

## CHAPTER 566

## FORCIBLE ENTRY AND UNLAWFUL DETAINER

566.01	Forcible entry and unlawful detainer.	566.175	Unlawful removal or exclusion; recovery of possession.
566.02	Unlawful detention of lands or tenements subject to fine.	566.18	Remedies for tenants; definitions.
566.03	Recovery of possession; defenses.	566.19	Inspection, notice.
566.04	Limitation.	566.20	Special proceeding.
566.05	Complaint and summons.	566.21	Summons.
566.06	Summons; how served.	566.22	Answer.
566.07	Answer; trial.	566.23	Defenses.
566.08	Adjournment; security for rent.	566.24	Hearing.
566.09	Judgment; fine; execution.	566.25	Judgment.
566.10	Disagreement.	566.26	Service of judgment.
566.11	Writ of restitution; effect of appeal.	566.27	Owner's right to collect rent suspended.
566.12	Appeal; stay.	566.28	Eviction proceedings by owner limited.
566.13	Appeal after issuance of writ; stay.	566.29	Administrator.
566.14	Dismissal of appeals; amendments; return.	566.30	Removal of administrator.
566.15	Form of verdict.	566.31	Termination of administration.
566.16	Forms of summons and writ.	566.32	Waiver prohibited.
566.17	Execution of the writ of restitution.	566.33	Purpose to provide additional remedies.

**566.01 FORCIBLE ENTRY AND UNLAWFUL DETAINER.**

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

**History:** (9147) *RL s 4036; 1963 c 753 art 2 s 6; 1971 c 23 s 36; 1973 c 611 s 6; 1986 c 444*

**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.

**History:** (9148) *RL s 4037; 1917 c 227 s 1; 1973 c 611 s 7*

**566.03 RECOVERY OF POSSESSION; DEFENSES.**

Subdivision 1. When any person holds over lands or tenements after a sale thereof on an execution or judgment, or on foreclosure of a mortgage, and expiration of the time for redemption, or after termination of contract to convey the same, provided that if the person holding such lands or tenements after the sale, foreclosure, or termination is a tenant, the person has received at least one month's written notice of the termination of tenancy as a result of the sale, foreclosure, or termination; or when any person holds over lands or tenements after termination of the time for which they are demised or let to that person or to the persons under whom that person holds possession, or contrary to the conditions or covenants of the lease or agreement under which that person holds, or after any rent becomes due according to the terms of such lease or agreement; or when any tenant at will holds over after the determination of any such estate by notice to quit; in all such cases the person entitled to the premises may recover possession thereof in the manner hereinafter provided.

Subd. 2. It shall be a defense to an action for recovery of premises following the alleged termination of a tenancy by notice to quit for the defendant to prove by a fair preponderance of the evidence that:

(1) The alleged termination was intended in whole or part as a penalty for the defendant's good faith attempt to secure or enforce rights under a lease or contract, oral or written, or under the laws of the state, any of its governmental subdivisions, or of the United States; or

(2) The alleged termination was intended in whole or part as a penalty for the defendant's good faith report to a governmental authority of the plaintiff's violation of any health, safety, housing or building codes or ordinances.

If the notice to quit was served within 90 days of the date of any act of the tenant coming within the terms of clause (1) or (2) the burden of proving that the notice to quit was not served in whole or part for a retaliatory purpose shall rest with the plaintiff.

Subd. 3. In any proceeding for the restitution of premises upon the ground of nonpayment of rent, it shall be a defense thereto if the tenant establishes by a preponderance of the evidence that the plaintiff increased the tenant's rent or decreased the services as a penalty in whole or part for any lawful act of the tenant as described in subdivision 2, providing that the tenant tender to the court or to the plaintiff the amount of rent due and payable under the tenant's original obligation.

Subd. 4. Nothing contained herein shall limit the right of the lessor pursuant to the provisions of subdivision 1 to terminate a tenancy for a violation by the tenant of a lawful, material provision of a lease or contract, whether written or oral, or to hold the tenant liable for damage to the premises caused by the tenant or a person acting under the tenant's direction or control.

**History:** (9149) *RL s 4038; 1917 c 227 s 2; 1971 c 240 s 1; 1976 c 17 s 1; 1984 c 566 s 5; 1986 c 444*

#### **566.04 LIMITATION.**

No restitution shall be made under this chapter of any lands or tenements of which the party complained of, or that person's ancestors, or those under whom the person holds the premises, have been in quiet possession for three years next before the filing of the complaint, after the determination of the leasehold estate that the person may have had therein.

**History:** (9150) *RL s 4039; 1986 c 444*

#### **566.05 COMPLAINT AND SUMMONS.**

The person complaining shall file a complaint with the court, describing the premises of which possession is claimed, stating the facts which authorize the recovery, and praying for restitution thereof. The court shall issue a summons, commanding the person against whom the complaint is made to appear before the court on a day and at a place stated in the summons. The appearance shall be not less than seven nor more than 14 days from the day of issuing the summons. A copy of the complaint shall be attached to the summons, which shall state that the copy is attached and that the original has been filed.

**History:** (9151) *RL s 4040; 1973 c 611 s 8; 1981 c 168 s 3*

#### **566.06 SUMMONS; HOW SERVED.**

The summons shall be served at least seven days before the return day in the manner provided for service of a summons in a civil action in the district court. If the person cannot be found in the county, the summons may be served at least seven days before its return day by leaving a copy at the person's last usual place of abode with a family member or a person of suitable age and discretion residing there, or if the person had no place of abode, by leaving a copy 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 any person not named a party to the action. If the defendant cannot be found in the county, of which the return of the sheriff or constable shall be prima facie proof, and, in the case of a nonresidential premises, no person actually occupies the premises described in the complaint, or, in case the premises described in the complaint is residential, service has been attempted at least twice on different days, with at least one of the attempts having been made between the hours of 6:00 and 10:00 p.m., upon the filing of an affidavit of the plaintiff or the plaintiff's attorney stating that (1) the defendant cannot be found or on belief that the

defendant is not in this state, and (2) a copy of the summons has been mailed to the defendant at the defendant's last known address if any is known to the plaintiff, service of the summons may be made upon the defendant by posting the summons in a conspicuous place on the premises for not less than one week. If the defendant or the defendant's attorney does not appear in court upon the return day in the action, the trial thereof shall proceed.

**History:** (9152) *RL s 4041; 1909 c 496 s 1; 1973 c 611 s 9; 1976 c 123 s 1; 1981 c 168 s 4; 1985 c 214 s 1; 1986 c 444*

## 566.07 ANSWER; TRIAL.

After the return of the summons, at the time and place appointed therein, the defendant, on appearing, may answer the complaint, and all matters in excuse, justification, or avoidance of the allegations thereof shall be set up in the answer; and thereupon the court shall hear and determine the action, unless it shall adjourn the trial as provided in section 566.08, but either party may demand a trial by jury. The proceedings in such action shall be the same as in other civil actions, except as in this chapter otherwise provided.

**History:** (9153) *RL s 4042; 1981 c 168 s 6; 1986 c 444*

## 566.08 ADJOURNMENT; SECURITY FOR RENT.

The court, in its discretion, may adjourn the trial, but not beyond six days after the return day, unless by consent of parties; but in all cases mentioned in section 566.03, except in an action upon a written lease signed by both parties thereto, if the defendant, or the defendant's agent or attorney, shall make oath that the defendant cannot safely proceed to trial for want of a material witness, naming the witness, and that the defendant has made due exertion to obtain the witness, and believes that, if such adjournment be allowed, the defendant will be able to procure the attendance of such witness at the trial, or the witness' deposition, and shall give bond conditioned to pay to the plaintiff all rent which may accrue during the pendency of the action, and all costs and damages consequent upon such adjournment, the court shall adjourn the trial for such time as may appear necessary, not exceeding three months.

**History:** (9154) *RL s 4043; 1981 c 168 s 6; 1986 c 444*

## 566.09 JUDGMENT; FINE; EXECUTION.

If the court or jury finds for the plaintiff, the court shall immediately enter judgment that the plaintiff have restitution of the premises and tax the costs for the plaintiff. The court shall issue execution in favor of the plaintiff for the costs and also immediately issue a writ of restitution. Upon a showing by the defendant that immediate restitution of the premises would work a substantial hardship upon the defendant or the defendant's family, the court shall stay the writ of restitution for a reasonable period, not to exceed seven days. If the court or jury finds for the defendant, the court shall enter judgment for the defendant, tax the costs against the plaintiff, and issue execution therefor.

**History:** (9155) *RL s 4044; 1973 c 611 s 10; 1976 c 123 s 2; 1981 c 168 s 5; 1986 c 444*

## 566.10 DISAGREEMENT.

If the jury cannot agree upon a verdict, the court may discharge them, and issue a venire, returnable forthwith, or at some other time agreed upon by the parties or fixed by the court, for the purpose of impaneling a new jury.

**History:** (9156) *RL s 4045; 1981 c 168 s 6*

## 566.11 WRIT OF RESTITUTION; EFFECT OF APPEAL.

If the party against whom judgment for restitution is rendered or the party's

attorney state to the court an intent to take an appeal, a writ of restitution shall not issue for 24 hours after judgment. In an action on a lease, against a tenant holding over after the expiration of the term thereof, or a termination thereof by a notice to quit, such writ may issue forthwith notwithstanding such notice of appeal, if the plaintiff give a bond conditioned to pay all costs and damages in case on the appeal the judgment of restitution be reversed and a new trial ordered.

**History:** (9157) *RL s 4046; 1909 c 496 s 2; 1981 c 168 s 6; 1986 c 444*

#### **566.12 APPEAL; STAY.**

A party who feels aggrieved by the judgment may appeal within ten days as in other cases triable before courts except that if the party appealing remains in possession of the premises, bond shall be conditioned to pay all costs of such appeal and abide the order the court may make therein and pay all rents and other damages justly accruing to the party excluded from possession during the pendency of the appeal. Upon the taking of such appeal all further proceedings in the case shall be stayed, except that in an action on a lease against a tenant holding over after the expiration of the term thereof or termination thereof by notice to quit, if the plaintiff give bond as provided in section 566.11, a writ of restitution shall issue as if no appeal had been taken and the appellate court shall thereafter issue all needful writs and processes to carry out any judgment which may be rendered in such court.

**History:** (9158) *RL s 4047; 1909 c 496 s 3; 1981 c 168 s 6; 1986 c 444*

#### **566.13 APPEAL AFTER ISSUANCE OF WRIT; STAY.**

If a writ of restitution has issued before the taking of an appeal, the court shall give appellant a certificate of the allowance thereof. Upon being served with such certificate, the officer having the writ shall cease all further proceedings thereunder and if the writ has not been completely executed the defendant shall remain in possession of the premises until the determination of the appeal, but this section shall not apply to a case where judgment for restitution has been entered on a lease against a tenant holding over after the expiration of the term thereof or determination thereof by notice to quit.

**History:** (9159) *RL s 4048; 1909 c 496 s 4; 1981 c 168 s 6; 1986 c 444*

#### **566.14 DISMISSAL OF APPEALS; AMENDMENTS; RETURN.**

In all cases of appeal, the appellate court shall not dismiss or quash the proceedings for want of form only, provided they have been conducted substantially in accordance with the provisions of this chapter. Amendments may be allowed at any time, upon such terms as to the court may appear just, in the same cases and manner and to the same extent as in civil actions. The court may compel the trial court, by attachment, to make or amend any return which is withheld or improperly or insufficiently made.

**History:** (9160) *RL s 4049; 1981 c 168 s 6*

#### **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 judge 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.

**History:** (9161) *RL s 4050; 1973 c 611 s 11; 1981 c 168 s 6*

# MINNESOTA STATUTES 1986

## 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                    )  
  ) ss.  
County of .....                    )

Whereas, ....., of ....., hath filed with the undersigned, a judge 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.....

.....,  
Judge of ..... court.

### 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 judge 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.....

.....,  
Judge of ..... court.

**History:** (9162) RL s 4051; 1973 c 611 s 12; 1981 c 168 s 6

## 566.17 EXECUTION OF THE WRIT OF RESTITUTION.

The officer holding the writ of restitution shall execute the same by making a demand upon defendant if found in the county or any adult member of the defendant's family holding possession of the premises, or other person in charge thereof, for the possession of the same, and that the defendant leave, taking family and all personal property from such premises within 24 hours after such demand. If defendant fails to comply with the demand, then the officer shall bring, if necessary, the force of the county and whatever assistance may be necessary, at the cost of the complainant, remove the said defendant, family and all personal property from said premises detained, immediately and place the plaintiff in the possession thereof. In case defendant cannot be found in the county, and there is no person in charge of the premises detained, so that no demand can be made upon the defendant, then the officer shall enter into the possession of the premises, breaking in if necessary, and remove all

property of the defendant at the expense of the plaintiff. The plaintiff shall have a lien upon all of the goods upon the premises for the reasonable costs and expenses incurred for removing the personal property and for the proper caring and storing the same, and the costs of transportation of the same to some suitable place of storage, in case defendant shall fail or refuse to make immediate payment for all the expenses of such removal from the premises and plaintiff shall have the right to enforce such lien by detaining the same until paid, and, in case of nonpayment for 60 days after the execution of the writ, shall have the right to enforce the lien and foreclose the same by public sale as provided for in case of sales under sections 514.18 to 514.22.

**History:** (9163) *RL s 4051 1/2; 1909 c 496 s 5; 1986 c 444*

### **566.175 UNLAWFUL REMOVAL OR EXCLUSION; RECOVERY OF POSSESSION.**

Subdivision 1. Any tenant who is unlawfully removed or excluded from lands or tenements which are demised or let to the tenant may recover possession of the premises in the following manner:

(a) The tenant shall present a verified petition to the county or municipal court of the county in which the premises are located, which petition shall:

(1) describe the premises of which possession is claimed and the owner, as defined in section 566.18, subdivision 3, of the premises;

(2) specifically state the facts and grounds that demonstrate that the removal or exclusion was unlawful including a statement that no judgment and writ of restitution have been issued under section 566.09 in favor of the owner and against petitioner as to the premises and executed in accordance with section 566.17; and

(3) ask for possession thereof.

(b) If it clearly appears from the specific grounds and facts stated in the verified petition or by separate affidavit of petitioner or the petitioner's counsel or agent that the removal or exclusion was unlawful, the court shall immediately order that petitioner have possession of the premises.

(c) The petitioner shall furnish monetary or other security if any as the court deems appropriate under the circumstances for payment of all costs and damages the defendant may sustain if the order is subsequently found to have been obtained wrongfully. In determining the appropriateness of any security the court shall consider petitioner's ability to afford monetary security.

(d) The court shall direct the order to the sheriff or any constable of the county in which the premises is located and the sheriff or constable shall execute the order immediately by making a demand upon the defendant, if found, or the defendant's agent or other person in charge of the premises, for possession of the premises. If the defendant fails to comply with the demand, the officer shall take whatever assistance may be necessary and immediately place the petitioner in possession of the premises. If the defendant or the defendant's agent or other person in control of the premises cannot be found and if there is no person in charge of the premises detained so that no demand can be made, the officer shall immediately enter into possession of the premises and place the petitioner in possession of the premises. The officer shall also serve the order and verified petition or affidavit without delay upon the defendant or agent, in the same manner as a summons is required to be served in a civil action in district court.

Subd. 2. The defendant by written motion and notice served by mail or personally upon petitioner or petitioner's attorney at least two days prior to the hearing date on the motion may obtain dissolution or modification of the order for possession, issued pursuant to subdivision 1, clause (b), unless the petitioner proves the facts and grounds upon which the writ is issued. A defendant bringing a motion pursuant to this subdivision may recover possession of the premises only in accordance with sections 566.03 to 566.17 or otherwise provided by law. Upon the dissolution of the order, the court shall tax costs to petitioner, subject to the provisions of section 563.01, and may

allow damages and reasonable attorney's fees for the wrongful granting of the order for possession. If the order is affirmed the court shall tax costs against defendant and may allow petitioner reasonable attorney's fees.

Subd. 3. An order issued under subdivision 1, clause (b), or affirmed, modified or dissolved under subdivision 2 is a final order for purposes of appeal and either party aggrieved by the order may appeal within ten days after the entry of the order. If the party appealing remains in possession of the premises, bond shall be conditioned to pay all costs of the appeal, to abide by the order the court may make and to pay all rent and other damages justly accruing to the party excluded from possession during the pendency of the appeal.

Subd. 4. Any provisions, whether oral or written, of any lease or other agreement whereby any provision of this section is waived by a tenant is contrary to public policy and void.

Subd. 5. The purpose of this section is to provide an additional and summary remedy for tenants unlawfully removed or excluded from rental property and except as where expressly provided in this section, sections 566.03 to 566.17 shall not apply to proceedings under this section.

Subd. 6. The provisions of this section shall apply only to tenants as that term is defined in section 566.18, subdivision 2, and buildings as that term is defined in section 566.18, subdivision 7.

**History:** 1975 c 410 s 5; 1986 c 444

#### **566.18 REMEDIES FOR TENANTS; 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.** "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 that dwelling unit, and any resident of a manufactured home park.

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:

(a) a violation of any state, county or city health, safety, housing, building, fire prevention, or housing maintenance code applicable to the building;

(b) a violation of any of the covenants set forth in section 504.18, subdivision 1, clauses (a) or (b);

(c) a violation of an oral or written agreement, lease or contract for the rental of a dwelling in a building.

Subd. 7. **Building.** "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 nondwelling purposes, and also includes a manufactured home park.

Subd. 8. **Inspector.** "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 constitute a violation as defined in subdivision 6, clause (a), or if no such person, the county health officer or the chair of the board of county commissioners, and in the case of a manufactured home park, the state department of health, or its designee.

**History:** 1973 c 611 s 13; 1978 c 598 s 2,3; 1982 c 526 art 2 s 17-19; 1986 c 444

**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 the owner's agent and the complaining tenant shall be informed in writing by the inspector of any code violations discovered and a reasonable period of time shall be allowed in which to correct the violations.

Subd. 3. Where 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 code violations unless the tenant shall allege the time is excessive.

Subd. 4. No action may be commenced pursuant to sections 566.18 to 566.33 by a tenant of a building in which a violation as defined in section 566.18, subdivision 6, clauses (b) or (c) is alleged to exist unless the owner is informed in writing of the alleged violation at least 14 days prior to the commencement of the action.

**History:** 1973 c 611 s 14; 1978 c 598 s 4-6; 1986 c 444

**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 court administrator.

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) If the violation is a violation as defined in section 566.18, subdivision 6, clause (a), 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 that department stating

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

(2) what code violations were recorded, and

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

(e) If the violation is a violation as defined in section 566.18, subdivision 6, clause (a), 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 code violation and that a reasonable period of time has elapsed since the demand or request was made.

**History:** 1973 c 611 s 15; 1978 c 598 s 7; 1Sp1986 c.3 art 1 s 82

**566.21 SUMMONS.**

Subdivision 1. Upon receipt of the complaint, the court administrator 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 court administrator; 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.

Subd. 2. The summons and complaint shall be served upon the owner or the owner's 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.

**History:** 1973 c 611 s 16; 1986 c 444; 1Sp1986 c 3 art 1 s 82

#### 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.

**History:** 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 the violation or violations have been removed or remedied; or

(b) The violations have been caused by the willful, malicious, negligent or irresponsible conduct of a complaining tenant or anyone under the tenant's direction or control; or

(c) Any tenant of the building has unreasonably refused entry to the owner or the owner's agent to a portion of the premises for the purpose of correcting the violation, and the effort to correct was made in good faith.

**History:** 1973 c 611 s 18; 1978 c 598 s 8; 1986 c 444

#### 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.

**History:** 1973 c 611 s 19

#### 566.25 JUDGMENT.

Upon finding the complaint proved, the court may, in its discretion, do any or all of the following, either alone or in combination:

(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 from the rent subject to the 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:

(i) on and from the day of entry of judgment, in the case of petitioning tenants, and

(ii) on and from the day of service of the judgment on all other tenants and commercial tenants of the building, if any, shall be deposited with the administrator appointed by the court, and

(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 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 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 any other relief the court deems just and proper.

**History:** 1973 c 611 s 20; 1982 c 492 s 3; 1986 c 444

#### 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.

**History:** 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.

**History:** 1973 c 611 s 22

#### 566.28 EVICTION PROCEEDINGS BY OWNER LIMITED.

A tenant may not be evicted, nor may the tenant's obligations under a 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.

**History:** 1973 c 611 s 23; 1986 c 444

#### 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. **Powers.** 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 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 materials, labor and services 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 refuses or fails to provide, and pay for them from funds available for the purpose;

(d) Petition the court, after notice to the parties, for an order allowing the administrator to encumber the premise to secure funds to the extent necessary to cover the cost of materials, labor, and services necessary to remedy the violation or violations found by the court to exist, and to pay for them from funds derived from the encumbrance; and

(e) Petition the court, after notice to the parties, for an order allowing the administrator to receive funds made available for this purpose by the municipality to the extent necessary to cover the cost of materials, labor, and services necessary to remedy the violation or violations found by the court to exist, and pay for them from funds derived from the municipal sources. The municipality shall recover disbursements by special assessment on the real estate affected, bearing interest at the rate determined by the municipality, not exceeding the rate established for finance charges for open-end credit sales under section 334.16, subdivision 1, clause (b), with the assessment, interest and any penalties to be collected the same as special assessments made for other purposes under state statute or municipal charter.

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).

**History:** 1973 c 611 s 24; 1982 c 492 s 4; 1986 c 444

### **566.30 REMOVAL OF ADMINISTRATOR.**

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

**History:** 1973 c 611 s 25; 1986 c 444

### **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.

# MINNESOTA STATUTES 1986

9303

FORCIBLE ENTRY AND UNLAWFUL DETAINER 566.33

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 the 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.

**History:** 1973 c 611 s 26; 1986 c 444

## **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.

**History:** 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.

**History:** 1973 c 611 s 28