

Vang, Mai (CI-StPaul)

From: Andrew McNattin <homemastersmn@gmail.com>
Sent: Tuesday, January 5, 2021 3:33 PM
To: Vang, Mai (CI-StPaul)
Cc: Migdal, Sebastian (CI-StPaul); Neis, Adrian (CI-StPaul); Shaff, Leanna (CI-StPaul)
Subject: Re: 1323 Payne Ave
Attachments: Commercial Eviction Complaint - Michael Dailey.doc

Think Before You Click: This email originated outside our organization.

Good afternoon and happy new year,

I wanted to provide an update for this property.

The agreed upon move-out date for the tenant at 1323 has come and gone and he has not moved out. I have initiated eviction proceedings but will have to wait the appropriate amount of time before taking possession of the property.

I realize my extension requests may be wearing thin but I am doing what I can to move this along and am hoping for some continued patience as I work to get the tenant out and myself moved back in.

I have attached the eviction notice and will continue to keep you updated.

Thank you for your patience. Please let me know if you have any questions.

Andrew McNattin
Emsa Properties, LLC

On Tue, Dec 8, 2020 at 3:31 PM Vang, Mai (CI-StPaul) <mai.vang@ci.stpaul.mn.us> wrote:

Mr. McNattin,

I have consulted with the hearing officer on your request and she will review your case on December 15 with the fire inspector. I will let you know what her recommendation is. Thanks.



Mai Vang
Legislative Hearing Coordinator
Saint Paul City Council
15 W Kellogg Bvd, Ste. 310
Saint Paul, MN 55102

P: 651-266-8563

O: 651-266-8585

F: 651-266-8574

mai.vang@ci.stpaul.mn.us

Making Saint Paul the Most Livable City in America

From: Andrew McNattin <homemastersmn@gmail.com>
Sent: Monday, December 7, 2020 3:37 PM
To: Migdal, Sebastian (CI-StPaul) <sebastian.migdal@ci.stpaul.mn.us>
Cc: Vang, Mai (CI-StPaul) <mai.vang@ci.stpaul.mn.us>; Neis, Adrian (CI-StPaul) <adrian.neis@ci.stpaul.mn.us>
Subject: Re: 1323 Payne Ave

Think Before You Click: This email originated outside our organization.

Good afternoon,

Thank you Sebastian for taking time to discuss the situation with me regarding 1323 Payne Ave.

I reached out to Sebastian for additional time to clear up the issues surrounding the current occupancy at 1323 Payne. After hearing of the situation as well as being familiar with the property, he was agreeable to working with me on an extension, assuming it was granted through the initial appeal.

The tenant who is currently occupying the space has agreed to move out and is scheduled to be out by 12/17. This seemed to be the best course of action considering his current use of the property and the problems that have been detailed by the city fire inspection with respect to items in the property that were not consistent with its intended use.

The plan is to have him out on the 17th and I would return to using the office as I did initially when I purchased it. I am currently operating out of my house and this will allow for me to operate with an office and garage for the foreseeable future. I would occupy the property as soon as the tenant is out and the city fire department deems our occupancy to be compliant.

I respectfully request additional time to allow for the tenant to vacate the property so that I can personally occupy the property without overstepping his time there while he packs up and moves out. Please consider this as a final request to fully comply with the occupancy requirements moving forward.

Thank you.

Andrew McNattin

Emsa Properties, LLC

On Mon, Dec 7, 2020 at 1:37 PM Migdal, Sebastian (CI-StPaul) <sebastian.migdal@ci.stpaul.mn.us> wrote:

Good Afternoon Andrew,

Please contact the Legislative Hearing Coordinator - Main Vang regarding your situation.

I am here to work with you on this, however I cannot grant additional time as a 12/10/2020 deadline has already been established by the Legislative Hearing Officer.

Thank you,

Sebastian



SAINT PAUL
MINNESOTA

Sebastian Migdal

Pronouns: He/him/his

Fire Safety Inspector II
Department of Safety & Inspections
375 Jackson St. Suite 220
Saint Paul, MN 55102

P: (651) 266-8985

Email: sebastian.migdal@ci.stpaul.mn.us



STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

EMSA Properties, LLC
1384 Raymond Avenue
St. Paul, MN 55108

Case Type: Eviction
Court File No. _____
Judge _____

Plaintiff,

vs.

Michael Dailey
1323 Payne Avenue
St. Paul, MN 55130

**EVICITION ACTION COMPLAINT
(Minn. Stat. § 504B.321)**

Defendant.

EMSA Properties, LLC, for its Eviction Complaint against Michael Dailey, and all those claiming a right of possession under Defendant, states and alleges as follows:

1. Plaintiff is a Minnesota limited liability company with an address of 1384 Raymond Avenue, St. Paul, MN 55108.
2. Defendant is a Minnesota resident with an unknown personal residence address.
3. Defendant's date of birth is unknown.
4. Plaintiff is the owner of the real property located at 1323 Payne Ave., St. Paul, Ramsey County, MN 55130 ("Premises").
5. Defendant is currently in possession of the Premises.
6. The building in which the Premises is located contains a commercial structure.
7. The Premises was leased to Defendant via a written Lease of Commercial Property agreement dated on or about August 10, 2019 (the "Lease").
8. The Lease Term expired on August 31, 2020.

9. Pursuant to paragraph 9 of the Lease, Defendant agreed “to use the Premises only to conduct business as related to landscaping.”

10. The applicable zoning and occupancy restricts the Premises to office use.

11. The full and complete Lease is available for review.

12. Plaintiff is in possession of Defendant’s rental security deposit of \$1,000.00.

13. Monthly rent on a sliding scale as set forth in the Lease was due on the first day of each month.

14. The monthly rent due during the last month of the term of the Lease was \$1,100.

15. Defendant has failed and refused to pay monthly rent for December 2020 and January 2021 and is in breach of the Lease.

16. Defendant has failed and refused to pay the late rent payment penalty of 8% for each foregoing delinquent rent payment.

17. The applicable governmental authority has issued violations of Defendant’s use of the Premises and failure to maintain the same.

18. Defendant has personal property and vehicles on the Premises that are in violation of the applicable governmental authority’s rules and regulations.

19. Defendant sent Plaintiff an email dated November 17, 2020 stating as follows”

a. “. . . This is my 30 day notice of ending my tenancy at 1323 Payne. Thanks for allowing me to use your building basically for storage and I'm sure that after my departure, things with the City should smooth out.”

20. Plaintiff accepted Defendant’s notice to vacate the Premises, but Defendant has failed to vacate the Premises.

21. Defendant also agreed to remove his personal property and vehicles but has failed to do so.

22. Defendant is in breach of the Lease for failing to vacate the Premises at the expiration of the term as set forth in the Lease, and/or after expiration of his notice of intent to vacate.

23. Defendant is also in breach of the Lease for failing to maintain the Premises and failure to comply with applicable city codes and regulations.

24. This Lease and the eviction sought herein is not subject to Minnesota Governor Tim Walz's Executive Order 20-79 prohibiting residential evictions.

25. The Premises is not subject to the eviction prohibitions contained in the CARES Act.

26. Defendant was given a seven day notice to vacate prior to this Eviction Complaint being filed and served.

27. Plaintiff, having present right of possession of the Premises, has complied with Minn. Stat. §504b.181 by disclosing to Defendant prior to commencement of tenancy and periodically during the tenancy the name and address of the person authorized to manage the premises and an owner or agent authorized by owner to accept service of process and receive and give receipts for notice and demands, and the foregoing information was known by Defendant not less than 30 days before the filing of this action.

28. Defendant is still in possession of the Premises and Plaintiff seeks to have the Defendant, and all those claiming a right of possession under Defendant, removed.

29. Defendant is in breach of the Lease and Plaintiff is entitled to judgment against the Defendant for restitution of said Premises plus costs and disbursements incurred herein.

WHEREFORE, Plaintiff requests that this Court enter judgment in its favor,

1. Issuing a Writ of Recovery to Plaintiff providing for the immediate eviction of Defendant, and all those claiming a right of possession under Defendant, from the Premises located at 1323 Payne Ave., St. Paul, Ramsey County, MN 55130;
2. Ordering Defendant to return the Premises to its original condition, normal wear and tear excepted;
3. Granting Plaintiff's costs, disbursements and statutory attorney's fees in bringing this action; and
4. Granting such other relief as the Court deems just and equitable.

Dated: January 4, 2021.

JOHNSON LAW OFFICE, PLLC

Jaren L. Johnson (#0290427)
1301 American Blvd. E., Suite 210
Bloomington, MN 55425
Tel: (612) 466-0668
jaren@johnsonlawmn.com
Attorneys for 1749 Thomas Properties, LLC

ACKNOWLEDGMENT

Plaintiff, through its undersigned attorneys, acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211 to the party against whom the allegations in this pleading are asserted.

Jaren L. Johnson #0290427

VERIFICATION AND AFFIDAVIT OF NON-MILITARY STATUS

Jaren L. Johnson, being duly sworn, states that that he is the attorney for the Plaintiff in this action; that he has read this Complaint; that the allegations stated in it are true to his knowledge; and that, to his information and belief, defendants are not now in the military or naval service of the United States of America.

Hennepin County, MN

Jaren L. Johnson