

a hearing thereon, is satisfied that said counterclaim is in good faith, said court shall immediately cause an entry of the fact to be made of record and cease all further proceedings in the case and shall enter an order directing the clerk to transfer the case to the municipal court proper for trial upon the issues presented by the original claim and the counterclaim. The said municipal court, upon the payment to the clerk thereof of the entry or filing fee of the said municipal court by either of the parties thereto, shall proceed in the cause to final judgment and execution, according to law, the same as if said action had originally been commenced in the said municipal court, and the costs shall abide the event of the suit. If, however, the amount in controversy claimed in the counterclaim of the defendant is \$100 \$200 or less, or, if said judge is of the opinion that the counterclaim, if any, in excess of \$100 \$200, is not in good faith, he shall retain jurisdiction and shall proceed summarily to hear and determine the cause of action and cause judgment to be entered on the docket of the clerk. Said judgment shall have all the force and effect of a judgment of a court of record. In case of a judgment for the recovery of money only, said judgment may by its terms provide for the satisfaction of the same by the payment of the same into the said conciliation court, either in a lump sum, or by installments, in such amounts and at such times, as to such judge, under all the circumstances of the case, may seem just and reasonable. In case judgment is not removed by demand of either party to the said municipal court within ten days after the entry thereof, as provided in this act, and said judgment remains unsatisfied, said conciliation ~~judge~~ *court* may retain jurisdiction for the collection, satisfaction or modification of the terms of said judgment in the said conciliation court, or, ~~he~~ may, on application therefor, order that a transcript of such judgment shall be issued by the clerk of the said conciliation court to the municipal court proper and that such judgment shall be docketed by the clerk of the said municipal court in the same manner and enforced as the judgment of the said municipal court, provided, however, that before any transcript of judgment shall issue from the said conciliation court to the municipal court proper, the said conciliation ~~judge~~ *court* shall, if necessary, modify the terms of said judgment so as to have the transcript show a judgment for a specific sum.

Approved April 26, 1963.

CHAPTER 363—H. F. No. 821

An act relating to the municipal court of the city of Duluth; amending Minnesota Statutes 1961, Section 488A.74.

Changes or additions indicated by italics, deletions by ~~strikeout~~.

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

Section 1. Minnesota Statutes 1961, Section 488A.74, is amended to read:

488A.74 Duluth conciliation court; commencement of action; duties of clerk. (a) Any person having a claim within the jurisdiction of the said conciliation court may commence an action in the said court by appearing before the clerk thereof and subscribing to and verifying a claim, which claim shall contain the name and place of residence of the plaintiff and the name and place of residence of the defendant and a brief statement of the nature and amount of said claim and the time when the same accrued. If the said claim involves more than three items, the plaintiff shall deliver to the clerk a list of such items, numbered consecutively, which list shall be attached to and made a part of said claim. If the clerk deems the statement of the claim insufficient to make a prima facie case, the court, at the request of the plaintiff, shall decide whether such claim shall be received. Subpoenas for witnesses, if requested, shall be issued by the clerk without fee.

(b) The clerk, when requested, shall draw up said claim and when so subscribed to and verified, shall, upon the payment of the entry fee therefor, immediately file the same, and set down the same for hearing before said judge at a time certain not less than seven days and not more than 12 days from the date of said filing. Provided, however, that the court may, by order, designate a two weeks period at any time during the months of July or August in each year during which the clerk shall set no claims for hearing. The clerk shall give to the person signing the claim a memorandum of the time and place set for the hearing. Said memorandum shall state that if the claim is supported by witnesses, books of account, or documents, they should be produced at the hearing, and also in the case of an unliquidated claim the amount of damages must be proved by the plaintiff at the hearing whether the defendant defends or not.

(c) The clerk shall thereupon mail to the defendant at the address supplied by the plaintiff, by ~~registered~~ *certified* mail, return receipt requested, the mailing expense being prepaid by the plaintiff, a notice signed by the clerk, which, after setting forth the title and venue of the action shall read substantially as follows:

“To (here insert name of defendant.)

“(Here insert name of plaintiff) asks judgment in this court against you for (here insert amount claimed in dollars and cents) upon the following claim: (here insert the nature of the claim and the time when the same accrued.)

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

“The court will give you a hearing upon this claim at (here insert the location of the courthouse and the room therein, as may be necessary) at (here insert the hour) o’clock in the (here insert ‘forenoon’ or ‘afternoon’ as the case may be) on (here insert the date, including the day of the week, as may be prescribed by general or special order of the court).

“If you deny the claim, in whole or in part, to avoid judgment being entered against you by default, you must do both of the following things:

“1. Notify the clerk of this court not later than (here insert the date, including the day of the week, of the second day before the day set for hearing) of your full and specific defense to said claim. In doing this you may appear before the clerk in person, or by authorized agent, and state your defense orally, or in writing, or you may mail the same to him before the date last mentioned.

“2. You must also appear at the time set for hearing upon the claim.

“If your defense is supported by witnesses, account books, receipts or other documents, you should produce them at the hearing. Subpoenas for witnesses, if requested, will be issued by the clerk, without fee.

“If you admit the claim, but desire time to pay, you must not later than (here insert the date, including the day of the week, of the second day before the day set for hearing) notify the clerk of your desire for time to pay, and you must also appear at the hearing and show your reason for desiring time to pay.”

(d) The defendant may also be served with such notice in the same manner as provided by law for the service of a summons in the district court, if the court shall so order. The clerk shall attach to the original verified claim the receipt for the ~~registered~~ *certified* mail notice, or other evidence of service. Notice shall be valid when refused by the defendant and therefor not delivered. If the notice is returned undelivered, without refusal by the defendant, or, if in any other way it appears that notice has not reached the defendant, the clerk shall issue at the mailing expense of the plaintiff, such other and further notice as the court may order.

(e) If the defense to the claim is presented to the clerk in writing it shall be filed by said clerk as the answer in the case. If said defense is stated to the clerk, orally, he shall forthwith reduce the same to writing and place it in the files of the case, where it shall be deemed the answer. Such answer shall state fully, but in concise and

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untechnical terms and form, what parts of the claims are contested, and the grounds for such contest. Demurrers and dilatory pleas are prohibited.

(f) The defendant, within the time for answering, may in the manner provided in this section, claim any set-off or counterclaim. The defendant's claim may be answered by the plaintiff orally at the time set for hearing on plaintiff's claim, or the court may, upon application of the plaintiff, continue the hearing on the original claim and counterclaim to a later date. The penalties upon a defendant provided herein shall likewise apply to any plaintiff with respect to a claim by a defendant. The original claim, and the claim of set-off or counterclaim, shall be deemed one case and no additional entry fee shall be required.

(g) The court may at any time allow any claim or answer to be amended.

Approved April 26, 1963.

CHAPTER 364—H. F. No. 822

An act relating to the municipal court of the city of Duluth; amending Minnesota Statutes 1961, Section 488A.59, Subdivisions 3 and 4.

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

Section 1. Minnesota Statutes 1961, Section 488A.59, Subdivision 3, is amended to read:

Subd. 3. **Duluth municipal court; judge to determine number of jurors drawn.** The judge having charge of the calendar for each general term of said court at which cases may be tried to a jury, shall determine the number of jurors; ~~not in excess of 18;~~ to be drawn for such term, and the number so determined shall be drawn and shall be summoned to appear at said court at 9:30 o'clock in the forenoon ~~of the fourth day of the term for which they are drawn to attend~~ *of the day designated by the judge* and serve as jurors for the trial of actions in said court, and shall so remain in attendance unless excused by the court until the jury cases for such term are concluded and they are finally discharged for the term by order of the court. Provided, however, that whenever a jury shall be demanded by a defendant entitled to the same in any criminal action or by any of the parties in any forcible entry or unlawful detainer action, the court shall direct the clerk of said court to summon a sufficient number of

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