

CHAPTER 242—S. F. No. 1000

An act to amend Sections 3 and 7, Chapter 263, Session Laws 1917, as amended by Chapter 285, Session Laws 1921, and Chapter 262, Session Laws 1923, and Chapter 90, Session Laws 1925, relating to a Court of Conciliation and small debtor's Court for the City of Minneapolis.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Laws amended.**—That Sections 3 and 7 of Chapter 263, Session Laws of 1917, be and the same are hereby amended so as to read as follows:

Sec. 3. **Powers of conciliation judge.**—Said Conciliation Judge shall have all the powers of a Court of Conciliation and shall exercise all the special powers conferred by this act. Said Conciliation Court shall be open every day except Sundays and Holidays at such hours as may be fixed by rule and shall be open for at least two evenings in each month for the hearing and determining of controversies submitted to such court in accordance with the provisions of this act. When such judge is not acting as such Conciliation Court, under this act, he shall act as a regular judge of said Municipal Court. No costs shall be taxed to either party in said court but the judge may include in the settlement and judgment such actual disbursements of the prevailing party as are now allowed by law in civil actions and as may seem to him just and proper, or he may refuse to include any disbursements if same shall appear just and proper under the circumstances.

The Clerk and Court officers of said Municipal Court shall be respectively ex-officio clerk and court officers of said Conciliation Court, but neither said clerk nor any of said officers shall charge any fee for filing, *except as hereinafter provided*, or serving any paper in a case brought under the terms of this act, while the same is pending in said Conciliation Court. *Provided, however, that no person, firm or corporation may file claims in excess of fifteen claims in any one year between January first and December 31st, inclusive, without paying to the Clerk of Conciliation Court the sum of One (\$1.00) dollar as fees for each additional claim filed.*

A claim filed in the name of an Assignee of a person, firm or corporation, for the benefit of such person, firm or corporation, shall be deemed to be a claim filed by such person, firm or corporation for the purposes of this provision.

All fees so charged by the clerk shall be collected by the clerk as costs, and by him accounted for and paid to the City Treasurer

of said city on the first Monday of the month following. Causes in said court shall be conducted by the parties without attorneys, but a removal to the Municipal Court as provided in this act, may be taken through an attorney-at-law.

Sec. 7. Removal of cause to Municipal Court for trial by court or by jury.—(a) Any person aggrieved by the judgment rendered by said Conciliation Judge, under Section Five of this act, and who is entitled to a jury trial under the constitution, may have the case removed to said Municipal Court for trial by jury, or by the court without jury, but no case shall be so removed unless within five days after such judgment is rendered, and after the clerk shall have mailed notice of the entry of such judgment to each of the parties thereto, which notice shall be mailed immediately and shall specify the day on which the time for removal of said cause will expire; the party so removing same shall do the following things, to-wit:

(1) **File an affidavit.**—File with Conciliation Clerk an affidavit of the remover, his agent or attorney, stating that said removal is made in good faith and not for the purpose of delay.

(2) **Serve a written demand.**—Serve on the apposite party a written demand for trial by court or jury of such removal in the manner now provided by law for the service of summons in said Municipal Court and file with said Clerk such original demand with proof of service thereof. Such original demand or proof of service shall show the office address of the attorney of each party, that has such attorney, and the residence address of the party so removing, if he has no attorney and the residence address of each of the opposite parties who are served with such notice.

Provided, however, that in case the opposite party cannot be found and service of such demand cannot be made within the statutory time, the moving party may file his demand and affidavit in appeal with the clerk of said Conciliation Court, together with an additional affidavit showing that the moving party has made due and diligent search for the opposite party and that he cannot be found; and, provided further, that the clerk shall mail notice of said appeal to the last known address of the opposite party.

(3) **Pay fee.**—Pay to said Conciliation Clerk the sum of two (\$2.00) dollars when said demand for removal is for trial by Court; three (\$3.00) dollars additional when a special jury of six persons is demanded; or five (\$5.00) dollars additional when a jury of twelve persons is demanded for fees in said Municipal Court. If the moving party fails to demand a jury, and the adverse party or parties or any of them desire a trial by jury, they shall, within five (5) days from the service of the demand for removal upon them file

a written request therefor with the *Clerk* of Conciliation Court and pay to the *Clerk* the sum of three (\$3.00) dollars *as fee for a special jury of six (6) persons or five (\$5.00) dollars as a fee for a jury of twelve (12) persons. No party, however, shall tax his disbursement for a jury fee for a jury of twelve (12) persons or be permitted to recover the same from the opposing party, but a prevailing party may tax his disbursement of three (\$3.00) dollars for a special jury fee.*

If a jury is not demanded as above provided, the jury shall be deemed to have been waived by both parties.

The provisions of Section 9301, General Statutes, 1923, with regard to a five-sixths jury shall apply where there is a jury of six (6) persons as well as where there is a jury of twelve (12) persons.

File Papers With Clerk.—Within ten (10) days after all said things have been done said Conciliation Clerk shall deposit said two (\$2.00) dollars if a Court Case and three (\$3.00) dollars additional if a jury of six (6) persons is demanded or five (\$5.00) dollars additional if a jury of twelve (12) persons is demanded, with the Clerk of the Municipal Court, and file with said Clerk all of said papers together with a copy of said judgment and a certificate setting out in general terms the claims of the parties thereto before the Judge and the issues tried and the case shall be tried in said Municipal Court upon said issues so certified or upon such others as may be stipulated by the parties or ordered by the Municipal Court, or such issues as either party shall demand in writing at the opening of the trial, and a copy of which he has served on the opposite party at least five days before the trial with a notice that such demand will be made.

Judgment Stayed.—When said papers are so filed in said Municipal Court said judgment of the Conciliation Court and all proceedings thereunder shall be stayed pending said appeal and said case shall be pending in the Municipal Court and shall be by the Clerk set down for trial on the first Court or Jury trial day at the foot of the calendar of said day, occurring not less than ten days after the papers are so filed in said Municipal Court, and shall stand for trial without service of any notice of trial or note of issue whatever, except that at least nine days prior to said trial day said Clerk shall mail to each party and each attorney in said case whose address appears in said demand for removal or whose address is known, notice that said case is so set down for trial, but such case may with the consent of the parties be tried without a jury. When said case is called for trial and the party so appealing appears for trial, the Court shall then enter an order vacating the judgment of the Conciliation Court and said case shall proceed to trial. In case the party so appealing does not appear the stay shall be vacated and the appeal dismissed.

Costs Allowed on Appeal.—(d) If the judgment creditor remove said case and the final judgment rendered is not increased in his favor, at least ten (\$10.00) dollars over the former judgment, he shall recover no costs in said Municipal Court, and there shall be entered against him in the judgment an attorney's fee in favor of the adverse party of ten (\$10.00) dollars either by reducing the judgment in his favor in that amount, or if the amount found in his favor be less than ten (\$10.00) dollars by an affirmative judgment against him for the difference. If the judgment debtor remove said case and final judgment is rendered against him he shall pay the adverse party in addition to the amount and costs, an attorney's fee to be entered and included in the judgment as follows, viz: five dollars in case the judgment so removed was five dollars or less, and said final judgment aside from costs is not reduced from the judgment at least three dollars; ten dollars in case the judgment so removed was ten dollars or less and said final judgment aside from costs is not reduced at least five dollars; fifteen dollars in case the judgment so removed was more than ten dollars, and said final judgment aside from costs is not reduced at least ten dollars: to the judgment debtor, when judgment is rendered in his favor upon the merits five (\$5.00) dollars. There shall be no appeal from said Municipal Court or any action brought there on removal from said Conciliation Court, but in such case the judgment of said Municipal Court shall be final.

Approved April 18, 1929.

CHAPTER 243—S. F. No. 1086

An act to amend Section 18, of Chapter 492, General Laws of Minnesota for 1921, relating to the salary, clerk hire, allowance and expenses, of the county treasurer and other county officers, in all counties in this state now or hereafter having a population of more than 150,000, and an area of 5,000 square miles, or more, and repealing all inconsistent acts.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Salary of county treasurer in certain counties.—That Section 18, of Chapter 492, Laws of Minnesota for 1921, be amended so as to read as follows: