

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

CASE TYPE: UNLAWFUL DETAINER
(EVICTION)

_____,

Court File No.: _____

Plaintiff/Landlord

vs

NOTICE OF MOTION AND MOTION
FOR
EVICTION EXPUNGEMENT

Defendant(s)/Tennant(s)

NOTICE OF MOTION

PLEASE TAKE NOTICE that at _____ a.m./p.m. on _____, Defendant will

bring the following Motion on for hearing before the Honorable Presiding Referee or Judge, at the following location:

_____.

MOTION

1. I request the court immediately expunge this eviction court file.

2. Expungement is within the Court’s Inherent Authority when the relief requested is “necessary to the performance of a judicial function as contemplated in [the] state constitution.” *In re: Clerk of Court’s Compensation for Lyon County v. Lyon County Commissioners*, 241 N.W.2d 781, 786 (Minn. 1976). Additionally, along with the inherent authority to control court records, courts have the equitable power to prevent unfairness to individuals. *State v. C.A.*, 304 N.W.2d 353, 358 (Minn. 1981). The court “must decide whether expungement will yield a benefit to the petitioner commensurate with the disadvantages to the public from the elimination

of the record and the burden on the court in issuing, enforcing and monitoring an expungement order.” *Id.*

The Court should expunge this file within its inherent authority because doing so is (1) necessary to the performance of the judicial function of effecting justice, (2) expungement will yield a benefit to the petitioner equal to, or greater than, the disadvantages to the public from the elimination of the record, and (3) expungement will yield a benefit to the petitioner equal to, or greater than, the burden on the court in issuing, enforcing and monitoring an expungement order.

3. The benefit to me in granting this expungement is substantial, and far greater than the disadvantages to the public from the elimination of this record. Eviction records are significant barriers for tenants’ ability to obtain safe and stable housing because they are routinely used as a basis for denying rental applications. Expunging this eviction record will benefit me by removing that barrier. This eviction record is a burden to me because (check all that apply):

- I have experienced homelessness since this eviction occurred. (See explanation below.)
- My children have experienced homelessness since this eviction occurred. (See explanation below.)
- I live or have lived in substandard housing since this eviction occurred. (See explanation below.)
- I have had rental applications denied because of this eviction record. The most recent denial was on_____. (See explanation below.)
- I have been informed by landlords/property managers that an eviction on my record would result in an automatic denial of my rental application.
- I have been required to pay extra security deposit and/or have a cosigner in order to secure housing. (See explanation below.)
- Other: _____

Explanation: _____

4. The disadvantages to the public from the elimination of this eviction record is minimal, and do not outweigh the benefit expungement will offer me. This record does not provide the public with an accurate impression of my current circumstance and ability to be a good renter. At the time this eviction occurred (check all that apply):

- I had less money to pay my rent because _____.
(See explanation below.)
- I was the victim of domestic or sexual violence. (See explanation below.)
- I entered into a settlement agreement with the Plaintiff/Landlord for this eviction, and I fully complied with the terms of that settlement agreement.
- I repaid the Plaintiff/Landlord what I owed from this eviction.
This case record is old.
- Other: _____

Explanation:

5. The burden on the court in issuing, enforcing and monitoring an expungement order is minimal, and does not outweigh the benefit expungement will offer me. This eviction record falls within cases scheduled for destruction under the court’s record retention schedule¹(select one).

- No money judgment was ordered in this case and the case file was closed over one year ago.
- A money judgment was ordered in the case; I have paid the amount of the judgment; and this case is over ten years old.

6. (Only check if applicable.) The Court may expunge this case upon finding that “Plaintiff’s case is sufficiently without basis in fact or law, which may include lack of jurisdiction

¹ Minnesota Judicial Branch Court Services Division’s District Court Record Retention Schedule: http://www.mncourts.gov/mncourtsgov/media/scao_library/MN-District-Court-Record-Retention-Schedule.pdf

over the case, 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. § 484.014, subd. 2.

Paragraphs 3 – 5 above explain why expungement is that 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.

The Plaintiff's case was sufficiently without basis in fact or law because (check all that apply):

- I did not receive notice of the eviction hearing.
- Plaintiff did not follow the required procedure when they served the Summons and Complaint.
- I did not live at the property when this eviction case began.
- This eviction was based on nonpayment of rent, and the property had repair issues.
- Plaintiff dropped or withdrew their case against me before the eviction hearing.
- Other: _____

Explanation: _____

7. (Only check if applicable.) Expungement is mandatory for an eviction case commenced solely on the grounds provided in Minn. Stat. § 504B.285, subdivision 1, clause (1), if the court finds that the defendant occupied real property that was subject to contract for deed cancellation or mortgage foreclosure and (1) the time for contract cancellation or foreclosure redemption has expired and the defendant vacated the property prior to commencement of the eviction action; or (2) the defendant was a tenant during the contract cancellation or foreclosure redemption period and did not receive a notice under Minn. Stat. § 504B.285, subdivision 1, clause (1), to vacate on a date prior to commencement of the eviction case. Minn. Stat. § 484.014, subd. 3. (Select one.)

- I moved out of the property on _____ before this case started on _____.
- The foreclosure redemption period is over.

I am a tenant and did not receive proper lease termination notice pursuant to Minn. Stat, § 504B.285.

8. I certify that, to the best of my knowledge:
- a) This document is not being filed for an improper reason, such as harassment or delay;
 - b) My claims are supported by the law; and
 - c) There is evidence for my claims and/or my denials.
 - d) I know that I may be fined or sanctioned by the court if this certification is false.

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

Date
County and State
Where Document is Signed

Defendant (Tenant)
Address: _____

County

Email: _____

State

Phone: _____