

Standpoint Housing Team Update

July 2021



Eviction Moratorium Legislative Update

On June 29, 2021, Minnesota Governor Walz signed legislation into law that provides a so-called "off-ramp" to the eviction moratorium that began in March 2020 as a result of the COVID-19 pandemic. This off-ramp legislation included a timeline for specific types of evictions. This timeline is new for landlords, tenants, and attorneys, and there are still many unknowns on how these cases will play out in court. We hope to provide some clarity for advocates in this lengthy edition of the Standpoint Housing Team Update. We are always here to answer questions and help you through the process, so please reach out to us at any time!

When can a landlord give tenants a lease termination notice or a nonrenewal notice?

Answer: It depends on the reason for the termination.

- Material Violation of the Lease: Landlords can give lease termination or nonrenewal notices for material violations of the lease beginning June 30, 2021. (See more below for information regarding material violation/breach.)
- Nonpayment of Rent: Landlords can give lease termination or nonrenewal notices for nonpayment of rent to tenants who are NOT eligible for COVID rental assistance beginning August 13, 2021.
- Any other reason (or no specific reason): Beginning October 12, 2021, the pre-COVID rules for lease termination and nonrenewal resume. Landlords can end a lease for any legal reason, with the appropriate notice, as stated in the lease agreement or pursuant to Minnesota laws for month-to-month tenants (i.e. at will tenancy).

When can a landlord file an eviction?

Answer: It depends on the reason for the termination and whether the tenant is eligible, and has applied for, COVID rental assistance through RentHelpMN.org or The Zero Balance Project:

- Criminal Activity, Property Damage, Endangering Others: Landlords can file evictions for substantial property damage or seriously endangering others on the property (when there is a written lease agreement), and violation of MN Stat. 504B.171 (certain criminal activity) at any time.

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When can a landlord file an eviction? (Continued)

- Material Violation/Breach of Lease: Landlords can file evictions for material violations/breach of the lease beginning July 14, 2021. (See below for information regarding material violation/breach.)
- Nonpayment of Rent:
 - *Tenants who are eligible for COVID rental assistance*:
 - Landlords can file evictions for nonpayment of rent against tenants who are eligible for COVID rental assistance, but who have not yet, or are unwilling to, apply for that assistance, beginning June 30, 2021.
 - Landlords CANNOT file evictions for nonpayment of rent against tenants who are eligible for COVID rental assistance and have applications pending until June, 2022.
 - *Tenants who are not eligible for COVID rental assistance*: Landlords can file evictions for nonpayment of rent against tenants who are behind on rent and not eligible for COVID rental assistance beginning September 12, 2021.

Does the landlord have to provide the tenant with a notice before filing the eviction?

Answer: It depends on the reason for the eviction.

- Criminal Activity, Property Damage, Endangering Others: The Minnesota off-ramp legislation does NOT require landlords to provide written notice of their intent to file an eviction action for substantial property damage, seriously endangering others on the property, and violation of MN Stat. 504B.171 (certain criminal activity).
- Material Violation/Breach of Lease: The Minnesota off-ramp legislation does NOT require landlords to provide written notice of their intent to file an eviction action for material violation/breach of lease.
- Nonpayment of Rent: The Minnesota off-ramp legislation REQUIRES a 15-day written notice of intent to file an eviction action for nonpayment of rent evictions through October 12, 2021.

*CARES Act 30-Day Notice Requirement: The federal CARES Act included a 30-day notice for federally funded (VAWA covered) properties through July 31, 2021. The law is clear that this notice requirement applies to nonpayment of rent cases. However, the law is unclear whether this notice requirement applies to cases other than nonpayment of rent.

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What kind of notice is required?

The CARES Act requires a *written* 30-day notice of intent to file an eviction action (where applicable - see above). The Minnesota off-ramp legislation requires a 15-day notice of intent to file an eviction for nonpayment of rent through October 12, 2021. This notice must be in writing and include the following:

- A statement that the eviction moratorium has ended and tenant can be evicted;
- Total amount of rent due; and
- Information about where to get rental assistance – Renthelpmn.org or dial 211.

What is a "material violation/breach"?

Answer: Determining whether specific conduct rises to the level of a material violation or breach of the lease can be difficult and depends on the facts of each individual situation.

Generally, for a violation/breach to be material, it must be substantial. Here are a few important considerations for material violation/breach of lease cases:

- **Victim/survivors of domestic abuse, sexual violence, or harassment cannot be evicted for breach of lease as a result of that domestic abuse, sexual violence, or harassment.**
 - Written Lease Required. Tenants can only be evicted for breach of lease when there is a written lease.
 - Look to Lease Terms: Material violation/breach depends on the terms of the written lease. If the lease does not include terms governing the conduct that gave rise to the material violation/breach of lease allegations, in most cases, the eviction should be dismissed. (This does not apply to conduct such as substantially damaging the property or seriously endangering others on the property, etc.)
 - Right of Re-Entry Clause: The lease must contain a right of re-entry clause. The language of these clauses vary, but the gist of this type of clause is that the landlord shall have the right to re-enter and take possession of the rental property by an eviction action if the tenant violates/breaches the lease. If there is no right of re-entry clause, the eviction, in most cases, should be dismissed.
 - Notice Requirement: Notice of intent to file an eviction is NOT required for market rate rental properties. The CARES Act 30-day notice *may be* required for federally funded (VAWA covered) properties through July 31, 2021. (See information about the CARES Act notice requirement on page 2 above.)
 - **Breach of lease cases are often legally complex. We recommend tenants facing eviction for violation/breach of lease call Standpoint for legal advice specific to their situation.**
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Advocacy Tips and Tricks

- Refer tenants who are behind on rent to [RentHelpMN.org](https://renthelpmn.org) to apply for rental assistance.
 - [RentHelpMN.org](https://renthelpmn.org) is specifically designated in the "off-ramp" legislation as a resource for those behind on rent.
 - Filing an eviction, or proceeding with an eviction, is prohibited when an application through [RentHelpMN.org](https://renthelpmn.org) is pending. This means that landlords CANNOT file evictions for nonpayment of rent, and courts cannot proceed with nonpayment eviction cases, if the tenant is eligible for COVID rental assistance and has applied. The tenant is protected if they apply at *any* stage in the process before an eviction is ordered.
 - Know that [RentHelpMN.org](https://renthelpmn.org) will not pay past due rent for a previous address, it only applies at a tenant's current home they intend to stay in.
 - Keep the landlord updated with screenshots of the pending application status.
- If someone is facing an eviction, call Standpoint!
 - Read the notice to see why the tenant is facing an eviction - this will help determine an appropriate response and possible defense.
 - Gather documentation - [RentHelpMN.org](https://renthelpmn.org) application information, police reports, proof of rent paid, etc.
- Be prepared to attend the court hearing. Verify the hearing location, date, and time.

Standpoint is Here to Help

We are in new territory in housing right now, and we anticipate that many new questions will arise. Know that we are here to answer any housing related questions that come up - whether those questions are about the off-ramp legislation, evictions, landlord/tenant law, or other housing issues you might come across in your work. Additionally, tenants who are victim/survivors of violence are also welcome to reach out to us directly to have their questions answered.

We are prepared with additional trainings on the eviction process, eviction expungement, general housing information, and are happy to work together to create a training for your team's specific needs.

Thank you for all the hard work you do each and every day!
