

STATE OF MINNESOTA

DISTRICT COURT

JUDICIAL DISTRICT

COUNTY OF _____

CASE TYPE: EVICTION ACTION

Plaintiff(s) (Landlord),

**NOTICE OF MOTION AND
MOTION FOR EXPUNGEMENT**

v.

Case No. _____

Defendant(s) (Tenant).

TO: DISTRICT COURT ADMINISTRATOR; PLAINTIFF.

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 am asking the court to immediately expunge this court file. *(Check one or more of the following types of expungements- Statutory, Inherent Authority, Mandatory)*

Statutory Expungement¹

2. The Court may order expungement upon finding that “plaintiff’s case is sufficiently without basis in fact or law, which may include lack of jurisdiction 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.”² I explain my reasons in numbers 4-7 below.

¹ Minn. Stat. 484.014, subd. 2

² Minn. Stat. § 484.014, subd. 2

Expungement within the Court’s Inherent Authority

3. Courts have inherent authority to perform a judicial action when the relief requested “is necessary to the performance of a judicial function as contemplated in [the] state constitution.”³ Courts also have inherent authority to control their own records, along with the equitable power to prevent unfairness to individuals.⁴ 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.”⁵

I’m asking the court to expunge this file within its inherent authority for the following reasons: Expungement is necessary to the performance of the judicial function of effecting justice.⁶ The burden on the court in issuing an expungement order in this action is minimal. The benefits of expungement to me are equal to, or greater than, any disadvantage to the public from elimination of the record and any burden on the court in expunging the record of this case. I explain my reasons in numbers 4-7 below.

4. These things were wrong about the landlord’s case: _____

5. It would be fair to take this off my record because: _____

³ *In re: Clerk of Court’s Compensation for Lyon County v. Lyon County Commissioners*, 241 N.W.2d 781, 786 (Minn. 1976).

⁴ *State v. C.A.*, 304 N.W.2d 353, 358 (Minn. 1981).

⁵ *Id.*

⁶ Minn. Const. Art. 1 § 8.

6. This expungement will help me because: _____

7. The reasons I need an expungement are more important than the public knowing about my record because:

Mandatory Expungement because of Foreclosure

8. The property in this case was in foreclosure. Expungement is mandatory under law.⁷

- a. I moved out of the property on _____, before this case started⁸ on _____. The foreclosure redemption period is over.

OR

- b. The landlord said I stayed past my move out date (holdover). I was a tenant at the property during the redemption period. My lease started after the landlord's mortgage began. *Check one:*
- i. I did not get the notice required by law.⁹
- ii. I received the notice required by law¹⁰, but this case started before the date I was supposed to move.

Mandatory Expungement because of Contract Cancellation

9. The property in this case was in contract cancellation. Expungement is mandatory under law.¹¹

- a. I moved out of the property on _____, before this case started¹² on _____. The time for contract cancellation is over.

OR

- b. The landlord said I stayed past my move out date (holdover). I was a tenant at the property during the during the contract cancellation period. My lease started after the contract for deed. *Check one:*
- i. I did not get the notice required by law.¹³
- ii. I received the notice required by law¹⁴, but this case started before the date I was supposed to move.

⁷ Minn. Stat. § 484.014, subd. 3.

⁸ In Minnesota a case starts at service. Minn. R. Civ. P. 3.01(A); *Appletree Square I, Limited Partnership v. W.R. Grace & Co.*, 29 F.3d 1283, 1286 (8th Cir. 1994); *Appletree Square I Limited Partnership v. O'Connor & Hannan*, 575 N.W.2d 102, 103 (Minn. 1998).

⁹ Minn. Stat. § 504B.285, subd. 1a requires minimum notice period of 90 days. Some tenants get a longer notice period.

¹⁰ *Id.*

¹¹ Minn. Stat. § 484.014, subd. 3.

¹² In Minnesota a case starts at service. Minn. R. Civ. P. 3.01(A); *Appletree Square I, Limited Partnership v. W.R. Grace & Co.*, 29 F.3d 1283, 1286 (8th Cir. 1994); *Appletree Square I Limited Partnership v. O'Connor & Hannan*, 575 N.W.2d 102, 103 (Minn. 1998).

¹³ Minn. Stat. § 504B.285, subd. 1a requires a minimum notice period of 90 days. Some tenants get a longer notice period.

¹⁴ *Id.*

10. I 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.

I declare under penalty of perjury that everything I have stated in this document is true and correct.¹⁵

Date

Defendant (Tenant)

Address: _____

Email: _____

Phone: _____

¹⁵ Minn. Stat. § 358.116.