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AN ALTERNATIVE TO A HOUSING COURT

*JAMES D. ROGERS**

For three sessions of the Minnesota Legislature, bills were introduced to create a housing court within the structure of the Hennepin County Municipal Court. Hennepin County consists of Minneapolis and the surrounding suburban areas, with a population of approximately one million persons. The Hennepin County Municipal Court serves all of Hennepin County, handling criminal misdemeanors, petty misdemeanors and civil matters up to a six thousand-dollar limit. The court is served by seventeen full-time judges. The proposed legislation was supported by tenant advocates in its early presentation, but later received support from landlord groups.

In 1977 the judges of the Hennepin County Municipal Court, recognizing that there were problems in the handling of housing matters, took action. They realized that a housing court was not an answer to the problems of the court. The judges' previous experiences with special courts had been unsatisfactory because the structure was "cast in stone" by legislative edict, taking away the court's flexibility to deal with its changing needs. Having a single judge for housing matters would bring about claims of prejudice from landlords or tenants. The Hennepin County Municipal Court judges felt that once basic policies are established, a housing court was unnecessary because a high degree of uniformity can be attained while still using a system of rotating judges. This type of system reduces claims of prejudice and avoids the problem of judges becom-

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ing stale from involvement with one type of assignment over a long period of time.

It was obvious to the municipal court judges that procedural changes were needed in the handling of housing matters. The judges' administrator, S. Allen Friedman, initiated discussions with groups representing landlords and tenants. Then, one member of the court met with representatives of both groups to form an ad hoc committee, with the judge acting as chairman. In the early stages of the proceedings, members of the committee visited housing courts around the nation. After extensive study of these courts' functions, the committee agreed that it did not want a housing court, but rather desired to change the existing municipal court system.

Systemic changes must account for several facets of housing matters in the judicial system. The civil matters are unlawful detainers (evictions), and claims for rent, damages and security deposits. The criminal matters involve housing code violations.

The committee dealt primarily with unlawful detainer. By statute, Minnesota only allows an unlawful detainer action for restitution of the premises, not for damages or rent.¹ The two primary goals of the committee were, first, to take the mystique out of the process, and second, to deal with the volume of housing cases on the court docket. The Hennepin County Municipal Court processed nearly ten thousand eviction suits in 1977, and nearly eleven thousand in 1978.

The first step in demystifying the eviction process was to draft a new form of summons. The old summons was written in typical old English legal language. In simple language, the new summons drafted by the committee informs the defendants as to the nature of the action, their legal rights, how to comply with the summons, and the penalty for failure to make the required court appearance. The summons form uses bold type and the boxing off of certain areas to focus the defendant's attention to important factors of the summons. The summons is attached to the complaint and served upon the defendant.²

The summons also includes a simple pamphlet prepared by the committee entitled *Your Rights Concerning an Eviction Summons*. The pamphlet explains, in simple fashion, the rights of parties in an eviction proceeding, and provides information on retaining counsel. The full bench and landlord and tenant groups approved the pamphlet. The use of the new summons and the pamphlet has produced three major

1. MINN. STAT. ANN. § 566.02 (West Supp. 1978).

2. See Appendix A for a copy of the summons form.

changes. First, people who plan to move and do not want to contest the action now understand that they don't have to come to court. Second, people who formerly did not appear are now appearing to assert their rights. Third, more defendants are making out-of-court settlements.

To deal with the case volume problem, the judges began using an administrative hearing officer, instead of a judge, to initially screen the calendar. Two senior members of the administrative staff received special training and instruction to prepare them to be thoroughly knowledgeable in housing matters. The hearing officers were authorized to handle all default matters and uncontested issues. The court also gave them the power to grant statutorily allowed stays on writs of restitution.³ When the hearing officer processes the calendar, as soon as he discovers a contested matter, he sends the parties to the adjacent courtroom, where a judge hears the case. The litigants no longer have to wait until the complete calendar is processed to have their case heard. This procedure has markedly sped up the processing of the calendar.

When funding is available, the judges plan to have a staff member in the courtroom who can answer litigants' questions before and after their hearings. To avoid any question of conflict of interest, the judges prefer that a court employee perform this role rather than a landlord or tenant representative.

Minnesota statutes provide for a jury trial in unlawful detainer.⁴ Only a small percentage of the contested matters, however, are the subject of jury demands. Most of these matters are settled before the trial. The jury demand cannot be used for a delaying tactic for two reasons. First, unlawful detainer jury cases have priority on the jury calendar. Second, Minnesota law⁵ provides for a rent deposit to be held by the court. In addition to showing the good faith of the defendant's claims, the deposit requirement gives the court some scheduling flexibility because once the court retains the rent, plaintiffs are willing to await trial for a week to ten days.

Once the litigants are in court, order and decision forms and forms for rent deposit are readily available. This saves time and money for the litigants and brings about uniformity, thereby easing the clerical burden. Future plans are now underway to expand existing computerization to produce the summons and writs of restitution as well as to provide a record-keeping and an accounting system for the housing matters.

3. See MINN. STAT ANN. § 566.12-.17 (West 1947).

4. *Id.* § 566.07

5. *Id.* § 566.08.

The second area of civil matters addressed by the court are rent claims, damage claims, and demands for return of security deposits. Approximately ninety-nine percent of these matters are filed in the Conciliation Court Division of the Hennepin County Municipal Court. The conciliation court, in operation since 1915, is one of the oldest small claims courts in the United States. All conciliation court matters are heard within six weeks of the filing of the claim. Litigants enjoy the right of appeal by trial de novo in the Hennepin County Municipal Court which is heard within four months of the filing of the appeal. The rate of appeal is less than one and one-half percent of the cases filed. In 1978 the court processed more than 29,000 matters. Due to an increased caseload approximately six years ago, the court used statutory authority⁶ to have lawyers act as referees. The referees, who are all practicing attorneys, serve one day per month. The referees must agree not to represent any client in the conciliation court.

With the increase in housing matters the court has set aside one day per week for a housing calendar in the conciliation court. The court secured a group of fourteen lawyers who were willing to serve as referees in housing cases. The court planned training for these attorneys to improve their expertise in housing law and assure uniformity in their decisions. Speakers from landlord and tenant groups were to participate in the training. This idea was adopted and expanded by the Minnesota Continuing Legal Education Committee of the Minnesota State Bar Association. All of the housing referees attended the program. The court still plans to carry on its own training in this area at a future session.

The court has a highly trained staff and standardized forms available to help litigants prepare their claims. Additionally, the court has published a Guide to Conciliation Court, a pamphlet for litigants and interested parties, designed to explain, in simple language, the court and its procedures. This pamphlet has been widely distributed throughout the community, substantially easing the staff workload in making explanations to litigants. Recently, the court has developed an audio slide presentation on procedures for filing claims and for handling them in court. The projector is located conveniently in the clerk's office, adjacent to the courtroom, making it available when litigants file their claims or appear for their hearings.

The third area of problems are criminal, relating to code violations. Approximately ten years ago the City of Minneapolis consolidated all in-

6. MINN. STAT. ANN. § 488A. 13 (1)(c) (West Supp. 1978).

spection functions into one office. This eliminated overlap and brought about more efficient and effective code enforcement. As the volume of matters increased, the city attorney assigned one attorney to work full-time with the inspection department. The municipal court, finding an increase in the number of code enforcement actions on its calendar, has set aside one full day per week to hear these cases. The assistant city attorney and the inspector, involved in each matter on the calendar, are present in court for the initial appearance of the defendant. The court's goal is not punishment, but correction of the problem to bring about higher standard of housing. The presence of the inspector has been very valuable in achieving this goal. Most disputes are resolved without a contested trial. Code enforcement in the surrounding suburban areas function similarly, but with a much smaller volume of cases.

This system has allowed the court to more effectively and efficiently use its judicial staff and manpower, resulting in better service to the public. Unlawful detainers are usually heard within a week of the service of the summons. Small claims are heard within six weeks of filing a claim. Code violations are heard every week. Thus, the court has met the challenge of the principle of "justice delayed is justice denied."

Some feel the court has performed a miracle by bringing together and achieving agreements between landlord and tenant groups. Undeniably, these two groups represent divergent interests and have the highest degree of distrust for one another of any litigants in the judicial system. After examination, however, they usually find that they really have many areas of common interest and joint concern. Although the court is a natural for bringing these people together, too often judges, fearing defeat of their ultimate goals, have been reluctant to assume this role. The true principle that should be followed is the old axiom of "nothing ventured, nothing gained." The judges of the Hennepin County Municipal Court feel that they have found a viable alternative to the housing court.

APPENDIX A

STATE OF MINNESOTA
COUNTY OF HENNEPIN

MUNICIPAL COURT
FIRST DIVISION, MINNEAPOLIS

To:

Summons

CASE NO. UD _____

Whereas

(Name) (Address) (Telephone No.)

plaintiff, has filed in this court a complaint to have you evicted. A true and correct copy of that complaint is attached: Therefore you the defendant(s) are hereby summoned to appear before this court at:

Room 855 Courts Tower
Hennepin County Government Center
300 South 6th Street
Minneapolis, Minnesota 55487
Phone: 348-5185

in the County of Hennepin, at 9:15 A.M.: 1:45 P.M. on: _____ at which time and place a hearing will be held on the complaint.

If you wish to contest the claim of the plaintiff, you must appear in court at the time specified above. If you do not appear and contest the claim, judgment may be entered for the relief requested in the complaint, ordering that you be evicted.

Witness the Honorable

Judge of Municipal Court of Hennepin County.

Dated:

By _____
Court Deputy

This is an EVICTION SUMMONS

On the date and at the time shown above, the judge will decide whether you will have to move from your place or whether you can continue to live there. You must be on time for court.

If You Don't Come To Court
The judge can order you to move immediately; and if you do not move, the sheriff can move you and your family out and can put all your belongings into storage. Then you will have to pay the storage and moving costs before you can get your belongings back.

YOU HAVE RIGHTS

YOU HAVE THE RIGHT to come to court and tell your side of the case.

- 1. If you believe that all or some of the things that your landlord says in the attached papers are wrong, you can tell those things to the judge.
- 2. If you believe that your landlord is trying to evict you because of something you did to protect your rights as a tenant, you can explain that to the judge.
- 3. If the attached papers say that you have not paid rent, and you believe that your apartment is in bad condition and needs repairs, you can tell that to the judge, but only if you bring with you to court the total rent that the attached papers say you owe.

You may come to court and speak for yourself, or you may have a lawyer come with you and represent you. If you want a lawyer, you must get one right away.

APPENDIX B

your rights concerning an eviction summons

■ YOUR LANDLORD HAS STARTED AN EVICTION CASE AGAINST YOU.

This information will help you protect your rights in court and will help you understand what an eviction case is about. It applies only if you are *renting*.

After you have read this information, it *might be helpful* to call your landlord to discuss the matter. You may be able to reach an agreement.

Be Careful. Some of this information is complicated. If you need help understanding your rights or presenting your case in court, talk to a lawyer or someone who knows about landlord-tenant laws.

■ A LANDLORD CAN START A COURT CASE TO HAVE YOU EVICTED IF:

- You fail to pay your rent when it is due without a legal reason.
- You fail to leave the premises after the tenancy ends.
- If, in certain instances, you do not perform your duties under the rental agreement.

■ HERE'S WHAT YOU SHOULD DO ABOUT THE COURT PAPERS YOU'VE RECEIVED

If you don't want to move out of your place, or if you can't move before the court date listed, *you must come to court* on the date and time listed on your summons form.

If you go to court, you can do two things:

- Prove to the judge that your landlord doesn't have the right to evict you.
- Ask the judge to give you some extra time (up to seven days) to move. Be ready to tell the judge why you need the extra time. The judge cannot postpone an eviction any later than three days before your rent is next due.

Having to go to work or do something else important does not mean you can miss court. If you don't want to be evicted, *you must come*. Also, *you must be on time*; otherwise, the court may go ahead without you and order that you have to move. If you will be *unavoidably* late, call the clerk's office noted on the summons form.

■ IF YOU DON'T COME TO COURT, OR IF YOU LOSE IN COURT, HERE'S WHAT CAN HAPPEN:

The judge will order you to move immediately. If you come to court, you may ask the judge for extra time to move. If you don't move, your landlord can have the sheriff move you, your family, and your belongings out. The sheriff will put your property into a warehouse. You will have to pay the moving and storage charges within 60 days in order to get your property back, or the landlord may be able to sell it. The sheriff must give you 24 hours notice before removing you and your property.

■ YOU HAVE A RIGHT TO TRIAL BY JUDGE OR BY A JURY.

If you are "contesting" your landlord's case (trying to show that he or she doesn't have the right to evict you), you have the right to ask for a trial. You should say, "I want a trial," when the clerk or the judge calls your case.

If you ask for a jury trial, a jury fee will be charged. If you cannot pay the fee, tell the clerk. Under certain circumstances, fees can be excused by a judge.

■ HERE'S HOW TO GET READY FOR COURT

1. Read over your landlord's court papers (the Complaint). These will tell you why your landlord thinks he or she has the right to evict you.

2. Look over the information that follows to see what things to tell the judge when you get to court.

Remember: any information you tell the judge must be in good faith. That means, you must believe that it is the truth.

■ IF THE COURT PAPERS SAY YOU HAVEN'T PAID YOUR RENT —

1. If you *have* paid your rent, bring your receipts or cancelled checks with you to court. Or, tell your landlord that you did pay your rent and show him or her the receipts, and see whether your landlord will have the case "stricken" so you won't have to go to court.

2. If you *haven't* paid your rent, you may pay your landlord now. Get a receipt and bring it to court. Or, call the clerk to see if your landlord has had the case "stricken." Then you won't have to go to court. If the case has not been "stricken," bring the receipt or your rent (cash or money order) with you to court. Have some extra money with you (about \$15) in case the judge tells you to pay court costs.

3. If your apartment is in bad condition, you may tell this to the judge. You must *bring with you to court* the whole amount of the rent (cash or money order) that the papers say you owe. After the judge hears what you and your landlord have to say, and if the judge decides that your apartment is in bad condition, the judge can then reduce the rent you owe. It will help your case if you:

- Bring people along (witnesses) who know about the conditions in the apartment or know that the landlord has refused to make repairs.
- Bring pictures of the bad conditions.
- You may also want to have your apartment inspected by the Department of Inspections. In Minneapolis, call 346-7858 and explain that the inspection must be done right away. In the suburbs — look in your telephone directory for the number of the building inspector for the community in which you reside.

4. If you believe that your landlord has *increased your rent or decreased your services* because of something you did to protect your rights as a tenant, you may tell that to the judge. However, you must pay your landlord or bring with you to court the full amount of the rent, (cash or money order) before the increase.

■ IF THE COURT PAPERS SAY THAT YOU WERE GIVEN A WRITTEN NOTICE TO LEAVE YOUR PLACE.

Bring the notice to court, show it to the judge, and tell the judge when you got it. The judge will decide whether the landlord followed the rules for giving you the notice.

If any of the following things happened to you, be sure to tell the judge:

1. If the notice didn't tell you to be out of your apartment on the day before your rent is due.,
2. If you didn't receive the notice at least one rental period before you have to be out. (Example: Your rent is due on the first of each month, the notice says to be out on August 31, but you didn't get the notice on or before July 31.)
3. If you signed an agreement or other paper to rent your place, read it to see if it says anything about how much time the landlord must give you in the notice to move. If it does, or if you didn't get a copy of the paper you signed, tell the judge.
4. If you believe that your landlord is trying to evict you because of something you did to protect your rights as a tenant, tell the judge. Be specific about what you did to protect your rights, and why you think this may be the reason you are being evicted. If your landlord gave you the notice within 90 days of the thing you did to protect your rights, your landlord must prove that he or she has a good reason for wanting you to leave.
5. If you believe that your landlord is trying to evict you because of your race, sex, marital status, religion, national origin, disability, affectional preference, or because you're on welfare, say so.

■ IF THE COURT PAPERS SAY YOU BROKE SOME PART OF YOUR LEASE:

1. And you believe you didn't break the lease, tell the judge. It is helpful to bring witnesses to back you up.
2. Even if you broke some part of your lease, the lease might not allow you to be evicted for breaking it. Bring the lease to court and ask the judge to read it. Tell the judge if your landlord didn't give you a copy of the lease.

If you live in public housing or a 236 Project, you have special rights. Your landlord can evict you only for good reason. This reason must be proved in court before you can be evicted. You will also have a chance to tell your side of the story. Witnesses are helpful.

NO MATTER WHAT THE COURT PAPERS SAY —

1. If you disagree with anything the court papers say, tell the judge. Again, witnesses are helpful.
2. Your landlord must obey the landlord disclosure act. To see if the act has been obeyed, answer the following questions
 - When you rented your place, did you get a *written notice* telling you the name and address of the owner or of an agent the owner has authorized to accept notices from you?
 - Did this written notice give you the name and address of the person authorized to manage your building?
 - Is this information posted in your building?

If you answered "no" to any of the questions, and you didn't know all that information at least 30 days before your landlord started this case, *make sure you tell the judge about it*

3. Certain rules must have been followed in giving these papers to you. To see if this has been done correctly, answer the following questions:

- If someone handed the papers directly to you, was that done at least three days before the court date?
- If the papers weren't given directly to you, were they given to a responsible person who lives with you? Did this happen at least six days before the court date?

If you answered "no" to any of these questions, make sure to tell the judge. If the judge says that the rules weren't followed, you may have the case dismissed

WHAT YOU SHOULD BRING TO COURT

1. Bring the court papers
2. If you have rent money which you haven't paid, bring it (in cash or money order).
3. If your landlord says you owe rent, and you have receipts or cancelled checks for what he or she says you owe, bring them
4. Bring your lease or any other paper you signed to rent your place
5. If your landlord gave you a notice to move, bring it
6. Bring any witnesses or pictures that can back up what you're going to say

HERE'S HOW TO SUBPOENA A WITNESS

It is sometimes helpful to have people come to court with you to help support your side of the case. If your witnesses won't come to court voluntarily, you may subpoena them. Then they will be required to come. To subpoena a witness, go to the clerk's office listed on your summons form and ask for assistance. There are fees involved in this process, but under certain circumstances, they may be excused. If you feel you are unable to pay the fees, explain this to the clerk.

SOME IMPORTANT PHONE NUMBERS:

Legal Aid Society of Minneapolis, Inc.:

- Main Office (Downtown) . . . 332-1441
- Southside 870-7604
- Northside 377-2566
- Minnesota Tenants Union . . . 871-7485
- Hennepin County Municipal Court Clerk 348-5185
- Hennepin County Bar Association Attorneys Referral Service 339-8777
- Minneapolis Inspections Department 348-7858
- Hennepin County Welfare Department Emergency Social Services 338-1211

Furnished for the guidance of landlords and tenants by the Judges of the Hennepin County Municipal Court in cooperation with the Minnesota Tenants Union, The Legal Aid Society of Minneapolis and the Minnesota Multi Housing Association, with the assistance of Hennepin County Public Affairs Department.

Hennepin County provides equal access to employment, programs and services without regard to race, color, creed, religion, age, sex, handicap, marital status, affectional preference, public assistance, criminal record, or national origin. As required by Section 504 of the Rehabilitation Act of 1973, Hennepin County provides a procedure to resolve complaints of discrimination on the basis of handicap. If you believe you have been discriminated against, contact the Affirmative Action Programs Department, A-303 Government Center, Minneapolis, MN 55487, 348-4096.

