1934 Supplement

To

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1927

(1927 to 1934)

(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota

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CHAPTER 61

Powers

8107. Powers abolished, except, etc.

An agent owes the utmost fidelity to his principal. Nat'l. Pole & Treating Co. v. G., 182M21, 233NW810. See Dun. Dig. 152.

Actual authority of sales agent to receive payment for merchandise may be implied from circumstances. Nat'l. Radiator Corp. v. S., 182M342, 234NW648. See Dun. Dig. 161(43).

In action by a salesman to recover a commission, evidence held sufficient to sustain verdict for plaintiff. Sigvertsen v. M., 182M387, 234NW688. See Dun. Dig. 5812.

8115. Particular estate with power of disposition.

Will held to give an absolute beneficial power of alienation, and life estate was changed into a fee absolute as respected the right of a mortgagee or purchaser, but subject to the future estate of children. 172 M48, 215NW196.

8119. What powers of disposition absolute.

172M48, 215NW196; note under §8115.

CHAPTER 62

Landlords and Tenants

8186. Distress for rent.

1. The relation in general.

Under ordinary contract between landowner and cropper they are co-owners of the crop, and cropper may mortgage his share before division, and a provision authorizing landowner to retain possession of the cropper's share as security for his indebtedness is in legal effect a mortgage on the crop. 171M461, 214NW288.

Except as security for rent or the purchase price of the land, the landowner cannot acquire a valid lien on crops to be grown later than the season beginning on May 1st next following the date of the contract. 171M 461, 214NW288.

If without the consent of the cropper, the landowner retains more than his share of the crops, he must account therefor and cannot apply the value thereof on the unsecured indebtededness of the cropper. 171M461, 214NW288.

Covenant of lessee "to pay all unpaid taxes and assessments that are now levied or assessed upon said real estate during the term" held to evidence an intention of parties to impose tax obligation upon lessee. 173M 247, 217NW135.

Conversion of grain dependent on construction of lease. Randolph v. T., 174M283, 219NW91.

Lessor informing guarantor on lease that tenant was paying the rent, held to estop him from claiming that tenant was in arrears at such or a subsequent time. 176M 227, 222NW929.

Return of lease with a change in it was not an acceptance but a counter offer, but acceptance of the counter offer may be implied from circumstances. M. Samuels & Co. v. Z., 182M345, 234NW468. See Dun. Dig. 1740(24).

City held not to have become bound contractually under a lease to it and was not liable for rent. Noyes v. C., 183M496, 237NW189.

In the absence of a contrary provision in a written lease for an apartment in a modern multiple apartment building, the landlord impliedly covenants that the premises will be habitable. Delamater v. F., 184M428, 239NW148. See Dun. Dig. 5393.

3. Assignments and subleases.

The evidence compels a finding that a thirty-year lease and a subsequent modification thereof, taken by the promoter of a bank to be organized, was not adopted by the bank occupying the premises leased, improving the same, and paying the rent; for the covenants contained in the lease to be performed by the lessee were such that the bank could not lawfully assume them. Veigel v. O'T., 183M407, 236NW710. See Dun. Dig. 2114, 2114a, 2116.

Acceptance of rent from assignees under an assignable lease did not show a surrender by lessors of right to demand rent from lessee. Wilcox v. H., 185M1, 239NW 763. See Dun. Dig. 5429.

A lessee's covenant against assignment without written consent of lessor, however stringent, may be waived by lessor. W. C. Hines Co. v. A., 247NW387. See Dun. Dig. 5408.

Covenant against assignment of lease was waived where assignee remained in possession for two years, paying rent directly to lessor. W. C. Hines Co. v. A., 247NW387. See Dun. Dig. 5408.

Assignee of lease is primarily liable for rent, and lessee, being compelled to pay upon his default, is entitled to reimbursement. W. C. Hines Co. v. A., 247NW 387. See Dun. Dig. 5430.

3½. Rents and royalties.

Defendant lessee could not apply against royalties accruing in 1928 royalties which had accrued under a sublease terminated in 1925. Hammel v. H., 182M1, 234NW 674. See Dun. Dig. 6123.

5. Crops, rights as to.

Possession of crops by lessor under a lease in effect a chattel mortgage. 178M344, 227NW199.

6. Eviction.

Facts admitted held to show there was no ground for claim of constructive eviction for rent. 173M155, 216NW 802.

In action for damage to personal property of evicted lessee, evidence held to show that property belonged to such lessee. Bronson Steel Arch Shoe Co. v. K., 183M 135, 236NW204. See Dun. Dig. 5366.

Reservation in a lease of right of lessor to enter to make repairs or improvements did not warrant a major improvement which damaged the lessee's personal property and amounted to an eviction. Bronson Steel Arch Shoe Co. v. K., 183M135, 236NW204. See Dun. Dig. 5365.

Bedbugs in apartment may constitute constructive eviction of tenant. Delamater v. F., 184M428, 239NW148.

7. Improvements.

Agreement of lessor at termination of lease not to credit lessee with the value of improvements held not to include cost of digging well. Chute v. F., 178M524, 227 NW856.

Lease to gun club granting right to hunt and fish did not give permission to dam outlet of waters upon the land. Pahl v. L., 182M118, 233NW836. See Dun. Dig. 5388.

9. Negligence of landlord.

Evidence held not to show that lease included sidewalk and therefore lessor and not lessee was liable for defective manhole cover. 176M156, 222NW913.

An assumed warranty of landlord as to safety of cellar steps held limited to adequacy of two stair steps claimed to be too thin, and without reference to supports thereunder. 181M471, 233NW14. See Dun. Dig. 5369.

Landlord held not charged with notice of defective rotten supports under cellar steps. 181M471, 233NW14. See Dun. Dig. 5369, 7231.

The rule is that a landlord, in the absence of fraud, concealed dangers known to the landlord unknown to the tenant, or a warranty, is not liable for injuries suffered because of defective premises, unless there is a violation of his covenant to repair. 181M471, 233NW14. See Dun. Dig. 5369.

In action by tenant against landlord for injuries received when step gave way, evidence held to sustain verdict in favor of plaintiff on issues of negligence, assumption of risk and contributory negligence. Klugman v. S., 186M139, 242NW625. See Dun. Dig. 5369.

10. Repairs.

Recovery by lessor of expenditures made in restoring *premises to proper condition at termination of lease.* 178 M391, 227NW211.

12½. Termination of lease.

Evidence held to show a waiver by both parties of a provision requiring written notice to prevent the automatic extension of a lease for another term. 175M421, 221NW645.

Evidence held sufficient to go to jury upon question whether lease was surrendered before the rent for a particular month accrued. 178M177, 226NW411.

Evidence held insufficient to show modification of term of lease or a notice to lessor that lessee would vacate at the end of the first year. Kueffner v. H., 184M188, 238NW161. See Dun. Dig. 5409(49), 5412.

A fee owner executing a 100-year lease and after default executing a second long term or concurrent lease and assigning to the lessee therein the right to enforce the payment of rent and taxes as provided in the former lease still had the right to give notice provided in the lease to make operative right of re-entry. First Minneapolis Trust Co. v. L., 185M121, 240NW459. See Dun. Dig. 5440(89).

A right of re-entry in a lease providing for a 60-day notice for default is not complete until the expiration of 60 days after service of notice. First Minneapolis