

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3845

02/15/2024 Authored by Agbaje and Howard
The bill was read for the first time and referred to the Committee on Housing Finance and Policy

1.1 A bill for an act
1.2 relating to civil law; clarifying landlord and tenant provisions; modifying service
1.3 of summons and complaint; amending Minnesota Statutes 2022, section 504B.177;
1.4 Minnesota Statutes 2023 Supplement, sections 504B.144; 504B.331; 504B.345,
1.5 subdivision 1.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2023 Supplement, section 504B.144, is amended to read:

1.8 504B.144 EARLY RENEWAL OF LEASE.

1.9 A landlord must wait until six months from the ~~expiration~~ execution of the current lease
1.10 before requiring a tenant to renew the lease, if the lease is for a period of time longer than
1.11 ten months. Nothing prevents a landlord from waiting until closer to the expiration of a
1.12 lease to ask a tenant to renew the lease. Any provision, whether oral or written, of any lease
1.13 or other agreement whereby any provision of this section is waived by a tenant is contrary
1.14 to public policy and void.

1.15 Sec. 2. Minnesota Statutes 2022, section 504B.177, is amended to read:

1.16 504B.177 LATE FEES.

1.17 (a) A landlord of a residential building may not charge a late fee if the rent is paid after
1.18 the due date, unless the tenant and landlord have agreed in writing that a late fee may be
1.19 imposed. The agreement must specify when the late fee will be imposed. In no case may
1.20 the late fee exceed eight percent of the overdue rent payment. Any late fee charged or
1.21 collected is not considered to be either interest or liquidated damages. For purposes of this

2.1 paragraph, the "due date" does not include a date, earlier than the date contained in the
 2.2 written or oral lease by which, if the rent is paid, the tenant earns a discount.

2.3 (b) Notwithstanding paragraph (a), if a federal statute, regulation, or handbook permitting
 2.4 late fees for a tenancy subsidized under a federal program conflicts with paragraph (a), then
 2.5 the landlord may publish and implement a late payment fee schedule that complies with the
 2.6 federal statute, regulation, or handbook.

2.7 (c) A late fee charged by a landlord who has entered into a housing assistance payments
 2.8 contract with the federal or state government must be calculated and assessed only on the
 2.9 portion of rent payable by the tenant. For the purposes of this paragraph, "housing assistance
 2.10 payments contract" means a program described in United States Code, title 42, section
 2.11 1437(f).

2.12 Sec. 3. Minnesota Statutes 2023 Supplement, section 504B.331, is amended to read:

2.13 **504B.331 SUMMONS; HOW SERVED.**

2.14 Subdivision 1. Generally. (a) The summons and complaint must be served at least seven
 2.15 days before the date of the court appearance specified in section 504B.321, in the manner
 2.16 provided for service of a summons in a civil action in district court.

2.17 (b) The plaintiff must attempt to communicate to the defendant that an eviction hearing
 2.18 has been scheduled, including the date, time, and place of the hearing specified in the
 2.19 summons, by at least one form of electronic written communication having a date and time
 2.20 stamp that the plaintiff regularly uses to communicate with the defendant, unless the parties
 2.21 do not communicate with any form of electronic written communication.

2.22 Subd. 2. Personal or substitute service. (a) If the defendant can be found in the county,
 2.23 the summons and complaint must be served in the manner provided for service of a civil
 2.24 action in district court.

2.25 (b) If the defendant cannot be found in the county, the summons and complaint may be
 2.26 served at least seven days before the date of the court appearance by:

2.27 (1) leaving a copy at the defendant's last usual place of abode with a person of suitable
 2.28 age and discretion residing there; or

2.29 (2) if the defendant had no place of abode, by leaving a copy at the property described
 2.30 in the complaint with a person of suitable age and discretion occupying the premises.

2.31 ~~(c) Failure of the sheriff to serve the defendant is prima facie proof that the defendant~~
 2.32 ~~cannot be found in the county.~~

3.1 Subd. 3. Service by mail and posting. ~~(d) Where the defendant cannot be found in the~~
3.2 ~~county~~ (a) When attempts at personal or substitute service are unsuccessful, service of the
3.3 summons and complaint may be made by mail and posting. Service by mail and posting is
3.4 accomplished upon the defendant by posting the summons in a conspicuous place on the
3.5 property for not less than one week if completion of all of the following actions in the order
3.6 listed:

3.7 (1) ~~the property described in the complaint is:~~

3.8 ~~(i) nonresidential and no person actually occupies the property; or~~

3.9 ~~(ii) residential and service has been attempted at least twice on different days, with at~~
3.10 ~~least one of the attempts having been made between the hours of 6:00 p.m. and 10:00 p.m.~~
3.11 mailing a copy of the summons and complaint to the defendant at the defendant's last known
3.12 address; and

3.13 (2) ~~the plaintiff or the plaintiff's attorney has signed and filed filing~~ with the court an
3.14 affidavit stating that:

3.15 (i) the defendant cannot be found in the county, or that the plaintiff ~~or the plaintiff's~~
3.16 ~~attorney~~ believes that the defendant is not in the state;

3.17 (ii) a copy of the summons has been mailed to the defendant at the defendant's last known
3.18 address ~~if any is known to the plaintiff; or~~

3.19 (iii) the date and manner by which the plaintiff or plaintiff's attorney has communicated
3.20 attempted to communicate to the defendant that an eviction hearing has been scheduled,
3.21 including the date, time, and place of the hearing specified in the summons, by at least one
3.22 form of electronic written communication the plaintiff regularly uses to communicate with
3.23 the defendant that have a date and time stamp; and

3.24 (iv) if the defendant is residing at the property, how the requirements of subdivision 4
3.25 were met, including the dates and times of the attempts at service; and

3.26 (3) posting the summons and complaint on the entry to the defendant's individual unit.
3.27 If the defendant occupies a multiunit building, the summons and complaint must be posted
3.28 on the door of the defendant's individual unit. The summons and complaint must be posted
3.29 no later than seven days before the date of the court appearance specified in section 504B.321.

3.30 (e) ~~If the defendant or the defendant's attorney does not appear in court on the date of~~
3.31 ~~the appearance, the trial shall proceed.~~

4.1 (b) Failure to serve the defendant, after the plaintiff complies with subdivision 4, is
 4.2 prima facie proof that attempts at personal or substitute service were unsuccessful.

4.3 Subd. 4. **Residential eviction.** For residential evictions, to serve by mail and posting,
 4.4 the plaintiff may not claim that attempts at personal or substitute service were unsuccessful
 4.5 unless:

4.6 (1) there have been at least two attempts at service in the manner provided for service
 4.7 of a summons in a civil action in district court;

4.8 (2) at least one of the attempts was made between the hours of 6:00 p.m. and 10:00 p.m.;
 4.9 and

4.10 (3) the attempts were made at the last known address of the defendant.

4.11 Sec. 4. Minnesota Statutes 2023 Supplement, section 504B.345, subdivision 1, is amended
 4.12 to read:

4.13 Subdivision 1. **General.** (a) If the court or jury finds for the plaintiff, the court shall
 4.14 immediately enter judgment that the plaintiff shall have recovery of the premises, and shall
 4.15 tax the costs against the defendant. The court shall issue execution in favor of the plaintiff
 4.16 for the costs and also immediately issue a writ of recovery of premises and order to vacate.

4.17 (b) The court shall give priority in issuing a writ of recovery of premises and order to
 4.18 vacate for an eviction action brought under section 504B.171 or on the basis that the tenant
 4.19 is causing a nuisance or seriously endangers the safety of other residents, their property, or
 4.20 the landlord's property.

4.21 (c) If the court or jury finds for the defendant, then the court:

4.22 (1) shall enter judgment for the defendant, tax the costs against the plaintiff, and issue
 4.23 execution in favor of the defendant; and

4.24 (2) shall expunge the records relating to the action under the provisions of section 484.014
 4.25 or under the court's inherent authority at the time judgment is entered or after that time upon
 4.26 motion of the defendant.

4.27 (d) Except in actions brought: (1) ~~under section 504B.291;~~ (2) under section 504B.171;
 4.28 ~~or (3) (2)~~ on the basis that the residential tenant engages in behavior that seriously endangers
 4.29 the safety of other residents, or intentionally and seriously damages the property of the
 4.30 landlord or a tenant, the court shall stay the writ of recovery of premises and order to vacate
 4.31 for a reasonable period, not to exceed seven days.