

Legislative
Update 2023
Section 8



Before We Start

- If you attended the morning session for the State updates for Public Housing, go to another session now.
- **This material is HIGHLY duplicative.**

Section 8 Update 2023

Presented By Brandon M. Engblom, Esq.



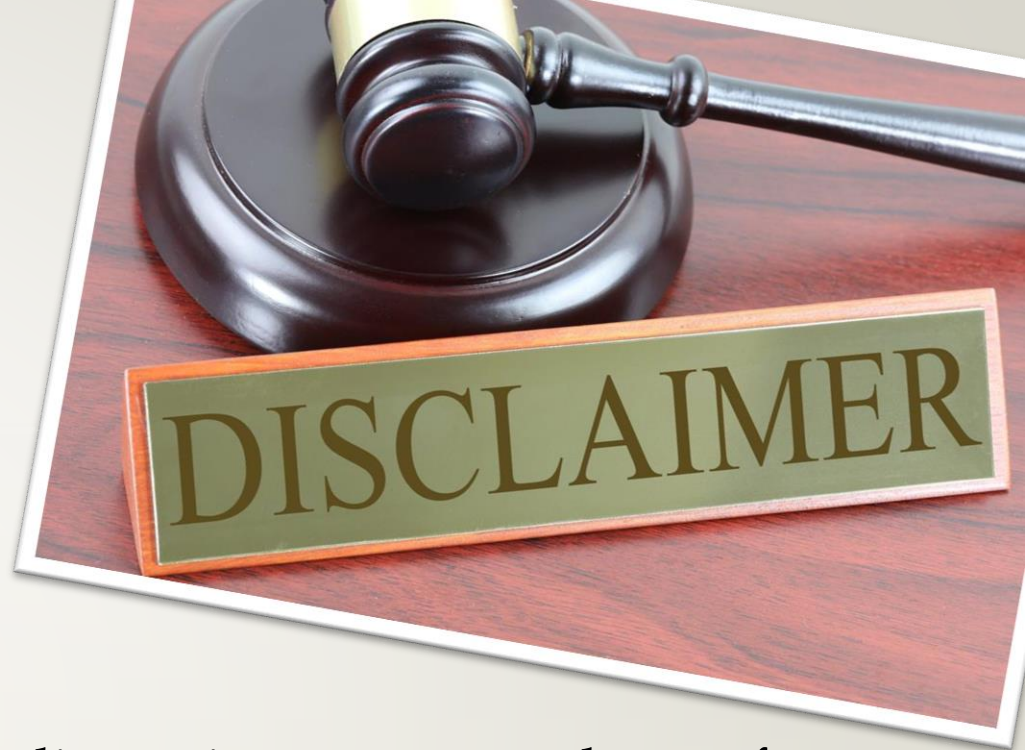
Who Am I?



- General Counsel to the Housing and Redevelopment Authority of Duluth
- Adjunct Professor for the University of Wisconsin-Superior
 - Judicial Process;
 - Civil Procedure;
 - Constitutional Law.
- Board member for the 11th District Bar Association

Disclaimer

- I am a Lawyer;
- I am not *your* Lawyer.
- Opinions or points of view expressed in this discussion represent those of the speaker and do not necessarily represent the official position or policies of the Housing and Redevelopment Authority of Duluth, Minnesota.
- These prepared remarks are for general education purposes.
- Seek individualized legal advice to review your particular situation.



The Timeline

- 2021: Minnesota was the only state with a divided legislature.
 - **34 Seats** to **33 Seats**
- 2022: The Democratic Party wins a one (1) seat majority in the Senate
 - Produces a trifecta of elected power.
- 2023: The Democratic Party moves very quickly to pass legislation.

Non-Tenant Landlord Examples:

IN EFFECT NOW

- Noncompete agreements banned;
- Protections for pregnant employees;
- Restrictions on employer meetings;
- Recreational Marijuana legalized.

FUTURE START DATE

- Sick and Safe time 1/1/2024;
- Ban on past pay questions 1/1/2024;
- OSHA fines tagged to inflation 10/1/2024;
- Paid family and medical leave 1/1/2026.

A Trend Towards **Tenant Protections**

- This is only the beginning.
- Expect more changes this legislative session starting: February 12, 2024.



That's Great News Right?

- Yes and No.
- Your Landlord program patients are:
 - Worried; and
 - Confused.
- The public-private model that Section 8 programs rely on generally require private landlord buy in.
 - Not counting PBV/PBRA programs owned by the government.

Landlord Tenant Law

- Changing Lease Requirements;
- Changing Procedural Processes; and
- Limitations on Landlords.

Residential Leases

- Changing Lease Requirements

House Rental Lease Agreement

Prepared for:
[Renter_Name]

Created by:
[Owner_Name]



**HOUSE RENTAL LEASE
AGREEMENT TEMPLATE**

Required Disclosures: Prohibited Fees

- Minn. Stat. 504B.120
 - MUST disclose all nonoptional fees on the First Page of the lease.
 - Must display “Total Monthly Payment”.
 - **Total Monthly Payment = Nonoptional fees + Rent.**
 - MUST disclose if utility costs are included in rent.
- These requirements also attach to advertisements for units.

What Are Nonoptional Fees?

- Nobody really knows.
 - **NOT PETS**
 - **NOT PARKING**



Required Disclosures: Prohibited Fees Cont.

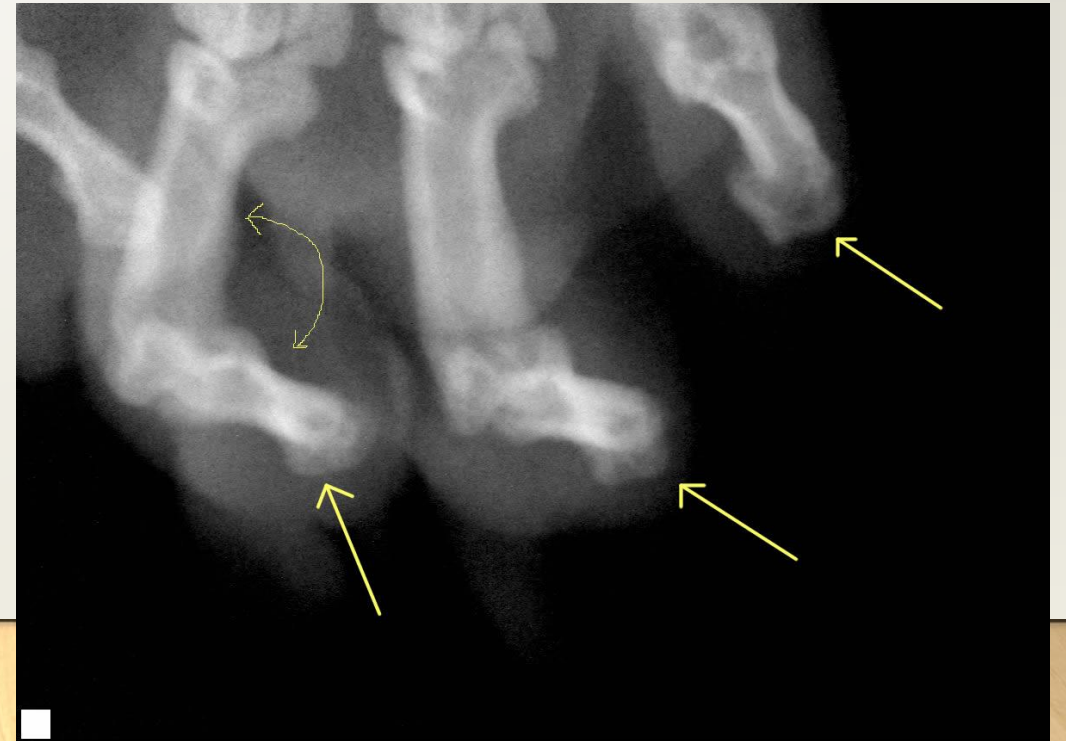
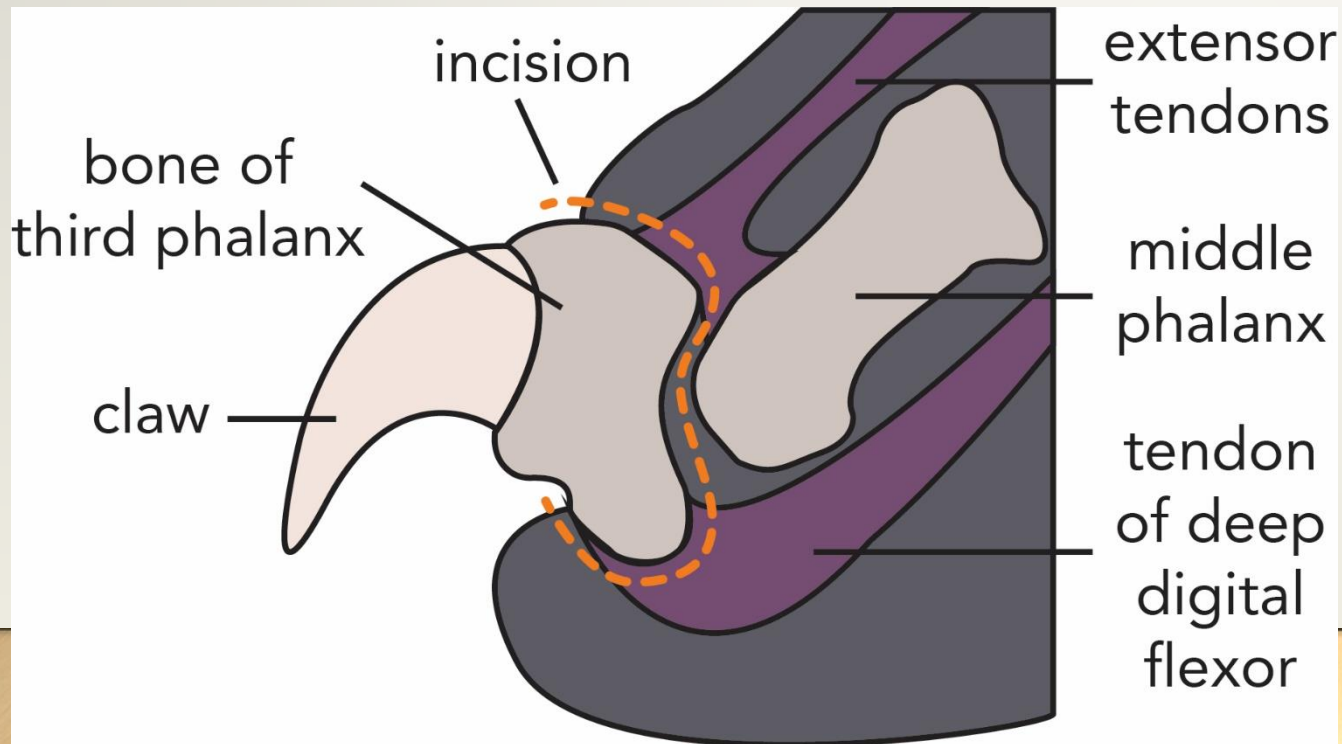
- **Effective January 1, 2024.**
- **Penalty: Treble Damages and Opposing Attorney Fees.**
 - Treble Damages
 - Opposing Attorney Fees

Live action image of lawyer's taking your budget.



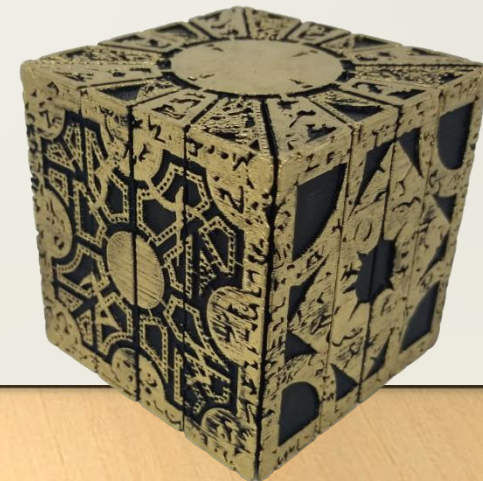
Limits on Pet Requirement: Clawing and Barking

- Minn. Stat. 504B.114
 - Cant require Declaw or Devocalize pets in lease.



Limits on Pet Requirement: Clawing and Barking

- **Effective January 1, 2024.**
- **Penalty: Enforcement by AG, County Atty, City Atty.**
 - **\$1,000 per advertisement;**
 - **\$1,000 per animal;**
 - **Undisclosed mystery box of pain.**



State Mandated Unit Inspections: ...



Initial Inspection - NEW

- Minn. Stat. 504B.182 Section 1.
 - At commencement; or
 - Within 14 days of commencement of a lease
- Landlord **MUST** notify resident of right to do an inspection to identify existing deficiencies to avoid deductions of their deposit.

Initial Inspection Cont.

- Inspection must happen at a mutually agreeable time.
- If tenant agrees, you can do a photo or video log of the property in lieu of the inspection.
 - Landlord must provide an acknowledgment in writing:
 - Both parties agree to use the images to demonstrate the condition of the unit.

Move-out Inspection

- Minn. Stat. 504B.182 Section 2.
 - Within a “*reasonable time*” of landlord or tenant’s notification to end the lease; or
 - before the end of the lease term.
- Landlord **MUST** notify resident of right to do a move-out inspection and tenant’s right to attend that inspection.

Move-out Inspection Cont.

- Inspection must be held
 - No earlier than 5 days termination or end of lease; or
 - The day the tenant plans to move out.
- If the tenant asks for a move-out inspection, landlord must provide it on a mutually agreeable date.

Move-out Inspection Cont.

- Goal behind the statute:
 - Identify damage done to the unit;
 - Allow the tenant to repair the damage (if the lease allows) to avoid a loss of the security deposit.

Initial Inspection & Move-out Inspection

- **Effective January 1, 2024.**
- **Penalty: ??**
- **Waiver: Void as contrary to public policy.**

Limitations on Crime Free Leasing

- Minn. Stat. 504B.171 Subd. 2a
 - *A residential landlord may not impose a penalty on a residential tenant or terminate the lease of a residential tenant for the conduct of the residential tenant, household member, or guest occurring off of the premises or curtilage of the premises, unless...*



Exception 1:

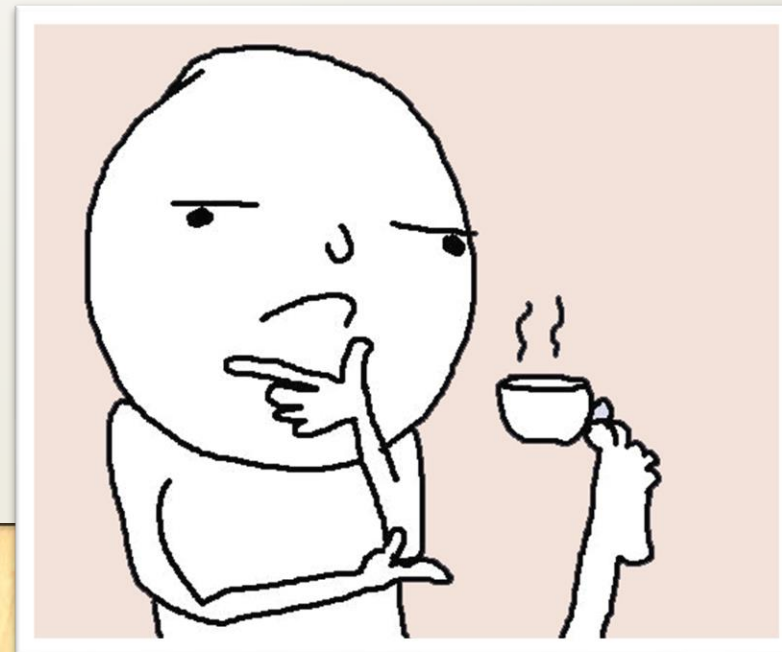
- (1) the conduct would constitute a crime of violence **against another tenant, the tenant's guest, the landlord, or the landlord's employees**, regardless of whether a charge was brought or a conviction obtained; or

Exception 2:

- (2) the conduct results in a **conviction** of a crime of violence against a person unrelated to the premises.

Crime of Violence

- For purposes of this subdivision, crime of violence has the meaning given in section 624.712, subdivision 5, except that **it does not include offenses under Chapter 152.**
- **Ah yes, Chapter 152.**
 - **Drugs.**

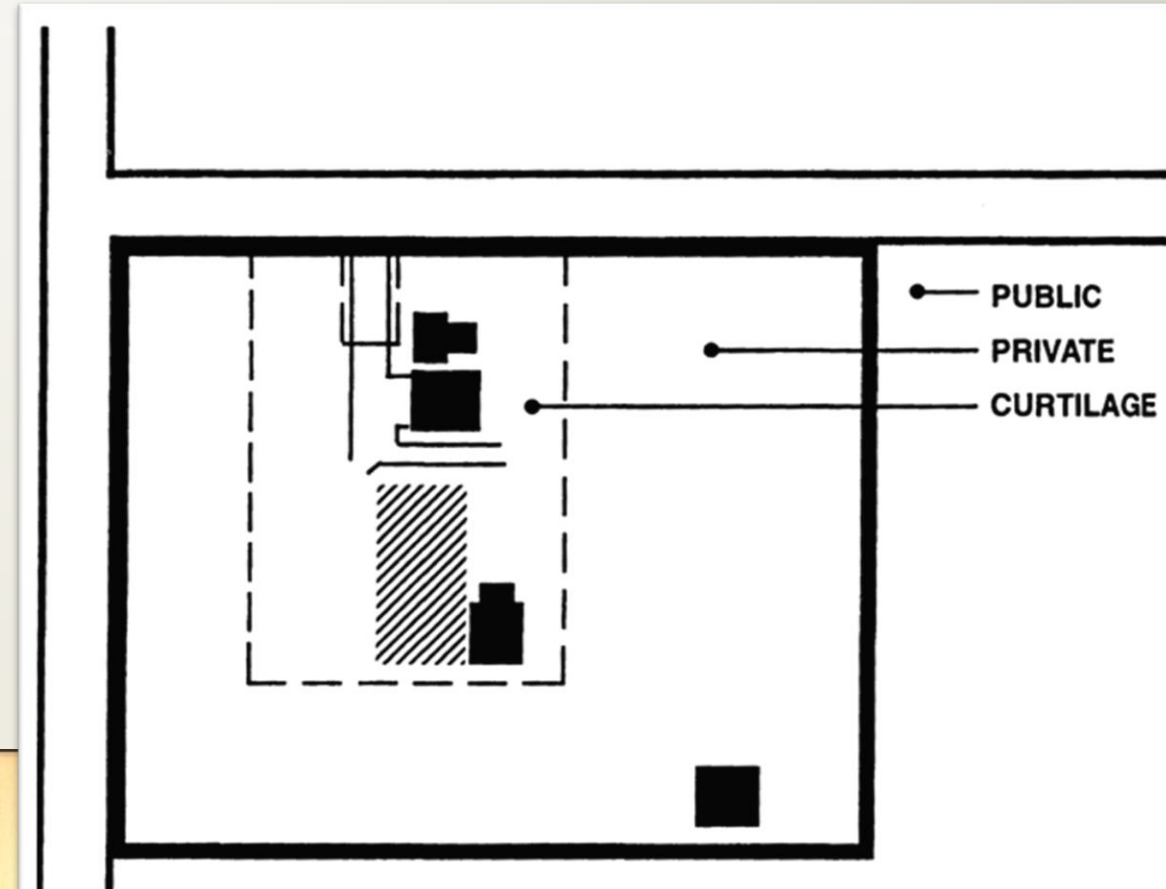


Example Crimes of Violence

- Murder;
- Manslaughter;
- Assault;
- Domestic Assault;
- Robbery;
- Kidnapping;
- Criminal Sexual Conduct;
- Burglary;
- Drive-by-shooting;
- Arson;
- Rioting;
- Terroristic Threats;
- Harassment; and
- Shooting at a public transit.

Reminder

- We're talking about crimes committed **OFF PREMISES**
- Can still terminate for crimes:
 - **On the premises; or**
 - **curtilage of the premises**
- What counts as Premises?
- What counts as Curtilage?





Limitations on Crime Free Leasing

- **Effective: June 1, 2024.**

Tenant Right to Privacy

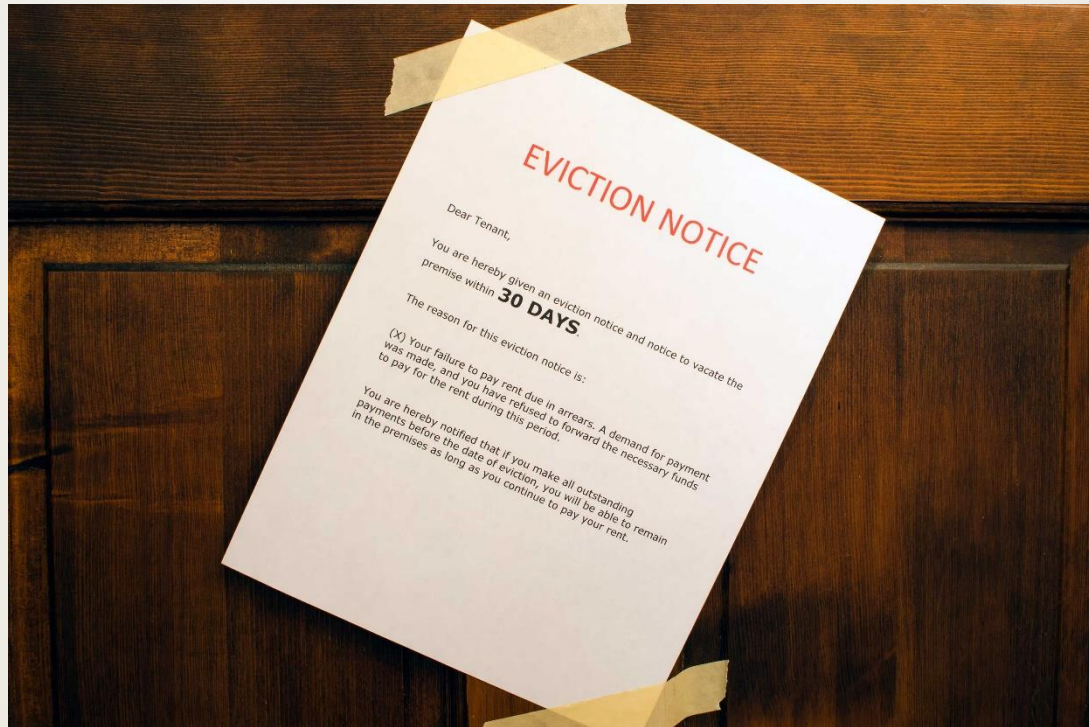
- Minn. Stat. 504B.211 Subd. 2 & Subd. 6.
 - Entry by Landlord “Reasonable Notice” not less than 24 hrs.
 - Tenant can let their landlord in sooner.
 - Notice **MUST** specify a time or window of time of entry.
 - Between 8:00 am and 8:00 pm (unless agreed otherwise)
 - Suggestion: 4 hour windows max.
- **Emergency Access Still Allowed.**



Tenant Right to Privacy

- **Effective: January 1, 2024.**

Eviction Actions



Good Luck



Changes to Pleading Standards

- Landlords need to be much more specific in their pleadings
 - AKA complaint
- Required attachments may include:
 - Lease agreement;
 - Ledger; and
 - Narrative outlining alleged breach.
- *See* Minn. Stat. 504B.321

Changes to Notice Standards

- Tenants have a Statutory Right to Counsel for:
 - Public Housing (undefined)
 - What is Public Housing?
- Written Notice MUST contain statutorily required statements for non-payment cases.
- MUST also list a specific accounting of charges and totals.

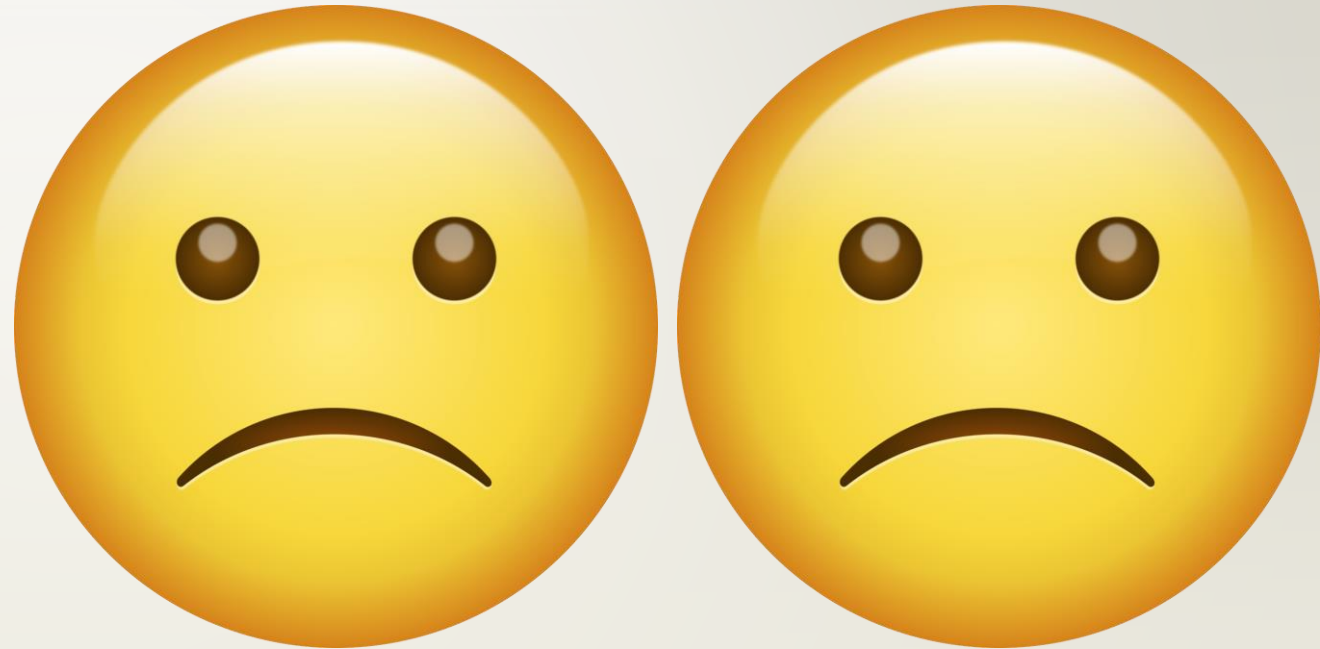
What Happens if your notice is missing something?

- Case Dismissed.
- You lose your filing fee.



What Happens if your complaint isn't clear?

- Case Dismissed.
- You lose your filing fee.



But WHY?

- Expressed intent:
 - To level the power dynamic between landlords and renters
- Actual intent:
 - To stick it to housing providers.
 - No other justification for the **automatic dismissal of cases** after the fee has been paid.

New State Statute's: Dead on Arrival

- Minnesota Government Access for all lawyers.
- Eviction cases being non-public until judgment against defendant.
- Shout out to Justice McKeig
 - Professor of mine during law school.
 - First Native American woman to serve on any State Supreme Court.
 - Appointed in 2016.





General Questions?