

STATE OF MINNESOTA

COUNTY OF _____

DISTRICT COURT
JUDICIAL DISTRICT
CASE TYPE: EVICTION ACTION

Plaintiff(s) (Landlord),

v.

Defendant(s) (Tenant).

**NOTICE OF MOTION AND
MOTION FOR EXPUNGEMENT**

Case No. _____

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).

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.”³

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.⁴ 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:

³ *Id.*

⁴ 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:

[illegible]

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:

[illegible]

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

- ☐ There was something wrong with the landlord's case.
- ☐ 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 Schedule⁵ 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 twelve years old.
- ☐ Something has changed in my life for the better that helps me be a good tenant.

Here are the details:

⁵ Minnesota Judicial Branch Court Services Division District Court Record Retention Schedule Effective June 1, 2018. Retention Schedule available at https://mncourts.gov/mncourtsgov/media/scao_library/MN-District-Court-Record-Retention-Schedule.pdf.

☐ **7. Statutory Expungement⁶**

The Court may order expungement upon finding 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. For those same reasons, I am asking the Court to grant a discretionary expungement.

☐ **Mandatory Expungement because Defendant Prevailed on the Merits**

8. A court reviewed the law and the facts in my case, and I won. Expungement is mandatory under law.⁸

Mandatory Expungement because the Case Was Dismissed

8. On _____, the Court issued an order dismissing this eviction case. Expungement is mandatory under law.⁹

☐ **Mandatory Expungement because the Parties Agreed to Expungement**

9. My landlord and I, and any other parties to the case, have agreed that this case can be expunged from the court's records.

☐ We reached a written settlement agreement that I am enclosing with this motion.

OR

☐ We agreed orally or by some other mode of communication. My proof of the agreement, if any, is enclosed with this motion. Expungement is mandatory under law.¹⁰

☐ **Mandatory Expungement because the Eviction Is More Than Three Years Old**

10. Eviction was ordered in this case on _____, and more than three years have passed since this date. Expungement is mandatory under law.¹¹

⁶ Minn. Stat. § 484.014, subd. 2

⁷ *Id*

⁸ Minn Stat. § 484.014, subd. 3.

⁹ Minn Stat. § 484.014, subd. 3.

¹⁰ Minn Stat. § 484.014, subd. 3.

¹¹ Minn Stat. § 484.014, subd. 3.

☐ **Mandatory Expungement because of Settlement Compliance**

11. On _____, my landlord and I reached a settlement agreement that I am enclosing with this motion. I followed the agreement. Expungement is mandatory under law.¹²

Here are the details:

☐ **Mandatory Expungement because of Certain Marijuana or Cannabis Offenses**

12. The grounds for my eviction were violation of section 504B.171 or a breach of my lease and

☐ the breach of lease was based solely on possession of marijuana or tetrahydrocannabinols;

OR

☐ I am eligible to receive an automatic expungement under Minn. Stat. Section 609A.055. Expungement is mandatory under law.¹³

¹² Minn Stat. § 484.014, subd. 3.

¹³ Minn Stat. § 484.014, subd. 3.

Mandatory Expungement because of Foreclosure

8. The property in this case was in foreclosure. Expungement is mandatory under law.¹⁴

- ☐ a. I moved out of the property on _____, before this case started¹⁵ 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.¹⁶

- ☐ ii. I received the notice required by law¹⁷, but this case started before the date I was supposed to move.

☐ Mandatory Expungement because of Contract Cancellation

13. The property in this case was in contract cancellation. Expungement is mandatory under law.¹⁸

- ☐ a. I moved out of the property on _____, before this case started¹⁹ 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.²⁰

¹⁴ Minn Stat. § 484.014, subd. 3.

¹⁵ 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).

¹⁶ Minn. Stat. § 504B.285, subd. 1a requires minimum notice period of 90 days. Some tenants get a longer notice period.

¹⁷ *Id.*

¹⁸ Minn. Stat. § 484.014, subd. 3.

¹⁹ 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).

²⁰ Minn. Stat. § 504B.285, subd. 1a requires a minimum notice period of 90 days. Some tenants get a longer notice period.

- ☐ ii. I received the notice required by law²¹, but this case started before the date I was supposed to move.

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.²²

Date

Defendant (Tenant)

Address: _____

Email: _____

Phone: _____

²¹ *Id.*

²² Minn. Stat. § 358.116.