

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF AITKIN

NINTH JUDICIAL DISTRICT

Case Type: Other Civil
(Consumer Protection)

State of Minnesota, by its Attorney General,
Keith Ellison,

Court File No. _____

Plaintiff,

COMPLAINT

vs.

David LaPlant,

Defendant.

The State of Minnesota, by its Attorney General, Keith Ellison, for its Complaint against Defendant David LaPlant (hereinafter, “LaPlant”) alleges as follows:

INTRODUCTION

1. In response to the ongoing COVID-19 pandemic, on March 23, 2020, Governor Tim Walz issued Emergency Executive Order 20-14, which prohibits landlords and property owners from filing eviction actions or terminating residential leases during the pendency of the Order, with only narrow exceptions for when the tenant is a danger to others in the home. The purpose of Executive Order 20-14 is to allow Minnesota tenants to remain sheltered for the duration of the peacetime emergency in furtherance of public health and safety.

2. Despite below-freezing temperatures at the time, in March and April 2020 LaPlant refused to refill the propane needed to heat the home of his tenants who reside at 22010 126th Place, Unit A, McGrath, MN 56350, effectively terminating their lease and constructively evicting them in violation of Executive Order 20-14 and Minnesota law. Further, LaPlant refused to repair his tenants’ electrical outlets when they notified him that they stopped

working—outlets that they had been using to plug space heaters into so they could stay warm without propane heat. As a result, LaPlant’s tenants have been forced to shelter-in-place without heat under the Governor’s order to stay at home, and as temperatures in northern Minnesota dip well below freezing. Attorney General Keith Ellison has authority to enforce Executive Order 20-14 as well as Minnesota’s consumer protection laws, including laws protecting consumers in the residential rental market, and brings this action to enjoin and remediate LaPlant’s violations described herein.

PARTIES

3. Keith Ellison, the Attorney General of the State of Minnesota, is authorized under Minnesota Statutes chapter 8 and has common law authority, including *parens patriae* authority, to bring this action to enforce Minnesota’s laws, including but not limited to Executive Order 20-14, to vindicate the State’s sovereign and quasi-sovereign interests, and to remediate all harm arising out of—and provide full relief for—violations of Minnesota’s laws.

4. Defendant LaPlant resides at 2814 15th St. NW, Buffalo, Minnesota. LaPlant is engaged in the business of managing and renting residential property in McGrath, Minnesota, including the home located at 22010 126th Place, Unit A, McGrath, MN 56350.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to Minnesota Statutes sections 8.01, 8.31, 504B.161, 504B.221, Executive Order 20-14, and under common law.

6. This Court has personal jurisdiction over LaPlant because he rents to, and has committed acts causing injury to, Minnesota residents.

7. Venue in Aitkin County is proper under Minnesota Statutes section 542.09 because the cause of action arose in Aitkin County.

FACTUAL BACKGROUND

8. On March 13, 2020, Governor Tim Walz declared a peacetime emergency as a result of the COVID-19 pandemic. Subsequently, on March 23, 2020, Governor Walz issued Executive Order 20-14, which prohibits landlords and property owners from filing eviction actions or in any way terminating residential leases during the pendency of the Order, with only narrow exceptions for when a tenant seriously endangers the safety of other residents or is engaged in criminal activity in violation of 504B.171.

9. Executive Order 20-14 was promulgated by the Governor under the authority of Minnesota Statutes section 12.21, subdivision 3, clause (1), was approved by the Executive Council, and filed in the Office of the Secretary of State. Thus, pursuant to Minnesota Statutes section 12.32, Executive Order 20-14 has “the full force and effect of law” during the peacetime emergency. Executive Order 20-14 took effect on March 24, 2020, at 5:00 p.m., and authorizes the Attorney General to enforce its provisions and seek any relief available pursuant to Minnesota Statutes section 8.31. Moreover, willful violations are subject to criminal penalties of a misdemeanor conviction and up to a \$1,000 fine.

10. LaPlant owns and rents the property located at 22010 126th Place, Unit A, McGrath, MN 56350 to [REDACTED] (“Tenants”). Tenants have lived at the property since 2018 with their three children, ages 16, 9, and 6.

11. The property has an upper unit and a lower unit. Tenants live in the upper unit.

12. The house is heated with a propane heating system that serves both the upper and the lower units. Until recently, the propane account that supplied service to the home was in LaPlant's name and when propane was delivered, LaPlant paid for the deliveries.

13. Although LaPlant is required to provide propane to his tenants, his provision of it have been inconsistent at best. In December, the house was without heat for several days because LaPlant did not purchase propane, even after being repeatedly notified by Tenants that the house was without heat. When LaPlant has failed to provide propane or has refused to repair the heating system, his Tenants have been forced to resort to using space heaters for warmth in the northern Minnesota winter.

14. Despite LaPlant's obligation to provide propane heat service to the property, the propane tank has been empty since March 16. Tenants have repeatedly asked LaPlant to supply new propane, but he repeatedly refused, stating that both Tenants and the lower tenants were behind on rent and that he wouldn't buy more propane until they pay their rent. Although it is irrelevant because a landlord cannot withhold habitable housing based on a failure to pay rent, LaPlant was incorrect that Tenants were not up-to-date on their rent.

15. When the Attorney General's Office informed LaPlant that there was no propane at the home in violation of the law, he replied that the Tenants could get it from a county aid organization if they wanted it. Landlords cannot abrogate their obligations to provide heating fuel to their tenants even if there are local aid organizations or government services that may be able to assist the tenants.

16. As they have in the past, Tenants resorted to using space heaters to heat the home but in April the outlets stopped working for about five days. When Tenants informed LaPlant by text message that the outlets in the living room did not work, which meant that they then had no

heat at all, LaPlant responded that the Tenants should “figure it out.” Temperatures in the area throughout March and April consistently remained below freezing, and Tenants report being cold in the house without heat.

COUNT I
VIOLATION OF EXECUTIVE ORDER 20-14

17. Plaintiff re-alleges all prior paragraphs of this Complaint.

18. Paragraph 1 of Executive Order 20-14 provides in relevant part:

Beginning no later than March 24, 2020, at 5:00 pm, and continuing for the duration of the peacetime emergency declared in Executive Order 20-01 or until this Executive Order is rescinded, for property owners . . . or other persons entitled to recover residential premises after March 1, 2020, because a household remains in the property after a notice of termination of lease . . . after a residential lease has been breached, or after nonpayment of rent, the ability to file an eviction action under Minnesota Statutes 2019, section 504B.285 or 504B.291 is suspended. This suspension will allow households to remain sheltered during the peacetime emergency.

19. Executive Order 20-14 further requires all residential landlords to “cease terminating residential leases during the pendency of the emergency, except where the termination is due to the tenant serious endangering the safety of other residents or for violations of Minnesota Statutes 2019, section 504B.171, subdivision 1.” Executive Order 20-14 ¶ 2.

20. Disconnecting utilities or refusing to provide propane necessary to heat a rental home, as well as refusing to repair the electrical system, amounts to an eviction and/or termination of a lease under Minnesota law.

21. LaPlant’s conduct, practices, and actions described in this Complaint constitute multiple violations of Executive Order 20-14.

COUNT II
COVENANTS OF LANDLORD
(MINN. STAT. § 504B.161)

22. Plaintiff re-alleges all prior paragraphs of this Complaint.

23. Minnesota Statutes section 504B.161, subdivision 1(a), states:

In every lease or license of residential premises, the landlord or licensor covenants:

(1) that the premises and all common areas are fit for the use intended by the parties;

(2) to keep the premises in reasonable repair during the term of the lease or license, except when the disrepair has been caused by the willful, malicious, or irresponsible conduct of the tenant or licensee or a person under the direction or control of the tenant or licensee; [and]

(4) to maintain the premises in compliance with the applicable health and safety laws of the state, and of the local units of government where the premises are located during the term of the lease or license, except when violation of the health and safety laws has been caused by the willful, malicious, or irresponsible conduct of the tenant or licensee or a person under the direction or control of the tenant or licensee.

24. By failing to provide propane to heat the Tenants' home, LaPlant has failed to keep the property fit for the use intended and keep the premises in reasonable repair.

25. LaPlant has also failed to keep the premises fit for the use intended and in reasonable repair by refusing to help the Tenants with the electrical outlets in their home after being notified by Tenants that the outlets were not functioning.

26. LaPlant's conduct, practices, and actions described in this Complaint constitute multiple violations of Minnesota Statutes section 504B.161.

COUNT III
UNLAWFUL TERMINATION OF UTILITIES
(MINN. STAT. § 504B.221)

27. Plaintiff re-alleges all prior paragraphs of this Complaint.

28. Minnesota Statutes section 504B.221 prohibits landlords from interrupting or causing the interruption of electricity, heat, gas, or water services to the tenant.

29. LaPlant's conduct, practices, and actions described in this Complaint constitute violations of Minnesota Statutes section 504B.221.

30. This Complaint serves as a petition for emergency relief from the Court, pursuant to Minnesota Statutes section 504B.381 involving the loss of running water, hot water, heat,

electricity, and other essential services or facilities LaPlant, as a landlord, is responsible for providing.

PRAYER FOR RELIEF

WHEREFORE, the State of Minnesota, by its Attorney General, Keith Ellison, respectfully asks this Court to award judgment against Defendant as follows:

1. Declaring that Defendant's actions, as set forth above, constitute violations of Executive Order 20-14 and Minnesota Statutes sections 504B.161, 504B.221, 504B.381, and that the current tenants may continue to reside at 22010 126th Place, Unit A, McGrath, MN 56350 for the duration of the peacetime emergency pursuant to Executive Order 20-14;

2. Enjoining Defendant and his employees, officers, directors, agents, successors, assignees, affiliates, merged or acquired predecessors, parents or controlling entities, subsidiaries, and all other persons acting in concert or participation with them, from engaging in any conduct in violation of Executive Order 20-14, Minnesota Statutes sections 504B.161, 504B.221, and 504B.381;

3. Enjoining Defendant and his employees, officers, directors, agents, successors, assignees, affiliates, merged or acquired predecessors, parents or controlling entities, subsidiaries, and all other persons acting in concert or participation with them, from withholding essential services or facilities (including but not limited to running water, hot water, heat, electricity, or sanitary facilities) from LaPlant's tenants while they continue to reside at 22010 126th Place, Unit A, McGrath, MN 56350 for the duration of the peacetime emergency pursuant to Executive Order 20-14;

4. Awarding judgment against Defendant for restitution under the *parens patriae* doctrine, the general equitable powers of this Court, Minnesota Statutes section 8.31, and any other authority, for all persons injured by Defendants' acts as described in this Complaint;

5. Awarding judgment against Defendant for treble damages pursuant to Minn. Stat. § 504B.221;

6. Awarding judgment against Defendant for civil penalties of up to \$25,000 pursuant to Minnesota Statutes section 8.31, subdivision 3, for each separate violation of Executive Order 20-14 and Minnesota Statutes sections 504B.161, 504B.221, 504B.381;

7. Awarding the State of Minnesota its costs, including litigation costs, costs of investigation, and attorneys' fees, as authorized by Minnesota Statutes section 8.31, subdivision 3(a); and

8. Granting such further relief as provided by law or equity or as the Court deems appropriate and just.

Dated: April 17, 2020

KEITH ELLISON
Attorney General
State of Minnesota

/s/Michael Goodwin

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MINN. STAT. § 549.211 ACKNOWLEDGMENT

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211.

/s/Michael Goodwin

MICHAEL GOODWIN