

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF PINE

TENTH JUDICIAL DISTRICT

Case Type: Civil
(Consumer Protection)

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

Court File No. _____

Plaintiff,

vs.

COMPLAINT

Howard W. Mostad,

Defendant.

The State of Minnesota, by its Attorney General, Keith Ellison, for its Complaint against Defendant Howard Mostad (hereinafter, "Mostad") alleges as follows:

INTRODUCTION

1. In response to the ongoing COVID-19 pandemic, on March 23, 2020, Governor Tim Walz issue 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 a tenant seriously endangers the safety of other residents or is engaged in criminal activity in violation of 504B.171. 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. In direct violation of Executive Order 20-14, Mostad has continued to attempt to terminate the lease of his tenants who currently reside at his property located at 9679 Grindstone Lake Road in Standstone, Minnesota. When his demands to vacate were denied, Mostad forced

his way into the property and disconnected the tenants' electricity in violation of Minnesota law. As a result, his tenants are currently without electricity, heat, or water. 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 Mostad'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 Howard Mostad resides at 11270 192nd Street North, Marine on St. Croix, Minnesota 55072. Mostad engages in the business of managing and renting residential property in Sandstone, Minnesota, including the home located at 9679 Grindstone Lake Road, Sandstone, Minnesota 55072.

JURISDICTION AND VENUE

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

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

7. Venue in Pine County is proper under Minnesota Statutes section 542.09 because the cause of action arose in Pine 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 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 during the peacetime emergency, Executive Order 20-14 has “the full force and effect of law.” Executive Order 20-14 took effect on March 24, 2020 at 5:00 p.m., and authorized 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. Mostad owns and rents the property located at 9679 Grindstone Lake Road in Sandstone to [REDACTED]. [REDACTED] signed a six month lease with Mostad that began on October 1, 2019, and would convert to a month-to-month lease beginning on April 1, 2020.

11. On March 4, 2020, Mostad provided [REDACTED] with a written notice to vacate the property, stating that they were required to move out of the property by April 1, 2020. As April 1 approached, however, [REDACTED] could not find a new residence to rent as a result of the ongoing COVID-19 pandemic. [REDACTED] four-year-old daughter lives with them

and suffers from pre-existing medical conditions that makes her more vulnerable to adverse health consequences if she was exposed to COVID-19. As a result, [REDACTED] were practicing social distancing and quarantining themselves at their rental home at 9679 Grindstone Lake Road.

12. On April 2, 2020, Mostad knocked on [REDACTED] door and stated that he was going to show the house to potential new tenants. [REDACTED] refused, telling Mostad that she did not want to let anyone into the home due to fears of COVID-19 exposure to her daughter. Nevertheless, Mostad pushed his way into the house. Mostad then walked to the home's fuse box in the boiler room and removed numerous breakers from the fuse box, thereby disconnecting the electricity to the home.

13. As a result of Mostad's actions, [REDACTED], and [REDACTED]'s four-year-old daughter are without electricity, heat, or hot water in their home. They cannot cook food or flush the toilet. [REDACTED]'s four-year-old daughter has told her she is cold. They have nowhere else to go and are concerned for their health and safety.

14. [REDACTED] reported this matter to the Attorney General's Office on April 2, 2020. Subsequently, Assistant Attorney General Katherine Kelly called Mostad on April 3, 2020, beginning in the morning, but only reached him at 12:50 p.m. During this phone call, Mostad admitted he rents the 9679 Grindstone Lake Road property to [REDACTED] and admitted to removing the tenants' electrical panel because they were behind on their electricity bill. During this telephone call, Mostad refused to restore electricity to the home and stated he did not believe they should be allowed to continue residing in the home even after being informed about Executive Order 20-14. Mostad concluded the call by calling Assistant Attorney General Kelly a "bitch" and then hung up the phone.

COUNT I
VIOLATION OF EXECUTIVE ORDER 20-14

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

16. 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.

17. Disconnecting utilities such as heat or electricity amounts to an eviction under Minnesota law.

18. 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.

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

COUNT II
UNLAWFUL TERMINATION OF UTILITIES (Minn. Stat. § 504B.221)

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

21. Minn. Stat. § 504B.221 prohibits landlords from interrupting or causing the interruption of electricity, heat, gas, or water services to the tenant.

22. Mostad’s conduct, practices, and actions described in this Complaint constitute violations of Minn. Stat. § 504B.221.

23. This Complaint serves as a petition for emergency relief from the Court, pursuant to Minn. Stat. § 504B.381 involving the loss of running water, hot water, heat, electricity, and other essential services or facilities Mostad, 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 Defendants as follows:

1. Declaring that Defendant's actions, as set forth above, constitute violations of Executive Order 20-14 and Minnesota Statutes sections 504B.221, 504B.381, and that the current tenants [REDACTED], her four-year-old daughter, and [REDACTED] may continue to reside at the 9679 Grindstone Lake Road property 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.221, and 504B.381;

3. Enjoining Defendants and their 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 [REDACTED], her four-year-old daughter, and [REDACTED] [REDACTED] while they continue to reside at the 9679 Grindstone Lake Road property 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 Defendants 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.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 3, 2020

KEITH ELLISON
Attorney General
State of Minnesota

/s/ Katherine Kelly
KATHERINE KELLY
Assistant Attorney General
Atty. Reg. No. 0337535

JASON PLEGGENKUHLE
Assistant Attorney General
Atty. Reg. No. 0391772
445 Minnesota Street, Suite 1200
St. Paul, Minnesota 55101-2130
Telephone: (651) 757-1308
Telephone: (651) 757-1147
katherine.kelly@ag.state.mn.us
jason.pleggenkuhle@ag.state.mn.us

Attorneys for Plaintiff, State of Minnesota

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/ Katherine Kelly
KATHERINE KELLY