



Tenant Hotline

Phone: 612-728-5767

Online: [homelinemn.org/email](https://www.homelinemn.org/email)

Minnesota Eviction Moratorium Phaseout Webinar Series

Guest Speaker:

Lawrence McDonough

Senior Minnesota Fellow, Lawyers' Committee for Civil Rights Under Law

August 18, 2021 – 1:30-3:00pm

COVID-19 Eviction Response Coordinator & Housing Attorney Rachael Sterling

Executive Director Eric Hauge

What is HOME Line?

- HOME Line is a statewide nonprofit organization providing free legal, educational, and advocacy services to Minnesota renters. We have advised over 265,000 renters since 1992.
- Our primary program is a free and confidential legal hotline any Minnesota renter can contact us to receive legal advice specific to their situation, in 4 languages.
- HOME Line has a staff of 22, including attorneys, tenant advocates, and tenant organizers. We also rely on volunteers and interns.



What is HOME Line?

HOME Line Tenant Hotline:

612-728-5767

Toll-free: 866-866-3546

- Para Español, llame al 612-255-8870
- Af- Soomaali wac 612-255-8860
- Hais lus Hmoob, Hu 612-255-7104
- Online: [homelinemn.org/email](mailto:homelinemn.org)



Eviction Moratorium Phaseout

Timeline, Key Points, FAQ:
homelinemn.org/phaseout

Phaseout Webinar Series:
homelinemn.org/schedule

Previous Webinar Recordings:
homelinemn.org/webinars



Moratorium Phaseout Webinars

UPCOMING WEBINARS:

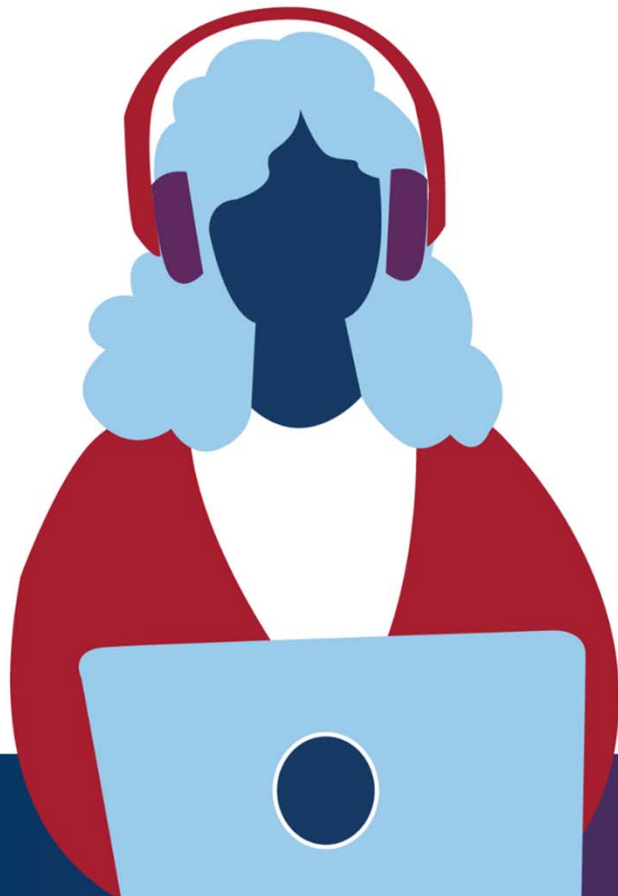
- **August 25th** — **Assistant Attorney General Katherine Kelly** will discuss how their office was involved in the enforcement of Minnesota’s Executive Orders that suspended evictions and landlord-instigated lease terminations since March 2020 as well as where the office is positioned around tenant/landlord legal issues going forward. We are applying for 1.5 general CLE credits for this seminar.
- ***Taking a week off September 1***
- **September 8th** — **Multilingual interpreted evening session (6-7pm): Simultaneous interpretation in English, Spanish, Somali, & Hmong languages**, providing overview of phaseout for tenants, advocates, and other individuals working with renters who want to learn about how the phaseout works.

Registration, more eviction phaseout resources, recordings of previous webinars, on our website:

homelinemn.org — “COVID-19” tab at top right



COVID-19 Emergency Rental Assistance
RentHelpMN.org / 2-1-1



**“I just want to
get caught up
on my bills.”**

GET RENT HELP MN TODAY

Visit renthelpmn.org or call 211

COVID-19 Emergency Rental Assistance



COVID-19 Emergency Rental Assistance
The Zero Balance Project
HousingLink.org/ZeroBalanceProject

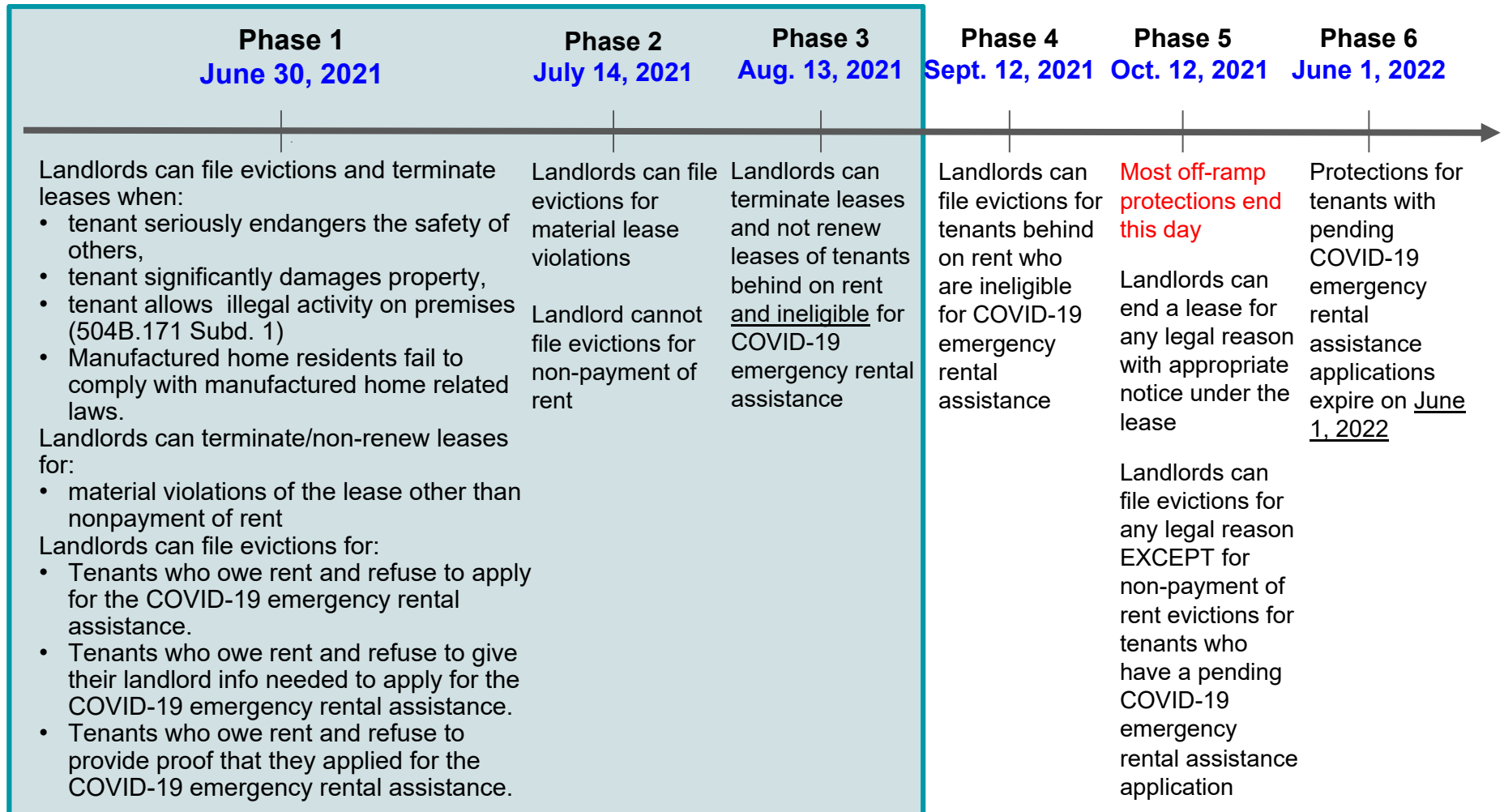


**LANDLORDS IN DAKOTA, HENNEPIN
AND RAMSEY COUNTY: APPLY FOR
EMERGENCY RENTAL ASSISTANCE!**

THE ZERO BALANCE PROJECT

**View eligibility and how to apply:
HousingLink.org/ZeroBalanceProject**

Moratorium Phaseout Timeline



Eviction Actions During the Minnesota Eviction Transition



By Lawrence McDonough
Attorney at Law

Presented to
HOME Line
August 18, 2021

Presenter



Lawrence McDonough

Attorney at Law

Adjunct Professor of Law, University of Minnesota School of Law

Senior Minnesota Fellow, Lawyers' Committee for Civil Rights Under Law

651-398-8053

mcdon056@umn.edu

<http://povertylaw.homestead.com/Biolarrymcdonough.html>

Revised from Prior Presentations:

- Minnesota Paralegal Association - August 17, 2021
- Minnesota Continuing Legal Education (MCLE) - August 5, 2021
- National Lawyers Guild Minnesota - August 3, 2021
- Mediation and Restorative Services - July 27, 2021
- Volunteer Lawyers Network - July 15, 2021

Topics



- Resources
- Minnesota Session Laws 2021, 1st Special Session, Chapter 8 H. F. No. 4, Article V
- Centers for Disease Control and Prevention (CDC) Eviction Suspension Order
- Eviction Action Basics
- Remaining Eviction Actions Filed under Emergency Executive Order 20-79
- Eviction Actions Filed on or After June 30, 2021
- Eviction Actions Filed on or After July 14, 2021
- Eviction Actions Filed on or After September 12, 2021
- Eviction Actions Filed on or After October 12, 2021
- Financial Assistance
- Looking for Housing
- Mediation
- What You Can Do

Resources



[Housing Law in Minnesota](#)

- Residential Eviction Defense and Tenant Claims in Minnesota
- Answers Forms
- [Pandemic Eviction Defense and Tenant Claims in Minnesota: slides shows, manual, and answer forms](#)
- Tenants of Landlords in Foreclosure
- Public and Subsidized Housing
- Criminal Activity Cases
- Personal Property Disputes after an Eviction Judgment
- Expungement of Eviction Court Records
- Motions to Vacate Judgments
- Habitability and Lockout Cases
- Security Deposits

HOME Line - <https://homelinemn.org/> HOME Line provides free and low-cost legal, organizing, education, and advocacy services so that tenants throughout Minnesota can solve their own rental housing problems.

Law Help - <http://www.lawhelpmn.org/> Answers to legal questions, finding legal aid offices, and court information.

Minnesota State Law Library - <https://mncourts.libguides.com/covid19/housing#s-lg-box-wrapper-27963214>
General information and resources for landlords and tenants.

Eviction Transition



Minnesota Session Laws 2021, 1st Special Session, Chapter 8 H. F. No. 4, Article V

<https://www.revisor.mn.gov/laws/2021/1/Session+Law/Chapter/8/>

It ended Executive Orders 20-14, 20-73, and 20-79 and replaced them with eviction moratorium phase-out on June 30, 2021.

The Centers for Disease Control and Prevention (CDC) Eviction Suspension Order that continues until October 3, 2021, should have little impact on Minnesota as noted below.

[CDC Order](#)

[CDC Eviction Protection Declarations](#)

Eviction Action Basics



Eviction actions are summary proceedings in that they move quickly before and after trial, although trials are no different than other civil trials.

They are governed by

- [Minn. Stat. Chapter 504B](#)
- Contracts law
- Property law
- Court Rules
- Local ordinances

Appearances



- Artificial entities like corporations and LLCs must be represented by counsel, except in housing courts in the 2nd and 4th district courts.
 - *Hinckley Square Associates v. Cervene*, 871 N.W.2d 426 (Minn. Ct. App. 2015); *Walnut Towers v. Schwan*, No. A07-1311, 2008 WL 4224462 (Minn. Ct. App. Sept. 16, 2008) (unpublished);
 - Minn. Gen. R. Prac. 603; *The Community Cares v. Faulkner*, 949 N.W.2d 296 (Minn. 2020).
- Unincorporated businesses and individual can appear pro se.
- The action may be commenced only by the person entitled to the premises, or the authorized management company or agent for the owner of the premises.
 - Minn. Stat. § 504B.285, subd. 1; Minn. Stat. § 481.02, subd. 3(13).
- The tenant or landlord may be represented by a person who is not a licensed attorney, except that person cannot conduct a jury trial or appeal and cannot charge or collect a separate fee for services rendered.
 - Minn. Stat. § 481.02, subd. 3(13).

Appearances



Effective March 1, 2021, eligible legal paraprofessionals under the supervision of a member of the bar, may provide advice to and appear in court on behalf of tenants in housing disputes as defined in Minn. Stat. Chapter 504B and § 484.014 (expungements) in district courts that have established a Housing Court or a dedicated calendar for housing disputes, except the Housing Court in the Fourth Judicial District.

Order Implementing Legal Paraprofessional Pilot Project, No. ADM19-8002 (Minn. Sep. 29, 2020); Minn. Supervised Prac. R. 12.

<https://mncourts.gov/mncourtsgov/media/Appellate/Supreme%20Court/RecentRulesOrders/Administrative-Order-Implementing-Legal-Paraprofessional-Pilot-Project.pdf>

See Report and Recommendations to the Minnesota Supreme Court Implementation Committee for Proposed Legal Paraprofessional Pilot Project, No. ADM19-8002 (Mar. 2, 2020).

<https://www.mncourts.gov/mncourtsgov/media/Implementation-Committee/Report-and-Recommendations-to-Minnesota-Supreme-Court-reduced-size.pdf>

Complaint



- The plaintiff must plead in the complaint "the facts which authorize the recovery of possession."
 - Minn. Stat. § 504B.321; *Mac-Du Properties v. LaBresh*, 392 N.W.2d 315, 317, 318 (Minn. Ct. App. 1986).
- The state complaint form requires the landlord to plead compliance with Minn. Stat. § 504B.181, in that the landlord has disclosed:
 - the names and addresses of the authorized manager of the premises and,
 - the owner or agent authorized to accept service, and
 - posted said information in an obvious place on the property
- If names and addresses are not disclosed as required by the statute, the landlord must show that the tenant knew such information at least 30 days before the issuance of the summons.

Eviction Action Complaint form instructions

<https://www.mncourts.gov/mncourtsgov/media/CourtForms/HOU101.pdf?ext=.pdf>

Court Orders



- *Standing Order re 60 day period following the expiration of the Peacetime Emergency Declared in Executive Order 20-01* (Minn. Dist. Ct. 4th Dist. July 22, 2020) (Judge Robiner) (Appendix PED-19)
- *Administrative Order Regarding the Resumption of Housing Court Operations* (Minn. Dist. Ct. 2nd Dist. Aug. 19, 2020) (Judge Castro) (Appendix PED-19a)
- STANDING ORDER Re: 60 day period following the expiration of the Peacetime Emergency Declared in Executive Order 20-01 (Minn. Dist. Ct. 10th Dist. Anoka Cty. Oct. 29, 2020) (Judge Fountain Lindberg) (Appendix PED-36)
- Other Minnesota Supreme Court and District Court pandemic orders are posted [here](#).

Methods of Service



Service must be complete at least 7 days before the first hearing

Minn. Stat. § 504B.331 (formerly § 566.06) provides:

- Personal service
- If the defendant cannot be found in the county, the summons may be served at least seven days before the date of the court appearance by leaving a copy at the defendant's last usual place of abode with a person of suitable age and discretion residing there
- Mail and posting sequence:
 - (1) Defendants cannot be found in the county,
 - (2a) For residential property, service has been attempted at least twice on different days, with at least one of the attempts between 6:00 p.m. and 10:00 p.m.,
 - (2b) For nonresidential property, no person actually occupies the property,
 - (3) A copy of the summons has been mailed to the defendant at the defendant's last address known to the plaintiff,
 - (4) The plaintiff or counsel files an affidavit (a) stating that the defendant cannot be found, or the affiant believes that the defendant is not in the state, and (b) that a copy of the summons has been mailed to the defendant at the defendant's last address known to the plaintiff, and
 - (5) Posting the summons in a conspicuous place on the property for not less than one week.

Service for Expedited Eviction Actions



Minn. Stat. § 504B.321

- Plaintiff requests an expedited procedure by affidavit
 - stating specific facts and instances under Minn. Stat. § 504B.171 (certain types of illegal activity), or
 - on the basis that the tenant is causing a nuisance or other illegal behavior that seriously endangers the safety of other residents, their property, or the landlord's property,
- Then the summons shall be served upon the tenant within 24 hours of issuance unless the court orders otherwise for good cause shown.

Strict Compliance and Server Requirements



Personal Jurisdiction and Proper Service of the Summons and Complaint

Strict compliance with service requirements, rather than mere substantial compliance, is a precondition to personal jurisdiction. *Koski v. Johnson*, 837 N.W.2d 739 (Minn. Ct. App. 2013).

Service by the plaintiff is improper. Minn. R. Civ. P. 4.02. In *Lewis v. Contracting Northwest, Inc.*, 413 N.W.2d 154 (Minn. Ct. App. 1987), the court explained the reason for precluding parties from serving process: “The law has wisely entrusted the decision of disputes between citizens to persons wholly disinterested and free from bias and the acrimony of feeling so frequently, if not uniformly, engendered by litigation; and the same is equally true of the persons selected to execute the process necessary to the adjustment of such disputes.” *Id.* at 155.

Scheduling



- Minn. Stat. § 504B.321
 - The first appearance shall be between 7 and 14 days from the day of issuing the summons.

- Expedited eviction action
 - the complaint and affidavit shall be reviewed by a referee or judge and scheduled for an expedited hearing only if
 - sufficient supporting facts are stated and
 - they meet the requirements of this paragraph, and
 - if so, the appearance in an expedited hearing shall be not less than five days nor more than seven days from the date the summons is issued.

The court may continue the trial for up to six (6) days without consent of the parties; or, in certain circumstances, up to three (3) months for a material witness if a bond is paid. Minn. Stat. § 504B.341.

Courts can relax these deadlines. *Rice Park Properties v. Robins, Kaplan, Miller and Cieresi*, 532 N.W.2d 556 (1995).

Answer



“At the court appearance specified in the summons, the defendant may answer the complaint Minn. Stat. § 504B.335 (formerly § 566.07).

Since the statute uses “answer” as a verb rather than a noun, and since it does not require a written answer, the defendant can answer the complaint orally without a written answer. The Housing Court Rules do not require a written answer. Minn. Gen. R. Prac. 601-12.

However, a written answer is useful to present to the court affirmative defenses and grounds for dismissal or summary judgment.

An *In Forma Pauperis* application is needed to waive the filing fee for an answer. [Housing Law in Minnesota: In Forma Pauperis \(IFP\)](#).

[Pandemic Answer Forms](#)

[Pre-pandemic Answer Forms](#)

Proof and Findings



- The plaintiff must prove claims supporting eviction by a preponderance of the evidence, and the court must make specific findings on the claims of the plaintiff.
 - *Chancellor Manor v. Thibodeaux*, 628 N.W.2d 193, 197 (Minn. Ct. App. 2001).
- The Minnesota Rules of Evidence, Civil Procedure, and General Rules of Practice apply to eviction actions
 - Housing Court rules of the General Rules of Practice apply only to the 2nd and 4th district courts.
- Hearsay statements in testimony or within documents should be excluded unless they meet an exception to the hearsay rule.
 - *Countryview Mobile Home Park v. Oliveras*, No. A04-160, 2004 WL 20049986 (Minn. Ct. App. Sept. 14, 2004) (unpublished).
- The parties and other lay witnesses have the right to testify about their observations without being experts.
 - *Stewart v. Anderson*, No. A06-1878, 2007 WL 2366528 (Minn. Ct. App. Aug. 21, 2007) (unpublished).

Precondition Issues and Defenses



- Plaintiff is not the person entitled to possession of the building or an authorized management agent.
 - Minn. Stat. § 481.02, subd. 3(13)
 - Hennepin and Ramsey Housing Courts: Minn. Gen. R. Prac. 603.
- The person appearing on behalf of Plaintiff does not have a proper Power of Authority.
- Principal and Address Disclosure: The defendant did not know the names of the manager of the building and person authorized to accept service of process, and addresses at which they could be served 30 days before filing this case.
 - Minn. Stat. § 504B.181
- Plaintiff, the landlord, the lessor, or the management company is a business which did not comply with the Secretary of State trade name registration statutes, entitling the defendant to \$250.00 in costs or by set off.
 - Minn. Stat. §§ 333.001-333.06.
- Plaintiff failed to state the facts which authorize recovery of the premises.
 - Minn. Stat. § 504B.321
 - Hennepin and Ramsey Housing Courts: Minn. Gen. R. Prac. 604(a).

[Pandemic Answer Forms](#)

[Pre-pandemic Answer Forms](#)

Remaining Eviction Actions under Emergency Executive Order 20-79



Eviction actions filed before June 30, 2021, remain governed by [Emergency Executive Order 20-79](#).

Grounds for eviction include:

- Seriously endangering the safety of other residents
- Violation of Minn. Stat. § 504B.171, subdivision 1: controlled substances, prostitution, unlawful use or possession of a firearm, stolen property or property obtained by robbery, and acts under Minn. Stat. § 504B.206, subdivision 1, paragraph (a) (domestic abuse, criminal sexual conduct, and harassment)
- Material violation of the residential lease by:
 - Seriously endangering the safety of others or
 - Significantly damaging the property
- Termination of lease or nonrenewal of lease due to the need to move the property owner or property owner's family member(s) into the property and where the property owner or property owner's family member(s) move into the property within 7 days after it is vacated by the tenant following a notice to vacate or nonrenewal.
- Landlords must provide a written notice of intent to file an eviction action to the tenant at least 7 days prior to filing the action, or the specified notice period included in the lease, whichever is longer.
- ***Nonpayment of rent was not a basis for eviction.***
- [Pandemic Eviction Defense and Tenant Claims in Minnesota at III.A.](#)

Notice Claims under Emergency Executive Order 20-79



Procedure, Service and Precondition Defenses: see slides 7-17.

Required Notices:

- Lease termination notices:
 - Landlord family residency
 - CARES Act covered properties (public and subsidized housing and federally backed mortgages): 30-day notice. [Pandemic Eviction Defense and Tenant Claims in Minnesota at I.B.](#) Public and some subsidized housing program have additional pre-filing requirements. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.F.10.](#)
 - Manufactured home parks: various notice requirements. Minn. Stat. §§ 327C.09, 327C.095, 327C.10
 - Mortgage foreclosure and contract for deed cancellation. Minn. Stat. § 504B.285, subd. 1a., 1b.
 - [Pandemic Eviction Defense and Tenant Claims in Minnesota at III.B.1.](#)

Notice Claims under Emergency Executive Order 20-79



- Notice of intention to file eviction action
 - [Pandemic Eviction Defense and Tenant Claims in Minnesota at III.B.2.](#)

Notice Defenses:

- Landlord retaliation
 - Minn. Stat. § 504B.285, or
 - Common law. *Cent. Hous. Assocs., LP v. Olson*, 929 N.W.2d 398 (Minn. 2019).
- Landlord waived the notice to end the lease by accepting rent after the move out date.
 - *Pappas v. Stark*, 123 Minn. 81, 83, 142 N.W. 1042, 1047 (1913).
- [Residential Eviction Defense and Tenant Claims in Minnesota at VI.F.](#)

Substantive Claims under Emergency Executive Order 20-79



Minn. Stat. § 504B.171

- Proof
- Key word: allow
- Defenses
 - The landlord alleged the tenant unlawfully allowed certain unlawful activity on the property and the tenant did not know or have reason to know that there was unlawful activity on the property. Minn. Stat. § 504B.171
 - The tenant could not prevent the illegal drugs from being brought on the property. Minn. Stat. § 609.5317, subd. 3.
 - Medical marijuana use is legal under state law. Minn. Stat. § 152.32.
 - [Pandemic Eviction Defense and Tenant Claims in Minnesota at III.C.](#)
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.16.](#)

Substantive Claims under Emergency Executive Order 20-79



Significantly Damaging Property under the Lease

- Proof
- Key words: (1) significantly, (2) damaging, (3) property, and (4) material violation of the lease
- Cases
 - [Pandemic Eviction Defense and Tenant Claims in Minnesota at III.D.](#)
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.19.e.](#)

Seriously Endangering the Safety of Residents and Others

- Proof
- Key words: (1) seriously, (2) endangering, (3) safety, and (4)(a) residents or (4)(b)(i) others and (4)(b)(ii) material violation of the lease
- Cases
 - [Pandemic Eviction Defense and Tenant Claims in Minnesota at III.E.](#)
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.19.1.](#)

Substantive Claims under Emergency Executive Order 20-79



Landlord Family Residency

- Proper notice
 - [Pandemic Eviction Defense and Tenant Claims in Minnesota at III.B.1.a.](#)
- Proof: need, family members, and timing: [Pandemic Eviction Defense and Tenant Claims in Minnesota at III.F.](#)

Substantive Defenses

- Conduct was not a material breach or substantial failure to perform under the lease. *See* slide 33.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.19.](#)
- Lease did not contain a "right of reentry" clause.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.1.](#)

Substantive Claims under Emergency Executive Order 20-79



- The landlord waived lease provisions by failing to enforce them or is estopped from enforcing them.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.4.](#)
- The landlord did not reasonably accommodate the tenant's disability.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.9.](#)
- The landlord is penalizing the tenant for calling for police or emergency assistance in response to domestic abuse or any other conduct.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.31.](#)
- The tenant is a victim of domestic abuse, criminal sexual conduct, or stalking.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.38.](#)

Substantive Claims under Emergency Executive Order 20-79



- The landlord retaliated for tenant complaints about material violations by the landlord of state or local law, residential covenants, or the lease.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.18.](#)
- Forfeiting the home would be a great injustice where Plaintiff's rights are adequately protected.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.28.](#)
- Manufactured home parks.
 - [Residential Eviction Defense and Tenant Claims in Minnesota VI.G.11.](#)
- Public and subsidized housing.
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.10.](#)

Relief under Emergency Executive Order 20-79



Relief:

- Entry of judgment for the plaintiff or defendant.
- For landlord improperly filing an expedited case, dismiss the case and fine the landlord \$500. Minn. Stat. § 504B.321.
- If the tenant loses, give the tenant seven days to move if the tenant did not cause a nuisance, or seriously endanger other tenants, their property, or the landlord's property, and if having to move in less than 7 days would be a substantial hardship. Minn. Stat. § 504B.345.
- Award costs and disbursements. [Residential Eviction Defense and Tenant Claims in Minnesota at VIII.E.4.b.](#)
- Expunge or seal the court file. [Residential Eviction Defense and Tenant Claims in Minnesota at VIII.E.5.](#)
- Attorney fees. [Residential Eviction Defense and Tenant Claims in Minnesota at VIII.E.4.a.](#)

[Pandemic Answer Forms](#)

[Pre-pandemic Answer Forms](#)

Eviction Actions Filed on or After June 30, 2021



Grounds for eviction [Minnesota Session Laws 2021, 1st Special Session, Chapter 8, H. F. No. 4, Article V](#):

- The tenant seriously endangered safety of others or significantly damages property
- The tenant violated Minn. Stat. § 504B.171, Subd. 1.
- The manufactured home park resident violated Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other residents or park personnel
- Nonpayment of rent if the tenant is (1) eligible for state emergency rental assistance and (2) refuses to apply or provide information to the landlord or refuses to provide proof to the landlord that the tenant applied.
- The tenant or occupant abandoned the premises.
- ***Residential landlords cannot file eviction actions for nonpayment of rent against tenants with pending application for an emergency rental assistance program authorized under the federal Consolidated Appropriations Act, 2021, Public Law 116-260, or the federal American Rescue Plan Act, 2021, Public Law 117-2 (state emergency rental assistance).***
- These limitations apply to eviction court cases for commercial leases, mortgage foreclosure and contract for deed cancellation.

Eviction Actions Filed on or After June 30, 2021



Procedure, Service and Preconditions: *see* slides 7-17.

Required Notices:

- The landlord family residency ground and its notice requirement under Emergency Executive Order 20-79 no longer are available.
- The notice of intention to file eviction action under Emergency Executive Order 20-79 no longer is required.
- Notice for nonpayment of rent: The landlord must give a pre-filing notice of 15 days prior to filing for nonpayment of rent, stating that the moratorium ended and the tenant may be subject to eviction, the total rent due, and the availability of assistance from calling 211 or going to [RentHelpMN](#). The notice is not limited to residential tenancies, so it includes commercial tenancy, mortgage foreclosure, and contract for deed cancellation eviction court cases claiming nonpayment of rent. The court may exercise discretion in staying eviction proceeding if it finds improper notice. The lack of strict compliance not a defense. The requirement expires on October 12, 2021.
- Other notice requirements and defenses: *see* slides 19-20.

Eviction Actions Filed on or After June 30, 2021



Substantive Claims, Defenses and Relief:

- *See* slides 21-26.
- The landlord family residency ground and its notice requirement under Emergency Executive Order 20-79 no longer are available.
- The manufactured home park resident did not violate Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other residents or park personnel. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.11.](#)
- The tenant or occupant did not *abandon* the premises. [Residential Eviction Defense and Tenant Claims in Minnesota at XII.B.1.b.\(3\)\(j\).](#)

Eviction Actions Filed on or After June 30, 2021



Nonpayment of Rent Claims and Defenses:

- ***Residential landlords cannot file eviction actions for nonpayment of rent against tenants with pending state emergency rental assistance application.***
- Proof that the tenant is (1) *eligible* for state emergency rental assistance and (2) *refuses* to apply or provide information to the landlord or *refuses* to provide proof to the landlord that the tenant applied.
- **Defenses:**
 - Tenant (1) is ineligible for state emergency rental assistance or (2) did not refuse to apply or provide information to the landlord or refuse to provide proof to the landlord that the tenant applied. The [CDC Eviction Protection Declaration](#) might be proof of the tenant applying or trying to apply.
 - Tenants who have “used best efforts to obtain all available governmental assistance for rent or housing” might be protected from eviction under the [CDC Eviction Suspension Order](#) by completing the [CDC Eviction Protection Declaration](#).
 - Landlord failure to maintain property conditions and habitability. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.1.](#)
 - Landlord failure to comply with city rental license ordinances. [Residential Eviction Defense and Tenant Claims in Minnesota VI.E.2.c.](#)
 - Landlord nonpayment of utilities or illegal shared metering of utilities. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.18.](#)

Eviction Actions Filed on or After June 30, 2021



- Landlord charging improper late fees or other fees. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.10.](#)
- Landlord waiver of rent claim by accepting a partial payment of rent without a written nonwaiver clause. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.13.](#)
- Landlord retaliation for complaints about material violations by the landlord of state or local law, residential covenants, or the lease. [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.9.](#)
- Redemption: There is no limit by statute or case law on the amount of time the court can give the tenant to pay rent due or conditions the court can consider.
 - [614 Co. v. D. H. Overmayer, 297 Minn. 395, 396, 211 N.W.2d 891, 893 \(1973\), affirming First and Second Interlocutory orders, No. 204678 \(Minn. Dist. Ct. 2nd Dist. Apr. 22 and July 9, 1972\) \(Appendix 54\) \(Affirmed trial court orders allowing commercial tenant one month to pay amount in default\);](#)
 - [Residential Eviction Defense and Tenant Claims in Minnesota at VI.E.20.](#)

[Pandemic Answer Forms](#)

[Pre-pandemic Answer Forms](#)

Eviction Actions Filed on or After July 14, 2021



Grounds for eviction [Minnesota Session Laws 2021, 1st Special Session, Chapter 8, H. F. No. 4, Article V](#):

- ***New: Residential and commercial landlords can file eviction actions where the tenant commits material lease violations.***
- The tenant seriously endangers safety of others or significantly damages property
- The tenant violates Minn. Stat. § 504B.171, Subd. 1.
- The manufactured home park resident violates Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other residents or park personnel
- Nonpayment of rent if the tenant is (1) eligible for state emergency rental assistance and (2) refuses to apply or provide information to the landlord or refuses to provide proof to the landlord that the tenant applied.
- The tenant or occupant abandons the premises.
- These limitations apply to eviction court cases for commercial leases, mortgage foreclosure and contract for deed cancellation.

Eviction Actions Filed on or After July 14, 2021



Procedure, Service and Preconditions: see slides 7-17.

Notice Issues: see slides 19-20 and 28.

Substantive Claims, Defenses and Relief:

- See slides 21-26 and 29-31.
- New: The tenant did not commit a material breach or substantial failure to perform under the lease. *Cloverdale Foods of Minnesota, Inc.*, 580 N.W.2d 46, 49 (Minn. Ct. App. 1998); *Skogberg v. Huisman*, No. C7-02-2059, 2003 WL 22014576 (Minn. Ct. App. Aug. 2003) (unpublished) (a material breach goes to the root or essence of the contract, so substantial and fundamental that it defeats the object of the parties in entering into the contract, and where the injury is irreparable or damages would be inadequate or difficult or impossible to determine); [Residential Eviction Defense and Tenant Claims in Minnesota at VI.G.19.](#)

[Pandemic Answer Forms](#)

[Pre-pandemic Answer Forms](#)

Eviction Actions Filed on or After September 12, 2021



Grounds for eviction [Minnesota Session Laws 2021, 1st Special Session, Chapter 8, H. F. No. 4, Article V](#):

- ***New: Residential and commercial landlords can file nonpayment eviction actions for those ineligible for state emergency rental assistance.***
- The tenant commits material lease violations.
- The tenant seriously endangers safety of others or significantly damages property
- The tenant violates Minn. Stat. § 504B.171, Subd. 1.
- The manufactured home park resident violates Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other residents or park personnel
- Nonpayment of rent if the tenant is (1) eligible for state emergency rental assistance and (2) refuses to apply or provide information to the landlord or refuses to provide proof to the landlord that the tenant applied.
- The tenant or occupant abandons the premises.
- These limitations apply to eviction court cases for commercial leases, mortgage foreclosure and contract for deed cancellation.

Eviction Actions Filed on or After September 12, 2021



Procedure, Service and Preconditions: see slides 7-17.

Notice Issues: see slides 19-20 and 28.

Substantive Claims, Defenses and Relief:

- *See* slides 21-26, 29-31, and 33.
- New: nonpayment of rent: proof that the tenant is ineligible for state emergency rental assistance. Tenants who have “used best efforts to obtain all available governmental assistance for rent or housing” might be protected from eviction under the [CDC Eviction Suspension Order](#) by completing the [CDC Eviction Protection Declaration](#).

[Pandemic Answer Forms](#)

[Pre-pandemic Answer Forms](#)

Eviction Actions Filed on or After October 12, 2021



Grounds for eviction [Minnesota Session Laws 2021, 1st Special Session, Chapter 8, H. F. No. 4, Article V](#):

- The rent notice requirement ends for residential and commercial landlords.
- Residential landlords can terminate or not renew leases for file eviction court cases for any reason allowed by law *except landlords cannot file eviction actions for nonpayment of rent against tenants with pending state emergency rental assistance application.*
- Limitations on lease termination and nonrenewal do not apply to commercial leases.

Through June 1, 2022:

- *Landlords cannot file eviction actions for nonpayment of rent against tenants with pending state emergency rental assistance application.*
- Tenants must provide landlords or the court with proof of pending state emergency rental assistance application and the reason for delay in processing the application if the tenant reasonably has access to the information.
- Emergency rent assistance only includes an emergency rental assistance program authorized under the federal Consolidated Appropriations Act, 2021, Public Law 116-260, or the federal American Rescue Plan Act, 2021, Public Law 117-2, is prohibited.

Eviction Transition Financial Assistance



COVID-19 Emergency Rental Assistance

- The Minnesota Housing Finance Agency (MHFA) emergency rental assistance program is called COVID-19 Emergency Rental Assistance, which is operating under the banner of RentHelpMN.
- On line: <https://www.renthelpmn.org/>
- Call 211. The 211 helpline has dedicated multilingual staff available to answer questions about RentHelpMN, 8:00 a.m. – 8:00 p.m. Monday through Saturday.
- Information sessions: <http://youtu.be/2nTW9VQ7zWg>
- [Foreclosure prevention and forbearance](#)
- [Housing Justice Center Slideshow](#)

Denials: Applicants can appeal in writing by mail or by fax within 10 days. There is no specific form. A letter will do. State the following in the letter: (1) who you are; name, address, application ID # (if known), (2) why you were denied (if known), (3) why this denial was in error, and (4) why you should be eligible. Reapplying is another option. For assistance, contact the Housing Justice Center (HJC) at (800) 403-0476.

Eviction Transition Financial Assistance



The Zero Balance Project: Rental Assistance in Dakota, Hennepin and Ramsey Counties, and Minneapolis and St Paul <https://housinglink.org/List/emergency-rental-assistance>. In The Zero Balance Project, landlords start and lead the application on behalf of their renters.

Utilities:

- Tenants can include utilities except phone and internet when applying with RenthelpMN.
- Tenants also can apply for financial assistance to pay for utilities with the [Minnesota Energy Assistance Program](#).
- Utility rights information and advocacy: [Citizens Utility Board \(CUB\) of Minnesota](#)

Other Financial Assistance



- [Hennepin County Emergency Rental Assistance](#)
- [Neighborhood House](#)
- [Ramsey County Economic Assistance](#)
- [Anoka County](#)
- [HousingLink: Housing Tip: How to Get Emergency Assistance in the Twin Cities](#)
- [Minnesota Department of Human Services](#)
 - Use ApplyMN for apply for Cash Assistance, Supplemental Nutrition Assistance Program (SNAP) benefits, Child Care Assistance, and Emergency Assistance.
- [United Way 211](#)
 - Call 211™ or 651-291-0211: State-wide list of community resources, like housing assistance, shelters, and food shelf locations
- [State and Local Rental Assistance \(National Low Income Housing Coalition\)](#)

Looking for Housing



Housing Link

International Market Square

Suite 509

275 Market Street

Minneapolis, MN 55405

612-522-2500

info@housinglink.org

<http://www.housinglink.org>

Mediation Programs



Community Mediation Minnesota consists of several member organizations across the state with staff and volunteers to help resolve disputes. Community Mediation Minnesota has a centralized intake and referral system so anyone in Minnesota can call a single phone number and be connected to a mediator who can provide services via video conferencing.

Community Mediation Member Organizations:

- Community Mediation & Restorative Services, Inc.
- Conflict Resolution Center
- Dispute Resolution Center
- Mediation & Conflict Solutions
- Mediation and Restorative Services
- Restorative and Mediation Practices

Contact:

<https://communitymediationmn.org>

1-833-266-2663

info@CommunityMediationMN.org

What You Can Do: Get Help, Volunteer and Donate



Free Legal Aid Programs Representing Tenants:

- Anishinabe Legal Services - <https://alslegal.org/>
- Central Minnesota Legal Services - <https://www.centralmnlegal.org/>
- Judicare of Anoka County - <http://www.anokajudicare.org/>
- Legal Aid Service of Northeastern Minnesota - <http://lasnem.org/>
- Legal Assistance of Dakota County - <http://www.dakotalegal.org/>
- Legal Assistance of Olmsted County - <http://laocmn.org/>
- Legal Services of Northwest Minnesota - <https://lsnmlaw.org/>
- Mid-Minnesota Legal Aid - <https://mylegalaid.org/>
- Southern Minnesota Regional Legal Services - <https://www.smrls.org/>
- Volunteer Lawyers Network - <https://www.vlnmn.org/>

What You Can Do: Get Help, Volunteer and Donate



Advice:

- On Line Advice: Minnesota Legal Advice Online (MLAO) - <https://www.mnlegaladvice.org/>
- Tenant Hotline Advice: HOME Line - <https://homelinemn.org/>
- *See Free Legal Aid Programs (prior slide)*

Law Students:

- Minnesota Justice Foundation (MJF) - <https://www.mnjustice.org/>

Mediation:

- Community Mediation Minnesota - <https://communitymediationmn.org/>

Tenant Organizing:

- HOME Line - <https://homelinemn.org/>
- United Renters For Justice/Inquilinxs Unidxs Por Justicia - <https://www.inquilinxsunidxs.org/>

What You Can Do: Get Help, Volunteer and Donate



Housing Litigation and Policy Advocacy:

- HOME Line - <https://homelinemn.org/>
- Housing Justice Center - <https://www.hjcmn.org/>
- Housing Law in Minnesota - <http://povertylaw.homestead.com/HousingLawinMinnesota.html>
- Mid-Minnesota Legal Aid - <https://mylegalaid.org/>
- Minnesota Anti-Eviction Project, Lawyers' Committee for Civil Rights Under Law - <https://www.lawyerscommittee.org/>
- United Renters For Justice/Inquilinxs Unidxs Por Justicia - <https://www.inquilinxsunidxs.org/>
- Volunteer Lawyers Network - <https://www.vlnmn.org/>

National Housing Litigation and Policy Advocacy:

- National Housing Law Project - <https://www.nhlp.org/>
- National Low Income Housing Coalition - <https://nlihc.org/>

What You Can Do: Advocate



Minnesota Government:

- Governor Tim Walz - <https://mn.gov/governor/about/timwalz/>
- Attorney General Keith Ellison - <http://www.ag.state.mn.us/>
- Minnesota Housing Commissioner Jennifer Ho - <http://www.mnhousing.gov/sites/np/leadership>
- Minnesota Department of Human Rights Commissioner Rebecca Lucero - <https://mn.gov/mdhr/about/staff/commissioner.jsp>
- Minnesota Senators - <https://www.senate.mn/>
- Minnesota House of Representatives - <https://www.house.leg.state.mn.us/members/>

Local Government:

- County Commissioners - <https://mn.gov/portal/government/local/counties/>
- City Mayors and City Councils - <https://mn.gov/portal/government/local/cities/>

What You Can Do: Advocate



Courts:

- Minnesota Supreme Court - <https://www.mncourts.gov/SupremeCourt.aspx>
- District Courts- <https://www.mncourts.gov/Find-Courts.aspx>

United States:

- President Joe Biden - <https://www.whitehouse.gov/>
- Senate - <https://www.senate.gov/>
- House of Representatives - <https://www.house.gov/>
- Centers for Disease Control and Prevention (CDC) - <https://www.cdc.gov/>
- Department of Housing and Urban Development (HUD) - <https://www.hud.gov/>

Questions



Lawrence McDonough

Attorney at Law

Adjunct Professor of Law, University of Minnesota
School of Law

Senior Minnesota Fellow, Lawyers' Committee for Civil
Rights Under Law

651-398-8053

mcdon056@umn.edu

<http://povertylaw.homestead.com/Biolarrymcdonough.html>



Q & A

Tenant Hotline:

Phone: 612-728-5767

Online: homelinemn.org/email

- HOME Line ofrece servicios en español. Para Español, llame al 612-255-8870.
- HOME Line waxay bixisaa adeeg ku baxa Afka-Soomaaliga. Af- Soomaali wac 612-255-8860.
- Peb lub koom haum HOME Line muaj neeg txhais lus Hmoob. Hais lus Hmoob, Hu 612-255-7104.

<p style="text-align: center;">Phase 1 June 30, 2021</p>	<p style="text-align: center;">Phase 2 July 14, 2021</p>	<p style="text-align: center;">Phase 3 Aug. 13, 2021</p>	<p style="text-align: center;">Phase 4 Sept. 12, 2021</p>	<p style="text-align: center;">Phase 5 Oct. 12, 2021</p>	<p style="text-align: center;">Phase 6 June 1, 2022</p>
<p>Landlords can file evictions and terminate leases when:</p> <ul style="list-style-type: none"> • tenant seriously endangers the safety of others, • tenant significantly damages property, • tenant allows illegal activity on premises (504B.171 Subd. 1) • Manufactured home residents fail to comply with manufactured home related laws. <p>Landlords can terminate/non-renew leases for:</p> <ul style="list-style-type: none"> • material violations of the lease other than nonpayment of rent <p>Landlords can file evictions for:</p> <ul style="list-style-type: none"> • Tenants who owe rent and refuse to apply for the COVID-19 emergency rental assistance. • Tenants who owe rent and refuse to give their landlord info needed to apply for the COVID-19 emergency rental assistance. • Tenants who owe rent and refuse to provide proof that they applied for the COVID-19 emergency rental assistance. 	<p>Landlords can file evictions for material lease violations</p> <p>Landlord cannot file evictions for non-payment of rent</p>	<p>Landlords can terminate leases and not renew leases of tenants behind on rent <u>and ineligible</u> for COVID-19 emergency rental assistance</p>	<p>Landlords can file evictions for tenants behind on rent who are ineligible for COVID-19 emergency rental assistance</p>	<p>Most off-ramp protections end this day</p> <p>Landlords can end a lease for any legal reason with appropriate notice under the lease</p> <p>Landlords can file evictions for any legal reason EXCEPT for non-payment of rent evictions for tenants who have a pending COVID-19 emergency rental assistance application</p>	<p>Protections for tenants with pending COVID-19 emergency rental assistance applications expire on <u>June 1, 2022</u></p>



Moratorium Phaseout Webinars

UPCOMING WEBINARS:

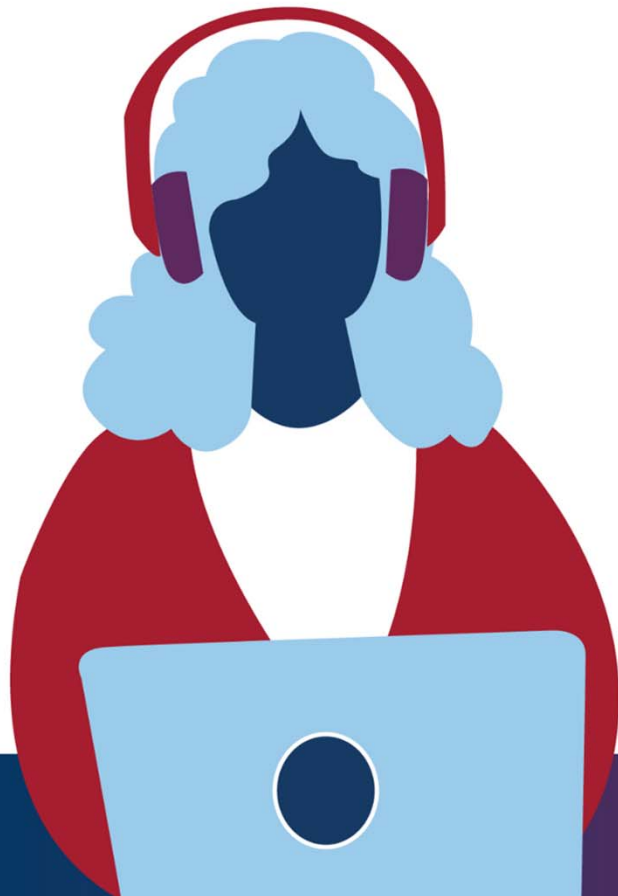
- **August 25th** — **Assistant Attorney General Katherine Kelly** will discuss how their office was involved in the enforcement of Minnesota's Executive Orders that suspended evictions and landlord-instigated lease terminations since March 2020 as well as where the office is positioned around tenant/landlord legal issues going forward. We are applying for 1.5 general CLE credits for this seminar.
- ***Taking a week off September 1***
- **September 8th** — **Multilingual interpreted evening session (6-7pm): Simultaneous interpretation in English, Spanish, Somali, & Hmong languages**, providing overview of phaseout for tenants, advocates, and other individuals working with renters who want to learn about how the phaseout works.

Registration, more eviction phaseout resources, recordings of previous webinars, on our website:

homelinemn.org — “COVID-19” tab at top right



COVID-19 Emergency Rental Assistance
RentHelpMN.org / 2-1-1



**“I just want to
get caught up
on my bills.”**

GET RENT HELP MN TODAY

Visit renthelpmn.org or call 211

COVID-19 Emergency Rental Assistance



COVID-19 Emergency Rental Assistance
The Zero Balance Project
HousingLink.org/ZeroBalanceProject



**LANDLORDS IN DAKOTA, HENNEPIN
AND RAMSEY COUNTY: APPLY FOR
EMERGENCY RENTAL ASSISTANCE!**

THE ZERO BALANCE PROJECT

**View eligibility and how to apply:
HousingLink.org/ZeroBalanceProject**



Thank You