

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).









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

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."<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. 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.<sup>8</sup>

**Mandatory Expungement because the Case Was Dismissed**

**9.** On \_\_\_\_\_, the Court issued an order dismissing this eviction case or my landlord dismissed the case. Expungement is mandatory under law.<sup>9</sup>

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

**10.** 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.<sup>10</sup>

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

**11.** Eviction was ordered in this case on \_\_\_\_\_, and more than three years have passed since this date. Expungement is mandatory under law.<sup>11</sup>

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

<sup>7</sup> *Id*

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

<sup>9</sup> Minn Stat. § 484.014, subd. 3.

<sup>10</sup> Minn Stat. § 484.014, subd. 3.

<sup>11</sup> Minn Stat. § 484.014, subd. 3.



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

**14.** 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.<sup>14</sup>

**Mandatory Expungement because of Foreclosure**

**15.** The property in this case was in foreclosure. Expungement is mandatory under law.<sup>15</sup>

- a. I moved out of the property on \_\_\_\_\_, before this case started<sup>16</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>17</sup>
- ii. I received the notice required by law<sup>18</sup>, but this case started before the date I was supposed to move.

**Mandatory Expungement because of Contract Cancellation**

**16.** The property in this case was in contract cancellation. Expungement is mandatory under law.<sup>19</sup>

- a. I moved out of the property on \_\_\_\_\_, before this case started<sup>20</sup>

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<sup>14</sup> Minn Stat. § 484.014, subd. 3.

<sup>15</sup> Minn Stat. § 484.014, subd. 3.

<sup>16</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>17</sup> Minn. Stat. § 504B.285, subd. 1a requires minimum notice period of 90 days. Some tenants get a longer notice period.  
<sup>18</sup> *Id.*

<sup>19</sup> Minn. Stat. § 484.014, subd. 3.

<sup>20</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).

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>21</sup>
  - ii. I received the notice required by law<sup>22</sup>, but this case started before the date I was supposed to move.

**17.** 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>23</sup>

\_\_\_\_\_  
Date

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

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

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

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

<sup>21</sup> Minn. Stat. § 504B.285, subd. 1a requires a minimum notice period of 90 days. Some tenants get a longer notice period.

<sup>22</sup> *Id.*

<sup>23</sup> Minn. Stat. § 358.116.