

STATE OF MINNESOTA

COUNTY OF _____

DISTRICT COURT
JUDICIAL DISTRICT
CASE TYPE: EVICTION ACTION

Plaintiff(s) (Landlord),

v.

**NOTICE OF MOTION AND
MOTION FOR EXPUNGEMENT**

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 petitioner

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).

7. Statutory Expungement⁶

(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."⁷

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:

⁶ Minn. Stat. § 484.014, subd. 2

⁷ *Id*

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.