

REMEDIES FOR POSSESSION OF PROPERTY

CHAPTER 566. FORCIBLE ENTRY AND UNLAWFUL DETAINER

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566.01 Forcible entry and unlawful detainer

No person shall make entry into lands or tenements except in cases where his entry is allowed by law, and in such cases he shall not enter by force, but only in a peaceable manner.

[1973 c 611 s 6]

566.02 Unlawful detention of lands or tenements subject to fine

When any person has made unlawful or forcible entry into lands or tenements, and detains the same, or, having peaceably entered, unlawfully detains the same, the person entitled to the premises may recover possession thereof in the manner hereinafter provided.

[1973 c 611 s 7]

566.05 Complaint and summons

The person complaining shall file a complaint with a justice of the peace, describing the premises of which possession is claimed, stating the facts which authorize the recovery, and praying for restitution thereof. The justice shall thereupon issue a summons, commanding the person against whom such complaint is made to appear before him on a day and at a place in such summons named, which shall not be less than three, nor more than ten, days from the day of issuing the same. A copy of the complaint shall be attached to the summons, which shall state that it is so attached, and that the original has been filed.

[1973 c 611 s 8]

566.06 Summons; how served

The summons shall be served at least three days before the return day thereof by delivering a copy to the person against whom it is issued or if such person be a corporation, a minor under 14 years of age or a person under guardianship, by delivering a copy as provided in the case of a service of summons in a civil action in the district court; but in case such person cannot be found in the county, the summons may be served on him at least six days before the return day thereof, by leaving a copy thereof at his last usual place of abode with a member of his family, or a person of suitable age and discretion residing at such place, or if he had no place of abode, by leaving a copy thereof upon the premises described in the complaint with a person of suitable age and discretion occupying the same or any part thereof. The summons may be served by the sheriff or any constable of the county or by any other person not a party to the action. In case the defendant has no usual place of abode and cannot be found in the county, of which the return of the sheriff or constable, shall be *prima facie* proof, and further that there

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is no person actually occupying the premises described in the complaint, then upon the filing of an affidavit by the plaintiff, or his attorney, in the court in which the action is brought stating that no person is actually occupying the premises and that he believes the defendant is not in this state, or cannot be found therein, and either that he has mailed a copy of the summons to the defendant at his last known address, or that such address is not known to him, service of the summons may be made upon such defendant by posting the summons in a conspicuous place on the premises one week and by one week's published notice thereof in some newspaper printed and published in the county wherein the action is brought, or, if there be no newspaper therein, then in some newspaper printed and published at the capitol of the state and if upon the return day the defendant, or his attorney, does not appear in court in the action then the trial thereof shall be continued for one week to enable the defendant to make his appearance and defend therein.

[1973 c 611 s 9]

566.09 Judgment; fine; execution

If, upon the trial, the justice or jury find for the plaintiff, the justice shall thereupon enter judgment that the plaintiff have restitution of the premises, and tax the costs for him. The justice shall issue execution in favor of the plaintiff for such costs, and also issue a writ of restitution. If the justice or jury shall find for the defendant, he shall enter judgment for the defendant, tax the costs against the plaintiff, and issue execution therefor.

[1973 c 611 s 10]

566.15 Form of verdict

The verdict of the jury or the finding of the court in favor of the plaintiff in an action under this chapter shall be substantially in the following form:

At a court held at on the day of, 19.., before, a justice of the peace in and for the county of, in an action between, plaintiff, and, defendant, the jury (or, if the action be tried without a jury, the court) find that the facts alleged in the complaint are true, and the said plaintiff ought to have restitution of the premises therein described without delay.

.....
If the verdict or finding be for the defendant, it shall be sufficient to find that the facts alleged in the complaint are not true.

[1973 c 611 s 11]

566.16 Forms of summons and writ

The summons and writ of restitution may be substantially in the following forms:

FORM OF SUMMONS

State of Minnesota }
County of } ss.

Whereas,, of, hath filed with the undersigned, a justice of the peace in and for said county, a complaint against, of, a copy whereof is hereto attached: Therefore you are hereby summoned to appear before the undersigned on the day of, 19.., at o'clock ..m., at, then and there to make answer to and defend against the complaint aforesaid, and further to be dealt with according to law.

Dated at, this day of, 19..

.....,
Justice of the Peace.

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FORM OF WRIT OF RESTITUTION

State of Minnesota } ss.
County of }

The State of Minnesota, to the Sheriff or Any Constable of the County Aforesaid:

Whereas, plaintiff, of in an action for an unlawful or forcible entry and detainer (or for an unlawful detainer, as the case may be), at a court held at in the county aforesaid, on the day of 19.., before, a justice of the peace in and for said county, by the consideration of the court, recovered a judgment against of to have restitution of (here describe the premises as in the complaint):

Therefore, you are hereby commanded that, taking with you the force of the county, if necessary, you cause the said to be immediately removed from the aforesaid premises, and the said to have peaceable restitution of the same. You are also hereby commanded that of the goods and chattels of the said within said county you cause to be levied, and, the same being disposed of according to law, to be paid to the said the sum of dollars, being the costs taxed against the said for the said at the court aforesaid, together with 25 cents for this writ; and thereof, together with this writ, make due return within 30 days from the date hereof, according to law.

Dated at this day of 19...

.....,

Justice of the Peace.

[1973 c 611 s 12]

566.18 Remedies for tenants of substandard housing; definitions

Subdivision 1. As used in sections 566.18 to 566.33, the terms in this section shall have the meanings assigned to them.

Subd. 2. "Tenant" means any person who is occupying a dwelling in a building as defined in subdivision 7, under any agreement, lease, or contract, whether oral or written, and for whatever period of time, which requires the payment of moneys as rent for the use of the dwelling unit, and all other regular occupants of such dwelling unit.

Subd. 3. "Owner" means the owner or owners of the freehold of the premises or lesser estate therein, contract vendee, receiver, executor, trustee, lessee, agent, or any other person, firm or corporation directly or indirectly in control of a building subject to the provision of the act.

Subd. 4. "Commercial tenant" means any person paying rent in a building defined in subdivision 7 who is not a tenant, as defined in subdivision 2.

Subd. 5. "Person" means a natural person, corporation, partnership or unincorporated association.

Subd. 6. "Violation" means the violation of any state, county or city health, housing, building, fire prevention, or housing maintenance code applicable to the building which materially endangers the health or safety of the tenants of the building involved.

Subd. 7. "Building" means any building used in whole or in part as a dwelling, including single family homes, multiple family units such as apartments, and structures containing both dwelling units and units used for non-dwelling purposes.

Subd. 8. "Inspector" means the person charged by the governing body of the political subdivision in which a building is situated, with the responsibility of enforcing provisions of local law, the breach of which could con-

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stitute a violation as defined in subdivision 6, or if no such person, the county health officer or the chairman of the board of county commissioners.

[1973 c 611 s 13]

566.19 Inspection, notice

Subdivision 1. Upon demand by a tenant, an inspection shall be made by the local authority charged with enforcing the code claimed to be violated.

Subd. 2. After an inspection of a building has been made upon demand by a tenant, the owner or his agent and the complaining tenant shall be informed in writing by the inspector of any violations discovered and a reasonable period of time shall be allowed in which to correct such violations.

Subd. 3. Where such an inspection has been made, no action shall be brought pursuant to sections 566.18 to 566.33 except on expiration of the time thus granted without satisfactory repairs being accomplished to remove the violations unless the tenant shall allege such time is excessive.

[1973 c 611 s 14]

566.20 Special proceeding

Subdivision 1. An action may be brought in county court, or municipal court in the counties of Hennepin, Ramsey or St. Louis, by any tenant of a building in which a violation, as defined in section 566.18, subdivision 6, is alleged to exist, or by any state, county or local department, or authority, charged with the enforcement of codes relating to health, housing, or building maintenance.

Subd. 2. The venue of the action authorized by this section shall be within the county in which the building alleged to contain violations is located.

Subd. 3. The action shall be commenced by service of a complaint and summons, which summons may be issued only by a judge or clerk of the court.

Subd. 4. The complaint shall be verified and shall:

(a) Allege material facts showing that there then exists in the building a violation or violations;

(b) State the relief sought;

(c) List the rents due each month from each dwelling unit within the building, if known; and

(d) Be accompanied by a copy of the official report of inspection by any department of health, housing or buildings, certified by the custodian of records of such department stating

(1) when and by whom the building concerned was inspected,

(2) what violations were recorded, and

(3) that notice of the violations has been given to the building owner; or

(e) Be accompanied by a statement that a request for inspection was made to the appropriate state, county or municipal department and demand made upon the owner to correct the alleged violation and that a reasonable period of time has elapsed since such demand or request was made.

[1973 c 611 s 15]

566.21 Summons

Subdivision 1. Upon receipt of the complaint, the clerk of court shall prepare a summons. Said summons shall:

(a) Specify the time and place of the hearing to be held on the complaint, which hearing shall be not less than five or more than ten days after receipt of the complaint by the clerk; and

(b) State that if at that time a defense is not interposed and established by the defendant, judgment may be entered for the relief requested and authorized by Laws 1973, Chapter 611.

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Subd. 2. The summons and complaint shall be served upon the owner or his agent at least five and not more than ten days before the time at which the complaint is to be heard. Service shall be by personal service upon the defendant pursuant to the Minnesota rules of civil procedure except that if such service cannot be made with due diligence, service may be made by affixing a copy of the summons and complaint prominently to the building involved, and mailing at the same time a copy of the summons and complaint by certified mail to the last known address of the defendant.

[1973 c 611 s 16]

566.22 Answer

At or before the time when the petition is to be heard, the defendant may answer in writing. Defenses not set out in a written answer must be orally pleaded at the hearing prior to the taking of any testimony. No delays in the date of hearing shall be granted to allow time to prepare a written answer or reply except with the consent of all parties.

[1973 c 611 s 17]

566.23 Defenses

It shall be a sufficient defense that:

- (a) The violation or violations alleged in the complaint do not in fact exist or that such violation or violations have been removed or remedied; or
- (b) Such violations have been caused by the wilful, malicious, negligent or irresponsible conduct of a complaining tenant or anyone under his direction or control; or
- (c) Any tenant of the building has unreasonably refused entry to the owner or his agent to a portion of the premises for the purpose of correcting such violation, and such effort to correct was made in good faith; or
- (d) Such violation or violations alleged in the complaint do not materially endanger the health or safety of the tenants of the dwelling.

[1973 c 611 s 18]

566.24 Hearing

When issues of fact are raised, they shall be tried by the court without a jury at the time when issue is joined. The court may grant a postponement of such trial on its own motion or at the request of any party if it should determine that such postponements are necessary to enable any party to procure necessary witnesses, or evidence, but each postponement shall be for no more than ten days except by consent of all appearing parties.

[1973 c 611 s 19]

566.25 Judgment

Upon finding the complaint proved, the court, may, in its discretion:

- (a) Order the owner to remedy the violation or violations found by the court to exist if the court is satisfied that corrective action will be undertaken promptly; or
- (b) Order the tenant to remedy the violation or violations found by the court to exist and deduct the cost thereof from his rent subject to such terms as the court determines to be just; or
- (c) Appoint an administrator with powers as set out in section 566.29, and
 - (1) direct that rents due:
 - (a) on and from the day of entry of judgment, in the case of petitioning tenants, and
 - (b) on and from the day of service of the judgment on all other tenants and commercial tenants of the building, if there be any, shall be deposited with the administrator appointed by the court, and

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(2) direct that the administrator use the rents collected for the purpose of remedying the violations found to exist by the court paying the debt service, taxes and insurance, and providing the services necessary to the ordinary operation and maintenance of the building which the owner is obligated to provide but which he fails or refuses to provide; or

(d) Find the extent to which any uncorrected violations impair the tenants' use and enjoyment of the premises contracted for and order the rent therefor abated accordingly. Should the court choose to enter judgment under this paragraph the parties shall be informed and the court shall find the amount by which the rent shall be abated; and

(e) Grant such other relief as to the court may seem just and proper.

[1973 c 611 s 20]

566.26 Service of judgment

A copy of the judgment shall be personally served on every tenant and commercial tenant of the building whose obligations will be affected by the judgment. If personal service cannot be had with due diligence service may be had by posting a notice of the judgment on the entrance door of the tenant's dwelling or commercial tenant's unit and by mailing a copy of the judgment to such tenant or commercial tenant by certified mail.

[1973 c 611 s 21]

566.27 Owner's right to collect rent suspended

When an administrator has been appointed pursuant to section 566.25, clause (c), any right of the owner to rent moneys from the time of judgment or service of judgment as set out in section 566.21 shall be void and unenforceable until the administration is terminated.

[1973 c 611 s 22]

566.28 Eviction proceedings by owner limited

A tenant may not be evicted, nor may his obligations under his rental agreement be increased nor the services decreased, if the eviction or increase of obligations or decrease of services is intended as a penalty for the tenant's complaint of a violation. The burden of proving otherwise shall be on the owner if said eviction or increase of obligations or decrease of services occurs within 90 days after the filing of the complaint, unless it is found that the complaint was not made in good faith. After 90 days the burden of proof shall be on the tenant.

[1973 c 611 s 23]

566.29 Administrator

Subdivision 1. The administrator may be any person, other than an owner of the building, the inspector, the complaining tenant or any person living in the complaining tenant's dwelling unit. If a state, court, or local agency is authorized by statute, ordinance or regulation to provide persons to act as administrators under this section, the court may appoint such persons as administrators to the extent they are available.

Subd. 2. Such person shall post bond to the extent of the rents expected by the court to be necessary to be collected to correct the violation or violations. Administrators appointed from the governmental agencies shall not be required to give bond.

Subd. 3. The court may allow a reasonable amount for the services of administrators, and the expense of the administration from any rent moneys.

Subd. 4. The administrator shall be empowered to:

(a) Collect rents from tenants and commercial tenants, evict tenants and commercial tenants for nonpayment of rent or other cause, rent vacant dwelling units on a month to month basis, rent vacant commercial units with the

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consent of the owner and exercise all other powers necessary and appropriate to carry out the purposes of Laws 1973, Chapter 611;

(b) Contract for the reasonable cost of such materials, labor and services as are necessary to remedy the violation or violations found by the court to exist, and make disbursements for payment therefor from funds available for the purpose;

(c) Provide any services to the tenants which the owner is obligated to provide but which he refuses or fails to provide, and to make disbursements for payment thereof from funds available for the purpose.

Subd. 5. At any time during the administration the administrator, or any party, may petition the court after notice to all parties for an order terminating the administration on the ground that the funds available to the administrator are insufficient to effect the prompt remedy of the violations. Upon finding the petition proved the court shall terminate the administration and proceed to judgment pursuant to the provisions of section 566.25, clause (d).

[1973 c 611 s 24]

566.30 Removal of administrator

Subdivision 1. The administrator may, upon notice to all parties, petition the court to be relieved of his duties, setting forth his reasons therefor. The court may, in its discretion, grant such petition and discharge the administrator upon approval of his accounts.

Subd. 2. Any party may, upon notice to the administrator and all other parties, petition the court to remove the administrator. Upon good cause shown, the court shall order the administrator removed and direct him to deliver to the court forthwith an accounting of his administration. The court may make any other order necessary and appropriate under the circumstances.

Subd. 3. In the event the administrator is removed, the court shall appoint a new administrator in accordance with the provisions of section 566.29, giving all parties an opportunity to be heard on the matter of the appointment.

[1973 c 611 s 25]

566.31 Termination of administration

Subdivision 1. The administration shall be terminated upon the occurrence of one of the following:

(a) The securing of certification from the appropriate governmental agency that the violations found by the court to exist at the time of judgment have been remedied; or

(b) An order pursuant to section 566.29, subdivision 5.

Subd. 2. Upon the occurrence of any of the conditions for termination in subdivision 1, the administrator shall:

(a) Submit to the court an accounting of receipts and disbursements of his administration together with copies of all bills, receipts and other memoranda pertaining to all transactions reflected therein, and, where appropriate, a certification, by an appropriate governmental agency, that the violations found by the court to exist at the time of judgment have been remedied; and

(b) Comply with any other order the court shall make as a condition of discharge.

Subd. 3. Upon approval by the court of the administrator's accounts and compliance by the administrator with any other order the court may make as a condition of discharge, the court shall discharge the administrator from any further responsibilities pursuant to Laws 1973, Chapter 611.

[1973 c 611 s 26]

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566.32 Waiver prohibited

Any provision, whether oral or written, of any lease or other agreement whereby any provision of Laws 1973, Chapter 611 is waived by a tenant shall be deemed contrary to public policy and void.

[1973 c 611 s 27]

566.33 Purpose to provide additional remedies

The purpose of Laws 1973, Chapter 611 is to provide additional remedies and nothing herein contained shall alter the ultimate financial liability of the owner or tenant for repairs or maintenance of the building.

[1973 c 611 s 28]

COMPENSATORY AND COLLECTION REMEDIES

CHAPTER 573. PERSONAL REPRESENTATIVES, HEIRS; ACTIONS

Sec.
573.02 Action for death by wrongful act.

573.02 Action for death by wrongful act

Subdivision 1. When death is caused by the wrongful act or omission of any person or corporation, the trustee appointed as provided in subdivision 3 may maintain an action therefor if the decedent might have maintained an action, had he lived, for an injury caused by such wrongful act or omission. The action may be commenced within three years after the act or omission. The recovery in such action is such an amount as the jury deems fair and just in reference to the pecuniary loss resulting from such death, and shall be for the exclusive benefit of the surviving spouse and next of kin, proportionate to the pecuniary loss severally suffered by the death. The court then determines the proportionate pecuniary loss of the persons entitled to the recovery and orders distribution accordingly. Funeral expenses and any demand for the support of the decedent allowed by the court having jurisdiction of the action, are first deducted and paid.

If an action for such injury was commenced by the decedent and not finally determined during his life, it may be continued by the trustee for recovery of such damages for the exclusive benefit of the surviving spouse and next of kin, proportionate to the pecuniary loss severally suffered by the death. The court on motion shall make an order allowing such continuance and directing pleadings to be made and issues framed as in actions begun under this section.

[1973 c 717 s 30]

[For text of subds. 2 to 4, see M.S.1971]

CHAPTER 574. BONDS, FINES, FORFEITURES

Sec.
574.20 Bonds, by whom approved.

Sec.
574.32 Notice.

574.20 Bonds, by whom approved

Except as otherwise provided by law in particular cases, bonds shall be approved as follows:

(1) The official bonds of all state officers, including those of the treasurers, superintendents, and other officials, and employees of the several public educational, charitable, penal, and reformatory institutions belonging to the state, shall be approved, as to form, by the attorney general, and in all other respects by the governor and the public examiner, or one of them;