

1940 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions,
and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and
amendatory, and notes showing repeals, together with annotations from the
various courts, state and federal, and the opinions of the Attorney
General, construing the constitution, statutes, charters
and court rules of Minnesota together with digest
of all common law decisions.



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MASON PUBLISHING CO.
SAINT PAUL, MINNESOTA
1940

CHAPTER 61A Official Trusts

8186. Corporate authorities or judge to convey lands.

Note. The act herein referred to should probably be Act May 23, 1844, instead of Act May 23, 1854.

CHAPTER 62 Landlords and Tenants

8186. Distress for rent.

1. The relation in general.

Contract which contemplated a lease of property which lease was never executed, held properly referred to as a "contract for a lease," by the lessor in a Torrens registration suit. *Nitkey v. S.* (USCCA8), 87F(2d)916. Cert. den., 301US697, 57SCR925. Reh. den., 58SCR5.

Under ordinary contract between landowner and cropper they are co-owners of the crop, and cropper may mortgage his share before division, and a provision authorizing landowner to retain possession of the cropper's share as security for his indebtedness is in legal effect a mortgage on the crop. 171M461, 214NW288.

Except as security for rent or the purchase price of the land, the landowner cannot acquire a valid lien on crops to be grown later than the season beginning on May 1st next following the date of the contract. 171M461, 214NW288.

If without the consent of the cropper, the landowner retains more than his share of the crops, he must account therefor and cannot apply the value thereof on the unsecured indebtedness of the cropper. 171M461, 214NW288.

Covenant of lessee "to pay all unpaid taxes and assessments that are now levied or assessed upon said real estate during the term" held to evidence an intention of parties to impose tax obligation upon lessee. 173M247, 217NW135.

Conversion of grain dependent on construction of lease. *Randolph v. T.* 174M283, 219NW91.

Lessor informing guarantor on lease that tenant was paying the rent, held to estop him from claiming that tenant was in arrears at such or a subsequent time. 176M227, 222NW929.

Return of lease with a change in it was not an acceptance but a counter offer, but acceptance of the counter offer may be implied from circumstances. *M. Samuels & Co. v. Z.*, 182M345, 234NW468. See Dun. Dig. 1740(24).

City held not to have become bound contractually under a lease to it and was not liable for rent. *Noyes v. C.*, 183M496, 237NW189.

In the absence of a contrary provision in a written lease for an apartment in a modern multiple apartment building, the landlord impliedly covenants that the premises will be habitable. *Delamater v. F.*, 184M428, 239NW148. See Dun. Dig. 5393.

Where lessee of unexpired mining leases, upon which a large sum as advance royalty had been paid, took a conveyance of fee, it was to interest of lessee that leases should not merge so that a proper reduction on occupation tax for advance royalty paid could be made for ore mined and produced each year for unexpired term of leases. *State v. Wallace*, 196M212, 264NW775. See Dun. Dig. 6117.

One can become a tenant at will only by permission from owner or one acting for him to go onto land. *Johnson v. W.*, 197M280, 266NW852. See Dun. Dig. 5361.

Where plaintiff foreclosed a mortgage upon premises leased to defendants after mortgage was given, and there was no redemption and title went to plaintiff February 14, 1931, and defendants notified plaintiff that premises would be vacated on March 31, 1931, and that they would remain no longer, plaintiff could not, without defendants' consent, convert tenancy at will or at sufferance to a tenancy under lease, and no rent could be recovered for April, May, and June, 1931. *Geo. Benz & Sons v. W.*, 198M311, 269NW840. See Dun. Dig. 5377.

Proprietor of an apartment hotel, who prevented tenant from entering rooms, let by the week, for purpose of removing personal property, was not an innkeeper having a lien against property but was a landlord, and was guilty of coercion. *State v. Bowman*, 202M44, 279NW214. See Dun. Dig. 2648, 4514, 5361, 5362.

Evidence warrants a determination that defendant leased a store building from plaintiff for four months and thereby obligated himself for rental for that period. *Gates v. H.*, 202M610, 279NW711. See Dun. Dig. 5361.

Relation of landlord and tenant exists where one person occupies premises of another in subordination to that other's title and with his consent, and no particular

form of words is necessary to create a tenancy. *Id.* See Dun. Dig. 5361.

One offering to rent premises from owner if stock therein could be purchased from third party owning it cannot question owner's right to rent to him by reason of lease to such third person, there being no claim that his possession was in any way disturbed by such third person or anyone claiming under him. *Id.* See Dun. Dig. 5363.

Relationship of landlord and tenant exists when one person occupies premises of another in subordination to that other's title. *State v. Brown*, 203M505, 282NW136. See Dun. Dig. 5361.

In action for injuries caused by ice forming on sidewalk from spout on oil station, evidence held to justify finding that defendant oil company was occupying station through its manager, notwithstanding that station had been leased to a third person by the owner thereof. *Noetzelman v. W.*, 204M26, 283NW481. See Dun. Dig. 5369.

Effect of provision in lease giving lessor sole right to terminate. 16MinnLawRev214.

2. Abandonment.
Evidence supports finding that a tenant surrendered its lease and landlord accepted surrender and terminated relationship. *Sjoberg v. H.*, 199M81, 271NW329. See Dun. Dig. 5407.

3. Assignments and subleases.
Dissolution of corporation that assigned lease to defendant's assignor, held to constitute defendant equitable assignee liable for rent accruing during possession. *Medical Arts Bldg. Co. v. M.* (USCCA8), 78F(2d)937.

Where the taxes on a leasehold were to be paid as additional rent lessee's equitable assignee was obligated to pay taxes, and where he had not paid them lessor could recover therefor whether lessor had paid them or not, and although assignee had taken steps to contest validity of delinquent taxes. *Minnesota L. & T. Co. v. M.*, (USDC-Minn), 8FSupp907. See Dun. Dig. 5399, 5430.

The evidence compels a finding that a thirty-year lease and a subsequent modification thereof, taken by the promoter of a bank to be organized, was not adopted by the bank occupying the premises leased, improving the same, and paying the rent; for the covenants contained in the lease to be performed by the lessee were such that the bank could not lawfully assume them. *Veigel v. O'T.*, 183M407, 236NW710. See Dun. Dig. 2114, 2114a, 2116.

Acceptance of rent from assignees under an assignable lease did not show a surrender by lessors of right to demand rent from lessee. *Wilcox v. H.*, 185M1, 239NW763. See Dun. Dig. 5429.

A lessee's covenant against assignment without written consent of lessor, however stringent, may be waived. *Id.* See Dun. Dig. 5408.

Covenant against assignment of lease was waived where assignee remained in possession for two years, paying rent directly to lessor. *Id.*

Assignee of lease is primarily liable for rent, and lessee, being compelled to pay upon his default, is entitled to reimbursement. See Dun. Dig. 5430. *Id.*

A sublease of a part of premises for entire term of an original lease is an assignment of original lease as to that part of premises. *Wiedemann v. B.*, 190M33, 250NW724. See Dun. Dig. 5406, 5408.

Where lessee contracted to assign lease but retained legal title as security for performance by the other, such other was the equitable owner or tenant of the leasehold. *Minnesota Loan & Trust Co. v. M.*, 192M6, 255NW85. See Dun. Dig. 5406.

An assignee of a lease may, by assigning it, even to a pauper, put an end to his liability for rent under the lease. *McLaughlin v. M.*, 192M203, 255NW839. See Dun. Dig. 5430.

A testamentary trustee, accepting a leasehold as part of trust property, becomes an assignee thereof and, as such, liable on covenants of lease, running with title, to pay rent and taxes, and such liability is not terminated by a mere unaccepted offer to surrender the lease, although it can be disposed of by assignment. *McLaughlin v. M.*, 192M203, 255NW839. See Dun. Dig. 5415, 5430, 9228a.