

INSTRUCTIONS FOR EMERGENCY RELIEF AND LOCKOUT ACTIONS

Form ERA1 combines the emergency relief action under MINN. STAT. § 504B.381 (formerly § 566.205) and the lockout action under 504B.375 (formerly § 566.175) because often the claims are related. For instance, the landlord's failure to correct an emergency repair problem can be viewed as a constructive lockout, and a lockout can be viewed as an emergency involving essential services.

The emergency relief action is a summary proceeding for emergency relief. The basic claims are set out in the emergency relief action statute, MINN. STAT. § 504B.381 (formerly § 566.205): relief in cases of emergency involving the loss of running water, hot water, heat, electricity, sanitary facilities, or other essential services or facilities that the landlord is responsible for providing. The relief available under 504B.381 (formerly § 566.205) and 504B.425 (formerly § 566.25) is similar to that in a rent escrow action under 504B.385 (formerly § 566.34). Before filing the action, the tenant either must attempt to notify the landlord, at least 24 hours before application to the court, of the petitioner's intent to seek emergency relief. An order may be granted without notice to the landlord if the court finds that reasonable efforts, as set forth in the petition or by separate affidavit, were made to notify the landlord but that the efforts were unsuccessful.

A lockout action is another a summary proceeding for emergency relief. The basic claims are set out in the lockout action statute, MINN. STAT. § 504B.375 (formerly § 566.175): actual or constructive removal or exclusion of a residential tenant which may include the termination of utilities or the removal of doors, windows, or locks. Under 504B.375 (formerly § 566.175), if

it clearly appears from the specific grounds and facts stated in the verified petition or by separate affidavit of the residential tenant or the residential tenant's attorney or agent that the exclusion or removal was unlawful, the court shall immediately order that the residential tenant have possession of the premises.

The residential tenant shall furnish security, if any, that the court finds is appropriate under the circumstances for payment of all costs and damages the landlord may sustain if the order is subsequently found to have been obtained wrongfully. In determining the appropriateness of security, the court shall consider the residential tenant's ability to afford monetary security.

The court shall direct the order to the sheriff or any constable of the county in which the premises are located and the sheriff or constable shall execute the order immediately by making a demand for possession on the landlord, if found, or the landlord's agent or other person in charge of the premises. If the landlord fails to comply with the demand, the officer shall take whatever assistance may be necessary and immediately place the residential tenant in possession of the premises. If the landlord, the landlord's agent, or other person in control of the premises cannot be found and if there is no person in charge, the officer shall immediately enter into and place the residential tenant in

possession of the premises. The officer shall also serve the order and verified petition or affidavit immediately upon the landlord or agent, in the same manner as a summons is required to be served in a civil action in district court.

Form ERA1 includes both the basic statutory emergency relief action and lockout action, claims, optional claims of other landlord-tenant law violations, and a relief section. The tenant files the action with the district court administrator, or with the housing court where there is one. The court may hear the case right away, or may set a court date. The court will direct the tenant to serve the landlord, although the tenant cannot be the person who serves the landlord. MINN. R. CIV. P. 4.02. The court may hear emergency issues first, and schedule a later trial on damages.

Where the tenant may need to waive court fees, such as a filing fee, or sheriff's service fee, the tenant should apply for *in forma pauperis* status.