



STANDPOINT

Attorneys & advocates against domestic & sexual violence

EVICITION HEARING: SETTLEMENT AGREEMENTS

Many eviction cases are resolved with a settlement agreement. A settlement agreement is an agreement between the landlord and the tenant, that is approved by the judge or referee, and entered into the court record. Once entered into the court record, the settlement agreement becomes part of a court order. The settlement agreement can include any reasonable provisions – referred to as “terms” - to which the landlord and tenant agree. For example, in non-payment of rent cases, the settlement agreement will most always include a payment plan.

Settlement Agreement Terms

Eviction proceedings often appear one-sided, especially when tenants are behind on rent. Since landlords often have more legal leverage in the settlement negotiation, the landlord is able to get the settlement agreement terms they desire. However, tenants can attempt to negotiate for settlement terms in addition to payment plans, for example:

- Move out date
- Rent and/or attorney fee forgiveness
- Neutral references
- Expungement provisions (very important!)
- Repair issues
- Broken locks on security entrance
- Problem neighbors (who are also tenants)
- Caption change

Settlement Agreement Forms

Several courts in Minnesota have an eviction action settlement form available for landlords and tenants to use at the eviction hearing. These forms can be useful, however different courts use different forms with varying settlement term language. Importantly, some of these court forms do not include many of the settlement agreement term options for which the tenant can negotiate. Standpoint has created an [Eviction Action Settlement Agreement](#) form that includes settlement agreement terms for both the landlord and the tenant. This form can be used in any court in Minnesota.

Settlement Agreement Compliance

Each party must fully comply with each term of the settlement agreement. Most settlement agreements include “what-if” provisions that detail what happens if either party does not comply with the terms of the settlement agreement. For example, nearly all eviction action settlement agreements include a variation of the following what-if

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.

provision: “A tenant’s failure to comply with any of the settlement agreement terms will result in the court entering a judgment against the tenant and issuing a Writ of Recovery¹ to the Plaintiff.”

Partial compliance is not enough! When a party fails to fully comply with all settlement agreement terms, the other party has the option to file an Affidavit of Noncompliance² with the court. Filing an Affidavit of Noncompliance triggers the what-if settlement provisions that detail what happens if either party does not comply with the terms of the settlement agreement. For example, if the landlord files an Affidavit of Noncompliance, they will then be able to obtain a Writ of Recovery, often without notice to the tenant, and have the tenant removed from the property. Also, if the settlement agreement includes expungement provisions, the landlord filing an Affidavit of Noncompliance voids the expungement provision, even if the landlord does not obtain a Writ of Recovery and have the tenant removed from the property. Here are a few examples of partial compliance:

- Late or missed payments. The tenant pays the first two of three total payments listed in the payment plan on time but is late with the third payment. Even though the tenant has made 2/3 of the payments due under the settlement agreement on time, the landlord can file an Affidavit of Noncompliance to obtain a Writ of Recovery, often without notice to the tenant, and have the tenant removed from the property. In this scenario, the landlord would be able to accept the late payment and still file an Affidavit of Noncompliance.
- Failure to fully vacate by the deadline. When a settlement agreement includes a move out date and time, the tenant must fully vacate the property and return all keys (key fobs, garage door openers, etc.) by the specific date and time listed. If the tenant moves out on time but does not return the keys to the landlord, or moves out the day after the deadline listed in the settlement agreement, the landlord can file an Affidavit of Noncompliance.
- When a settlement agreement includes repairs, and the landlord fails to make the repairs adequately, the tenant can file an Affidavit of Noncompliance to enforce any of the what-if provisions included in the agreement or to prevent the landlord from obtaining a Writ of Recovery without further notice by filing their own Affidavit of Noncompliance.

¹ A Writ of Recovery is a legal notice from the court ordering a tenant to move and authorizing the sheriff to remove the tenant from the rental property if the tenant does not move voluntarily.

² An Affidavit of Noncompliance is a written statement confirmed by affirmation for use as evidence in court. Many courts have their own Affidavit of Noncompliance form, however a general affidavit form can be used. Here is an example of an Affidavit of Noncompliance used in conciliation court: <https://www.mncourts.gov/GetForms.aspx?c=10&f=564>.

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