

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

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

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

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.”<sup>3</sup>

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.<sup>4</sup> 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 below.

**3. These things were going on in my life when this case happened:**

- I had less money to pay rent because I lost my job or my hours got cut.
- I had less money to pay rent because of illness or a family emergency.
- I was the victim of domestic violence or another crime.
- I was having other problems in my life.

Here are the details:

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<sup>3</sup> *Id.*  
<sup>4</sup> Minn. Const. Art. 1 § 8.

**4. This case record has made it harder for me to find housing:**

- I have been denied housing around \_\_\_\_\_ times because of this case record.
- I was last denied housing on \_\_\_\_\_.
- I have spent around \$\_\_\_\_\_ in rental application fees.
- I have been homeless after this case happened.
- My children have been homeless after this case happened.
- This case has made it hard for me to find housing in these other ways.

Here are the details:

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**5. Expunging this case record will help me find safe and stable housing. I need to find safe and stable housing now:**

- I live with children, seniors, or vulnerable adults.
- I have a disability or someone in my family has a disability.
- I am homeless right now.
- I need safe and stable housing because of other reasons.

Here are the details:

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**6. There are other reasons why it would be fair to expunge this case:**

- There was something wrong with the landlord’s case (see #7 below).
- I don’t owe the landlord any money.
- This case settled, and I did everything I agreed to in the settlement agreement.
- This case record is old.
- This case record should be expunged under the Court’s Retention Schedule<sup>5</sup> because:
  - No money judgment was ordered in this case and the case file was closed over one year ago, or
  - A money judgment was ordered in this case, but I do not owe money anymore and the case is over ten years old.
- Something has changed in my life for the better that helps me be a good tenant.

Here are the details:

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<sup>5</sup> Minnesota Judicial Branch Court Services Division District Court Record Retention Schedule Effective June 1, 2018. Retention Schedule available at [http://www.mncourts/mncourtsgov/media/scao\\_library/MN-District-Court-Record-Retention-Schedule.pdf](http://www.mncourts/mncourtsgov/media/scao_library/MN-District-Court-Record-Retention-Schedule.pdf)

**7. Statutory Expungement<sup>6</sup>**

*(Check Box #7 if there was something wrong with the landlord's case)*

There was something wrong with the landlord's case. 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."<sup>7</sup>

Numbers 3 through 6 above explain why the 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 landlord's case was sufficiently without basis in fact or law. These things were wrong with the landlord's case:

- The landlord did not follow the rules when they served me the court papers.
- The case was about nonpayment of rent and the property had pests or needed repairs.
- The landlord dropped their case against me before we went to court.
- There were other things wrong about the landlord's case.

Here are the details:

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<sup>6</sup> Minn. Stat. § 484.014, subd. 2

<sup>7</sup> Id

**Mandatory Expungement because of Foreclosure**

8. The property in this case was in foreclosure. Expungement is mandatory under law.<sup>8</sup>

- a. I moved out of the property on \_\_\_\_\_, before this case started<sup>9</sup> 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.<sup>10</sup>
- ii. I received the notice required by law<sup>11</sup>, 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.<sup>12</sup>

- a. I moved out of the property on \_\_\_\_\_, before this case started<sup>13</sup> 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.<sup>14</sup>
- ii. I received the notice required by law<sup>15</sup>, but this case started before the date I was supposed to move.

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<sup>8</sup> Minn Stat. § 484.014, subd. 3.

<sup>9</sup> 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 (8<sup>th</sup> Cir. 1994); *Appletree Square I Limited Partnership v. O'Connor & Hannan*, 575 N.W.2d 102, 103 (Minn. 1998).

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

<sup>12</sup> Minn. Stat. § 484.014, subd. 3.

<sup>13</sup> 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 (8<sup>th</sup> Cir. 1994); *Appletree Square I Limited Partnership v. O'Connor & Hannan*, 575 N.W.2d 102, 103 (Minn. 1998).

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

<sup>15</sup> *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.<sup>16</sup>

\_\_\_\_\_
Date

\_\_\_\_\_
Defendant (Tenant)

Address: \_\_\_\_\_

\_\_\_\_\_
\_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

<sup>16</sup> Minn. Stat. § 358.116.