



Expunging an Eviction Case

What does “expungement” mean?

Expungement means removing the record of a court case from the public view. If your eviction court case is expunged, then someone searching court files can't find a record of your eviction case. Courts will expunge eviction cases sometimes, but it can be hard to get an expungement.

Eviction cases used to be called “unlawful detainers” (UDs). Some records might show that you have UD, this is the same thing as an eviction.

When can the court expunge an eviction case?

A judge (or referee) decides if a case can be expunged. The law lists things you need to show for the judge to expunge a case. But, even if you show all of these things, it is still up to the judge to decide yes or no.

There are a few rare exceptions when a judge **has to** grant an expungement. They are listed in the section on the next page, *Mandatory expungement*.

There are 3 types of expungement you can ask for.

- “Inherent authority”
- “Statutory”
- “Mandatory”

If it fits your situation, you can ask for more than one type of expungement.

What are examples of good cases for expungement?

- You won the case. The case was dismissed, or you won after a trial.
- You moved before the eviction case was served.
- You settled the case and you did everything in the settlement agreement. It helps if the landlord agreed that the case was filed because of a misunderstanding or that you had defenses.
- Your landlord agreed not to fight the expungement. Your landlord can't give you an expungement, but the landlord's agreement not to fight the expungement can help.



The 3 Types of Expungement and the Law

“Inherent Authority” Expungement

The judge can decide to expunge your case if you show these 2 things:

1. Expungement is necessary to the performance of a judicial function. Expungement is necessary for justice, and
2. The benefits of expungement to you are equal to, or greater than, any harm to the public from not being able to see the case and any work the court has to do to expunge the case.

“Statutory” Expungement

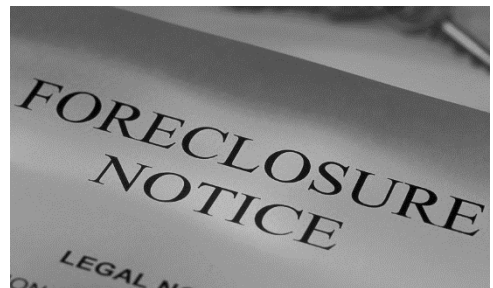
The judge can decide to expunge your case if you show these 3 things:

1. The landlord's case was sufficiently without basis in fact or law,
2. It is clearly in the interests of justice to expunge the case, and
3. The justice that would be accomplished by expunging the case is greater than the public's interest in knowing about the case.

“Mandatory” Expungement

The judge has to expunge your case if you prove:

- The property was in foreclosure or contract for deed cancellation
- The eviction case was only about you staying at the property too long (holdover), not about nonpayment of rent or breaking your lease (breach), and
- At least one of the following is true:
 1. The foreclosure redemption period or time for contract cancellation is over. You moved out before the eviction case was served.
 2. You were a tenant during the foreclosure redemption period or contract cancellation period. Your lease began after the landlord's mortgage or contract for deed began. You were not given proper notice to end your lease, or you were given proper notice to end your lease, but the eviction case started before the date the notice said you needed to move.



Note: In foreclosure cases a minimum of 90 days' notice is usually required. In contract for deed cases, a 12 months' notice is required. If you're not sure if you were given proper notice see our fact sheet, [When your Landlord Loses the Building: Mortgage Foreclosure and Contract for Deed Cancellation.](#)

Which kind of expungement should I ask for?

- You should always ask for an “inherent authority” expungement.
- If there was something wrong with the landlord’s case, you should ask for a “statutory” expungement and an “inherent authority” expungement.
- You should only ask for a “mandatory” expungement if the case was after a foreclosure or cancellation of a contract for deed.

How do I know if something was wrong with my landlord’s case?

You should ask for a “statutory” expungement if there was something wrong with your landlord’s case. Lots of things could be wrong with your landlord’s case. The landlord’s case could have wrong facts or wrong law, or both.

- **Wrong facts.** The landlord’s case had important facts wrong. Like, the landlord said you didn’t pay your rent on time or broke your lease, but you know these facts are wrong.
- **Wrong law.** The landlord’s case had important laws wrong. Like, the court papers weren’t served the right way, or the case was about nonpayment of rent but there were things at the property that needed repairs.



What should I put in my expungement papers?

You need to convince the judge that you deserve an expungement. Be specific about how this case record has affected your life. **You have a better chance of getting an expungement if you give lots of details about your situation.** Talking about these kinds of things will help your chances of getting an expungement:

- How the eviction was because of a hard time in your life, like job loss, medical problems, or divorce.
- If you still live at the property the eviction was about.
- If this is the only eviction ever filed against you.
- If the case is old and you haven’t had any recent evictions.
- If you settled the case and did everything you agreed to in the settlement agreement.
- If you paid the landlord everything you owe
- How the eviction makes it hard for you to find housing – list how many times you have been denied housing because of eviction(s) on your record and how much money you spent on application fees.
- Why safe, stable and affordable housing is important to you and your family, and how the eviction keeps you from finding housing.

What if I paid the rent after the case started?

Paying what you owed does not take the case off your record. Paying what you owe does not guarantee expungement.

What if I still owe the landlord money?

It's a lot harder to get a case expunged if you still owe the landlord money. It's usually best to wait to ask for an expungement until after you have paid back the landlord. If your current situation is really bad, though, the judge might expunge your case even if you still owe the landlord money.



Sometimes, the judge in the eviction case orders you to pay the landlord. This is called a money judgment. Before the landlord can ask the court to collect this money from you, they have to go to conciliation (small claims) court. This is called "docketing" or "transcribing" the judgment. They then have 10 years to collect the judgment from you. Sometimes, landlords won't do this step until the tenant asks the court to expunge a case. If you still owe the landlord money, try to talk to a lawyer first before filing your expungement motion.

Even if you get the case expunged, the debt you owe to the landlord might show up on a credit report. Many landlords check both credit reports and eviction records when they are renting someone an apartment.

How do I ask the court for expungement?

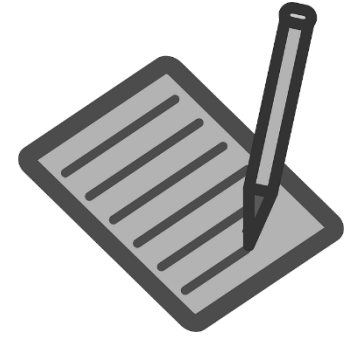
1. Look at all of the court documents in your eviction case including the court's decision. If you do not have a copy, go to the courthouse where it was filed and ask for one. There may be a cost for copies.



Does the court record show that the landlord did not have a good case? There are many defenses to an eviction case that you could use to try to show the court that the landlord did not have a sufficient basis in fact or law for the case. If possible, meet with a lawyer who knows about eviction cases to help you identify any defenses you may have had to the eviction.

2. There is an Expungement Motion form attached to this fact sheet.
 - At the top, fill in:
 - The name of the county
 - The Plaintiff's name or names (your landlord, or the owner) and the Defendant's name or names (your name). **These have to be filled in exactly as they are on the Complaint and Court Order form in the eviction case even if the names are spelled wrong.**
 - The file number of your eviction case
 - Do not fill in the "Notice of Motion" section until the court gives you a hearing date.

- Fill out the rest of the form. Check the boxes and write in the details about your situation. You can check more than one of the boxes.
- Sign your Motion.
- Attach copies of any documents that help prove what you've said in the motion is true.



3. Go to District Court to file your Motion.

- Ask the clerk if you need to fill in the court date on the “Notice of Motion.” Some counties want you to fill in the date, and some counties don’t.
- Check with the clerk to see if a judgment was “entered” in your case. If so, some clerks also want you to fill out a motion to vacate the judgment. The clerk might tell you if you need to do this and give you a form.
- Ask the clerk for instructions on how to serve the “Motion” on the Plaintiff. You usually can “serve” the motion by mailing it to the landlord’s last known address.

4. There is a filing fee for an expungement motion. If you have a low income, you can fill out a court fee waiver form (IFP). This form asks the court to waive the fees. The court has these forms or you can [create one online](#).

Go to www.lawhelpmn.org/forms.



Click on *Court Fee Waiver (IFP)*

Bring proof of your income, like pay stubs, or proof of government assistance.

Go to the hearing prepared. Bring any documents that you included with your Motion, and anything else that might help you prove your case. Bring any witnesses who can support your story.

What should I do if I get an expungement?

Check the court records to be sure that the case was removed. The court clerk will tell you when your case will be expunged and how to check the record to make sure that it was removed. A tenant screening company can’t report an eviction once the company knows it has been expunged. There is a letter attached to this fact sheet. Make 6 copies. Sign them and send one with a copy of your expungement order to each of the tenant screening agencies listed on the top of the letter. Keep the original letter or a copy for your records.

If you get turned down for an apartment, find out what tenant screening agency the landlord used. Call that screening company to make sure they are not reporting the expunged eviction case. See our fact sheet [Tenant Screening](#) for more information.

What should I do if I can't get an expungement?

See our fact sheets [Looking for an Apartment](#) and [Tenant Screening](#), about finding an apartment with an eviction on your record. Try to apply only to landlords who don't charge application fees and don't use tenant screening services.

You have the right to add a statement to your tenant screening record explaining any evictions on your record. Also, make sure your tenant screening report is correct. It may have other wrong information about you. Ask the company to correct any errors in the report. Tenant screening companies can report evictions for 7 years, and landlords can check court files directly for as long as the court keeps records of old eviction cases.



Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

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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.
2. Expungement within the Court's Inherent Authority

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."¹ Courts also have inherent authority to control their own records, along with the equitable power to prevent unfairness to individuals.² The court "must decide whether expungement will yield a benefit to the

¹ *In re: Clerk of Court's Compensation for Lyon County v. Lyon County Commissioners*, 241 N.W.2d 781, 786 (Minn. 1976).

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

Mandatory Expungement because of Foreclosure

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

- a. I moved out of the property on _____, before this case started⁹ 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.¹⁰
- ii. I received the notice required by law¹¹, 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.¹²

- a. I moved out of the property on _____, before this case started¹³ 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.¹⁴
- ii. I received the notice required by law¹⁵, but this case started before the date I was supposed to move.

⁸ Minn Stat. § 484.014, subd. 3.

⁹ 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).

¹⁰ Minn. Stat. § 504B.285, subd. 1a requires minimum notice period of 90 days. Some tenants get a longer notice period.
¹¹ *Id.*

¹² Minn. Stat. § 484.014, subd. 3.

¹³ 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).

¹⁴ Minn. Stat. § 504B.285, subd. 1a requires a minimum notice period of 90 days. Some tenants get a longer notice period.

¹⁵ *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.¹⁶

Date

Defendant (Tenant)

Address: _____

Email: _____

Phone: _____

¹⁶ Minn. Stat. § 358.116.

Letter to Tenant Screening Companies (send a copy to each company on the list below)

First Check
P.O. Box 334
Wyoming, MN 55092

Multi-Housing Credit Control (MCC)
10125 Crosstown Circle, Ste 100
Eden Prairie, MN 55344

AppFolio, Inc
50 Castilian Dr
Goleta, CA 93117

Rental History Reports
7900 W 78th St, Ste. 400
Edina, MN 55439

Rental Research Services, Inc.
7525 Mitchell Rd, Suite 301
Eden Prairie, MN 55344

Twin City Tenant Check
910 Ivy Avenue East
St. Paul, MN 55106

Screening Reports, Inc.
220 Gerry Dr.
Wooddale, IL 60191

RealPage Resident Screening
c/o Leasing Desk Screening
Consumer Relations
2201 Lakeside Blvd
Richardson, TX 75082

TenantReports.com, LLC
P.O. Box 450
Springfield, PA 19064

TransUnion
My Smart Move- Disputes
PO Box 800
Woodlyn, PA 19094

Date: _____

Dear Directors:

I am the tenant listed in the enclosed expungement order(s).

Minnesota Statutes § 504B.241, Subd. 4 says that "If a tenant screening service knows that a court file has been expunged, the tenant screening service shall delete any reference to that file in any data maintained or disseminated by the screening service."

Subdivision 2 states that "At the request of the individual, the residential tenant screening service must give notification of the deletions to persons who have received the residential tenant report within the past six months."

I am asking you to delete all of your references to this court file, and that you notify anyone who got my tenant report in the last 6 months that the eviction was expunged and deleted from my file.

Minnesota law does not permit tenant screening agencies to ask for any other information on tenants before taking this action.

Please contact me if you have any questions. Thank you.

(signature)