 1(a).
2. A landlord may not commence an eviction action against a tenant or other authorized occupant solely on the basis that the tenant called police or emergency assistance too many times. Minn. Stat. § 504B.205.
3. A landlord may not commence an eviction action against a tenant or other authorized occupant after the tenant terminated their lease early and vacated the property due to fear of violence in accordance with Minnesota law. Minn. Stat. § 504.206.
4. Incidents or threats of domestic violence, dating violence, sexual assault, or stalking cannot be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of a tenant. Further, a tenant cannot be evicted for criminal activity conducted by a member of tenant's household, guest, or other person under the tenant's control, if that household member, guest, or other person under tenant's control has threatened victim/survivor with domestic violence, dating violence, sexual assault, or stalking. 24 CFR 5.2005(b)(2).

How to Assert Legal Protections

Practically speaking, the legal protections for victim/survivors of domestic or sexual violence and stalking do not prevent a landlord from filing an eviction. Rather, these protections offer a tenant a legal defense to an eviction action. (Note: if the tenant is being evicted for nonpayment of rent or remaining in the property after proper notice of lease termination has been given (holdover), these legal protections may not apply.)

¹VAWA also protects victim/survivors of domestic violence, dating violence, sexual assault, or stalking from being denied admission or having their housing benefit/subsidy taken away because of the violence committed against them. 24 CFR 5.2005(b)(1-2).

If you have received eviction court papers, or are assisting a tenant who has, the first thing to do is read the eviction Complaint to determine the legal basis for the eviction (the landlord's reason for filing the eviction)². If the legal basis for the eviction is the direct result of the violence or harassment the tenant has experienced the tenant should either (1) file an Answer³ to the eviction Complaint ([Legal Aid Eviction Answer Form](#)); or (2) be prepared to enter the Answer to the eviction Complaint orally on the record during the eviction initial appearance hearing. Some courts may require a written Answer form be filed with the court, so it is a good idea to call the clerk at the courthouse where the eviction was filed to find out. Hennepin and Ramsey county housing courts do not require a written Answer and allow the tenant to assert their defense orally on the record.

Whether the tenant files an Answer form with the court or enters their Answer orally on the record at the eviction hearing, the terminology is the same. Depending on the facts in the each specific case, the following are examples of what to write or say at the hearing:

1. The basis of the eviction is that I or another tenant or authorized occupant in my household has been a victim of domestic abuse, criminal sexual conduct, or stalking. Minn. Stat. §§ 504B.285, Subd. 1 (b); 504B.206, Subd. 1 (a).
2. Plaintiff/landlord is penalizing me for calling for police or emergency assistance in response to domestic abuse or any other conduct. Minn. Stat. § 504B.205 (formerly § 504.215).
3. I or another tenant or authorized occupant in my household has been a victim of domestic abuse, criminal sexual conduct, or stalking. Minn. Stat. §§ 504B.285, Subd. 1 (b); 504B.206, Subd. 1 (a). I ended my lease as required by Minn. Stat. § 504B.206 (2014) so I do not have any rent obligation to the Plaintiff after _____ (date in notice ending tenancy). A copy of the written notice and required documentation is attached to this Answer.
4. The basis of the eviction is that I or another tenant or authorized occupant in my household has been a victim of domestic violence, dating violence, sexual assault, or stalking.

In addition to stating the above to the court, the tenant should be prepared to provide proof of their claims at the initial appearance eviction hearing. For example:

- Copy of the notice of early lease termination letter and documentation that was provided to the landlord
- Protective orders: Harassment Restraining Orders (HRO), Order for Protection (OFP), Domestic Abuse No Contact Orders (DANCO)
- Police reports
- Medical records

² A "Complaint" is a legal document in which the Plaintiff (landlord) explains the factual allegations and legal claims being made against the Defendant (tenant). (This is how the landlord tells the court why they are evicting the tenant.)

³ An "Answer" is a legal document in which Defendant (tenant) responds to the Plaintiff's (landlord's) factual allegations and legal claims in the Complaint. (This is how the tenant tells the court why they should not be evicted.)

This form is not legal advice. If you have specific questions about your situation or need legal advice, please contact Standpoint's Housing Attorney, Ann, at 612-343-9846.

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- Witness testimony
- Photographs
- Emails or text messages with the landlord
- Anything else that might help convince the court that the eviction is a direct result of domestic or sexual violence and stalking.

A few things to remember:

- Evidence may need to be filed before the date of the initial appearance eviction hearing. Contact the clerk of court to find out how and when to submit their evidence to the court. Do not wait until the day of, or day before, the initial eviction hearing to figure out when/how to submit evidence!
 - Give a copy of the evidence to the landlord prior to the hearing. Hand deliver, mail or email.
 - If you absolutely cannot file evidence before the hearing, bring it with you to the initial eviction hearing. Bring multiple copies: one for the court and one for the landlord.
- Emails, text messages, documents, photographs, etc. should be printed and submitted to the court. Do not rely on the court looking at a phone to read messages or view other evidence.
- Witness testimony is valuable. Witnesses should attend the initial appearance eviction hearing with the tenant.
- The eviction trial may be held the same day as the eviction initial appearance hearing or be set for a trial date in the near future. Always be prepared to prove your case to the court!
- Evidence should be specific. Avoid overwhelming the court with excessive documents/evidence that will not be used to prove a specific fact. For example, several pages of text or email messaging of a complete conversation is likely too much - focus on the specific messages within the overall conversation that show the abuse.

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