117.043 COMPELLING DELIVERY OF POSSESSION.

Subdivision 1. **Conditions required for court to issue relief.** A court having jurisdiction over an eminent domain proceeding may issue an order compelling delivery of possession of the property under any of the following conditions:

(1) the court has issued an order authorizing transfer of title and possession and the petitioner has paid or deposited its approved appraisal value under section 117.042; or

(2) the petitioner has acquired title of the real estate.

If one of these conditions is met, the court may issue an order compelling delivery of possession of the property upon: (i) the affidavit of the petitioner; (ii) notice to the occupants of the acquired real estate and others claiming a right to remain in possession of it; and (iii) a hearing. Notice of the hearing must be given in the same way as notice of a motion under the Rules of Civil Procedure. In case of hardship the court may delay enforcement of an order compelling delivery of possession for a period not to exceed seven days. Unless otherwise allowed by the court, the matter must be considered solely on the basis of arguments of counsel and affidavits.

Subd. 2. **Award of fees and costs.** Following notice and hearing, if the occupant, in bad faith, has failed to deliver possession of the real estate in accordance with either an order issued under section 117.042 or an order issued under this section, the court, upon application by the petitioner, may award to the petitioner, and against the occupant, the attorney fees, costs, and disbursements that were actually incurred by the petitioner in getting possession of the real estate.

History: *1987 c 287 s 1*