

# INSTRUCTIONS

## Expungement of Eviction Record

Forms you may need when asking for expungement of your eviction record case:

- Instructions (HOU503)
- Notice of Motion and Motion for Expungement of Eviction Record (HOU502);
- Affidavit in Support of Motion for Expungement of Eviction Record (HOU503);
- Affidavit of Service (SOP102, SOP104, or SOP105);
- Notice of Hearing (CIV604).

### What You Need to Do

1. Get information about your eviction case from the court record.
2. Fill out and sign the court forms, following all of the steps in these instructions.
3. Get a hearing date from court administration in the county where the eviction took place.
4. Make copies.
5. Serve the other parties with a copy of the *Notice of Motion and Motion for Expungement of Eviction Record*, *Affidavit in Support of Motion for Expungement of Eviction Record*, and any documents you attached to your *Affidavit*.
6. File your forms (electronically or at the courthouse), and pay the filing fee (or ask for a fee waiver if you cannot afford to pay the fee).
7. Appear at the hearing. Each “step” here is described in more detail below.

### Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions, but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Got a question about court forms or instructions?

- Visit [www.MNCourts.gov/SelfHelp](http://www.MNCourts.gov/SelfHelp)
- Call the MN Courts Self Help Center at (651) 435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit [www.MNCourts.gov/Find-a-Lawyer.aspx](http://www.MNCourts.gov/Find-a-Lawyer.aspx)

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

## **General Information About Expungement of Eviction Record** **Minn. Stat. § 484.014**

**The information contained in these instructions is not intended as legal advice but as a general guide to you to explain the legal process. If you do not understand any of these steps or do not know if these forms fit your situation, talk to an attorney. Court staff cannot give legal advice.**

### **What is eviction expungement?**

Eviction expungement asks for a judge to seal an eviction court record (formerly known as unlawful detainer) from public view. If your eviction expungement request is granted, then a search of court records will not show your eviction case.

### **Why would you ask for an expungement of your eviction court record?**

Usually, someone asks for expungement of an eviction court record because it impacts their ability to rent another property. Eviction court records can be viewed by the public, and landlords commonly use tenant screening companies to do background checks on individuals asking to rent their property.

### **When can the court expunge an eviction court record?**

You can ask for an expungement when the landlord wrongly filed an eviction case and it would be unfair to keep it on your record. Minnesota law says expungements are allowed when:

- The landlord's case was "sufficiently without basis in fact or law,"
- It is "clearly in the interests of justice," **and**
- The public's interest in knowing about the case is not stronger than the justice that would be accomplished by expunging the case.

### **Do you have all the information you need to fill out the forms?**

The Motion and Affidavit for Expungement of Eviction Record forms ask for the following information:

- The county, judicial district number, and the court file number where the eviction was filed.
- The name and address of the landlord and/or the attorney representing the landlord.
- Your address listed in the Eviction Complaint.
- Details about why you should have your eviction court record expunged.
- Any evidence or documentation to support your request to have your eviction court record expunged.

## Eviction Expungement Checklist

This is a checklist of the steps you must follow to ask for an eviction expungement. You will want to carefully review steps 1-7 in the instructions below to complete the checklist.

- Get information about your eviction case from the court record. You can find contact information for the courts online starting at <http://mncourts.gov/Find-Courts.aspx> (Step 1A)**
- Get the Eviction Expungement forms**
  - Notice of Motion and Motion for Expungement of Eviction Record (HOU502);
  - Affidavit in Support of Motion for Expungement of Eviction Record (HOU503);
  - [Affidavit of Service \(SOP102, SOP104, or SOP105\)](#);
  - [Notice of Hearing \(CIV604\)](#).
- Complete the Eviction Expungement forms (Steps 1 & 2)**
- Get a hearing date (Step 3)**
- Make copies (Step 4)**
- Serve the other party copies of Eviction Expungement forms (Step 5)**
- File the *original* Eviction Expungement forms with court administration and pay the [filing fee](#) (Step 6)**
  - Notice of Motion and Motion for Expungement of Eviction Record (HOU502);
  - Affidavit in Support of Motion for Expungement of Eviction Record (HOU503);
  - Affidavit of Service (SOP102, SOP104, or SOP105);
  - Notice of Hearing (CIV604).
- Attend the hearing (Step 7)**

**Step 1**

**Fill Out the Notice of Motion and Motion for Expungement of Eviction Record (HOU502)**

**Section A – The Caption**

The top part of the first page is where you will find the case caption. It looks like this:

<p><b>State of Minnesota</b></p> <p>County _____ <b>1</b></p> <p>Plaintiff (Landlord)</p> <p>vs _____ <b>2</b></p> <p>Defendant (Landlord)</p>	<p style="text-align: right;"><b>District Co</b></p> <p>Judicial District: _____</p> <p>Court File Number: _____</p> <p>Case Type: Eviction (UD)</p> <p style="text-align: center;"><b>Notice of Motion and Motion for Expungement of Eviction Record</b></p> <p style="text-align: center;">(Minn. Stat. § 484.014)</p>
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You will find the information you need to fill out the caption on the court form from your original eviction case. If you do not have any documents from your eviction case, and if you do not know the information, you will need to look in your court file.

- Some limited case records can be viewed online at [www.mncourts.gov/publicaccess](http://www.mncourts.gov/publicaccess).
- If you cannot view your case online, you may be able to view your court file at any [courthouse](#) in Minnesota. If your eviction case is older, you may need to go to the courthouse in the county where your eviction case is located to view the paper record of your court file.

1. At the top of the page, write in the following information:
  - The **county** where the case is located;
  - The **judicial district number** (each county is located in one of ten [judicial districts](#)); and
  - Your **court file number** (this usually starts with a two-digit number, followed by letters and numbers. For example, *15-CV-17-0001*).
  
2. Write in the name of the **plaintiff (landlord)** as listed on the eviction complaint. Write in the name of each **defendant (tenant)** as listed on the eviction complaint. If your name is incorrect in any way, you can add “aka” (Also Known As) and then your correct name.

**Section B: The Notice**

**TO:**

3

B

**NOTICE**

I will ask the court for an Order at a hearing scheduled as follows:

Date:		Time:	
Name of Courthouse:		Judicial Officer (if known):	4
Street Address:		City:	

3. After the word “TO,” print the name and address of the landlord or the landlord’s attorney if the landlord is represented in the eviction case.
4. Leave the hearing date section blank for now. You will fill in this section when you reach Step 3 below.

**Section C: The Motion**

**MOTION**

I am asking the court for an Order as follows:

1. For expungement of my eviction record.
2. For these additional requests:  None, or  
 \_\_\_\_\_  
 \_\_\_\_\_
3. For any other relief the court feels is fair and equitable.

C

You are asking the court to expunge your eviction record. List any additional requests you would like the court to grant. If you do not have any additional requests, check the box for “none.”

**Section D: The Signature Block**

On page 2 of the *Notice of Motion and Motion for Expungement of Eviction Record*, please read the Verification and Acknowledgments carefully. There can be serious consequences if you do not have a legal basis to ask the court to expunge your eviction record.

because of the serving or filing of this document such as court costs, and reasonable attorney fees.	D
Dated: _____	5
Signature _____ Name: _____ Address: _____ City/State/Zip: _____ Telephone: _____ E-mail address: _____	

- After you have filled out the *Notice of Motion and Motion for Expungement of Eviction Record* (except for the information about the hearing), you can date and sign the form. Then print the county and state where you signed the form and your personal contact information below your signature.

**Step 2**

**Fill Out the *Affidavit in Support of Motion for Expungement of Eviction Record* (HOU503)**

**Section E: The Caption**

State of Minnesota County: _____	District: _____ Judicial District: _____ Court File Number: _____ Case Type: Eviction (UD)
Plaintiff (Landlord) _____ vs Defendant (Tenant) _____	<b>Affidavit in Support of Motion to Expunge Eviction Record</b>

Fill out the case caption just like you did in Section A above.

**Section F: The Statement of Facts**

In the *Affidavit in Support of Motion for Expungement of Eviction Record*, write down facts that support your request to expunge your eviction record. This is where you explain why you are asking the court to expunge your eviction court record. Later on, you will sign the *Affidavit* under penalty of perjury. This is like being under oath. It means you should not write anything that you know is not true.

My name is \_\_\_\_\_ **6** \_\_\_\_\_ I am asking the court for expungement of my eviction record. **F**

1. I was evicted from the following address:

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_ **7** \_\_\_\_\_

6. Write your full name.

7. List the address where you lived when the landlord started the eviction case.

2. Check all that apply:

a. The property was subject to contract-for-deed cancellation or mortgage foreclosure and: **8**

I moved on \_\_\_\_\_, which is before the landlord filed this case;

**OR**

I am a tenant and did not receive a proper lease termination notice under Minn. Stat. § 504B.285.

b. I am asking for expungement of my eviction record because: **9**

(If you checked "b," then you must give a detailed explanation in **i**, **ii**, and **iii**. Do not answer "N/A.")

**i.** The landlord's case was without sufficient basis in law or fact. The landlord was wrong to bring the case because: **10**

\_\_\_\_\_

**ii.** It is clearly in the interests of justice to expunge the case. Expunging the case is fair and will help me because: **11**

\_\_\_\_\_

**iii.** The interests of justice are not outweighed by the public's interest in knowing about the eviction record. The reasons I need an expungement are more important than the public knowing about the eviction because: **12**

\_\_\_\_\_

**Your Burden of Proof.**

You must explain to the court why you are asking to expunge your eviction record. You may check the box next to "a," or "b," or both "a" and "b."

8. You may be entitled to expungement of your eviction record if the property you rented was subject to contract for deed cancellation or mortgage foreclosure. This is called mandatory eviction expungement. Check the appropriate boxes if this applies to your situation.

9. You may also be entitled to discretionary expungement of your eviction record. You must prove all of the following:

- i. the landlord’s eviction case was “sufficiently” without basis in fact or law;
- ii. the expungement is “clearly in the interest of justice;” **AND**
- iii. the “interests of justice” are not outweighed by the “public’s interest in knowing the record.”

Be sure to give a detailed explanation for i., ii. **and** iii. If you fail to provide an explanation for all three sections, the judge may deny your request to expunge your eviction record.

- 10. To prove the landlord’s eviction case was without sufficient basis in law or fact, you can talk about things that were wrong with the case. For example, the court papers were not served the right way, you won the case, the parties settled the eviction with an agreement and the landlord agreed he or she did not have good legal reasons for starting the case, you moved out before the eviction was filed, or the case was about nonpayment of rent but there were things at the property that needed repairs.
- 11. The court also needs to know why the expungement is in the interests of justice. Describe why the expungement is important to you and how it will help you. For example, you can explain if you still live at the property the eviction was about or if the eviction was related to a hard time in your life, like job loss, medical problems, or divorce.
- 12. You also need to prove the interests of justice are not outweighed by the public knowing about the eviction. For example, you can explain if the case is old, if you have not had any recent evictions, if you are having trouble finding housing, or why safe, stable and affordable housing is important to you.

<b>13</b>	I am including the following documents or affidavits, if any, that support my request and show that I met any conditions required by the court for expungement: <input type="checkbox"/> None, OR  _____
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- 13. If you have any documents or other evidence to support your request to expunge your eviction record, you should attach it to your *Affidavit*. List the evidence you are attaching. You may attach things like a settlement agreement, proof you moved, a letter from the landlord agreeing not to object to expungement, rental application denials, pictures of the repair problems, etc.

**Section G: The Signature Block / Penalty of Perjury**



I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116		G
<div style="border: 1px solid black; display: inline-block; padding: 2px 10px; margin: 0 auto;">14</div>	Signature	
Dated _____	Name: _____	
County and state where signed _____	Address: _____	
	City/State/Zip: _____	
	Telephone: _____	
	Email: _____	

14. When you sign your *Affidavit in Support of Motion for Expungement of Eviction Record*, you are signing under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in your *Affidavit* is true to the best of your knowledge.

Date and sign the *Affidavit*. Then write the names of the county and state you are in when you signed it, and print your personal contact information below your signature.

### Step 3

## Contact Court Administration About a Hearing Date

In some districts, you need to schedule the hearing before you file your Motion for Expungement of Eviction Record. In other districts, you get a hearing date after you have filed. It is important that you check with your local [Court Administration](#) to see how to schedule a hearing for an eviction expungement motion. If you do not schedule a hearing, the court will not do anything with your motion.

<b>NOTICE</b>				B
I will ask the court for an Order at a hearing scheduled as follows:				
Date:		Time:		
Name of Courthouse:		Judicial Officer (if known):		
Street Address:		City:		

***If you are able to schedule a hearing date right away:***

- Then go back to the “Notice” section (Section B: The Notice) on the first page of your *Notice of Motion and Motion for Expungement of Eviction Record* (HOU502). Fill in the information (hearing date, time, location, and name of judicial officer).

***If your county schedules the hearing after you file:***

- Then you can write in “To Be Determined” in the “Notice” section of your *Notice of Motion and Motion for Expungement of Eviction Record* (HOU502). Note: It is okay to fill in the name and address of the courthouse.
- Later on, once you do have a hearing date, you will need to fill out the *Notice of Hearing* form (CIV604) and serve that form on the landlord (See Step 7 below).

**Step 4**  
**Make Copies**

Make a copy of the *Notice of Motion and Motion for Expungement of Eviction Record*, the *Affidavit in Support of Motion for Expungement of Eviction Record*, and any attachments for each party, including yourself. Be sure to bring your copy with you to court when you go to the hearing.

**Step 5**  
**Serve Notice on the Other Party**

**Overview**

The other party must receive notice of the hearing and complete copies of all documents you have prepared for the eviction expungement hearing. This is called “service of process.” The papers can be served personally (handed to the other party), or by mail. The other party must receive the papers at least 21 days before the hearing. If papers are served by mail, Court Rules require adding 3 days, so that papers must be postmarked at least 24 days before the hearing.

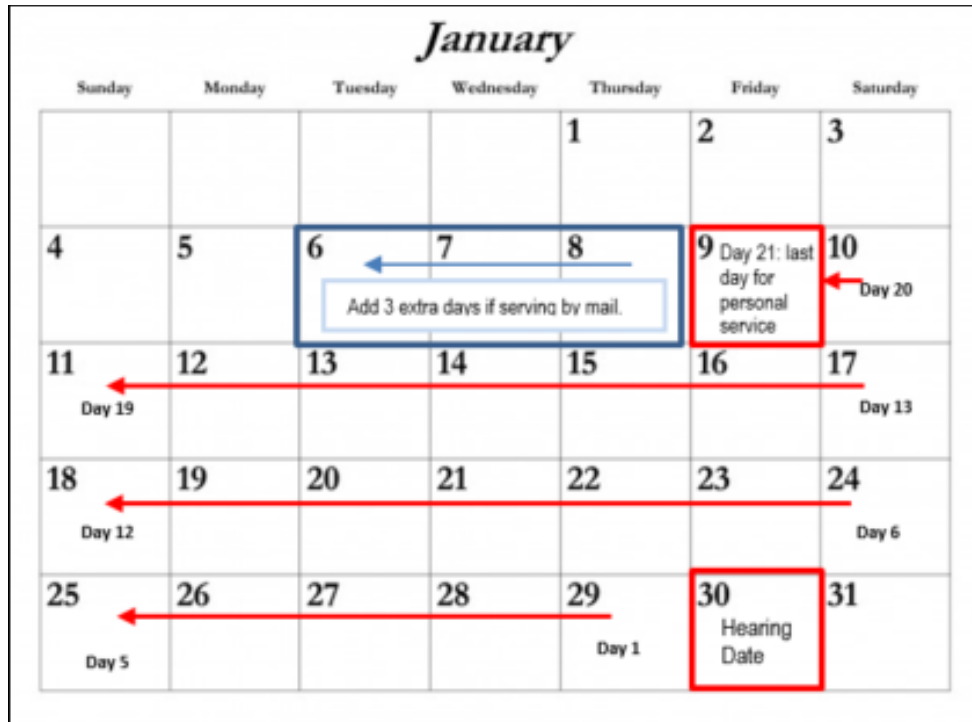
**If the other party is represented by an attorney, serve the other party’s attorney, instead of the party directly.**

Papers CANNOT be served on legal holidays as defined in Minn. Stat. § 645.44, subd. 5 (<https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>).

**Who Can Serve**

The forms you have prepared can be served by any of the following:

- The sheriff;
- Another adult; or
- You.



Count backwards from the hearing date. The day before the hearing date is Day 1.

**Personal Service**

At least 21 days before the hearing date, the server hands to the other party one copy of the completed Notice of Motion and Motion for Expungement of Eviction Record, and one copy of your Affidavit in Support of Motion for Expungement of Eviction Record, including one copy of any and all attachments. Example: If the hearing date is January 30, the papers must be served on or before January 9. If January 9 is a Saturday, Sunday, or legal holiday, keep counting backwards to the next day that is not a Saturday, Sunday, or legal holiday to determine the service deadline.

**Service by Mail**

The server places one copy of the completed Notice of Motion and Motion for Expungement of Eviction Record, and one copy of your Affidavit in Support of Motion for Expungement of Eviction Record, and one copy of any and all attachments in an envelope.

The server must mail the envelope containing the forms to the other party by first class U.S. mail at least 24 days before the hearing date. Example: If the hearing is January 30, the papers must be postmarked no later than January 6. If January 6 is a Saturday, Sunday, or legal holiday, keep counting backwards to the next day that is not a Saturday, Sunday, or legal holiday to determine the service deadline.

**Warning: If your forms are not personally served on the other party at least 21 days before the hearing OR mailed to the other party at least 24 days before the hearing date, your Motion may NOT be heard by the court.**

**If there is more than one plaintiff or more than one defendant, please note that ALL of the other parties must be served.**

## Step 6

### **The Person Who Served the Papers Personally or By Mail Fills Out the *Affidavit of Service* form**

**After** the papers are served on the other party (*not before*), either personally or by mail, the server must fill out an *Affidavit of Service* form. This form is proof for the court that the papers were served on the other party.

For more information about the *Affidavit of Service*, see the “Service of Process” Help Topic online at <http://www.mncourts.gov/Help-Topics/Service-of-Process.aspx>.

## Step 7

### **File with Court Administration**

You will need to file the following forms with Court Administration at least 21 days before the hearing:

- Original *Notice of Motion and Motion for Expungement of Eviction Record* (HOU502);
- Original *Affidavit in Support of Motion for Expungement of Eviction Record* (HOU503);
- Original *Affidavit of Service* (SOP102, SOP104, or SOP105) (one *Affidavit of Service* for each party other than yourself).

There will be a [fee](#) when you file your paperwork. You can make checks payable to “District Court.”

If you cannot afford to pay the fee, you can ask for a fee waiver by completing the forms in the [In Forma Pauperis/IFP](#) packet of forms (found online at [www.mncourts.gov/forms](http://www.mncourts.gov/forms)). If a judge does not sign the fee waiver order, then you must pay the fee before Court Administration can process your forms.

## Step 8

### ***Notice of Hearing* Form (CIV604)**

If you filed your *Notice of Motion and Motion for Expungement of Eviction Record* and *Affidavit in Support of Motion for Expungement of Eviction Record* **without a hearing date**, then you need to use the *Notice of Hearing* form (CIV604) to let the other party know when the hearing date is scheduled.

If you use the *Notice of Hearing* form, follow these instructions to fill it out:

1. Fill out the caption like you did for the *Notice of Motion and Motion for Expungement of Eviction Record*.
2. After the word “TO,” write the name and address of the landlord or the landlord’s attorney if the landlord is represented in the eviction case.
3. Fill in the details of the hearing (date, time, location, name of judicial officer).
4. Fill in the date that you **filed** the original *Notice of Motion and Motion for Expungement of Eviction Record*. If you do not remember the date, you may be able to look it up online at [www.mncourts.gov/publicaccess](http://www.mncourts.gov/publicaccess).
5. Date and sign the form, then print the requested information.
6. Make one copy of this *Notice of Hearing* form for each party (including for yourself).
7. Arrange to serve a copy of the *Notice of Hearing* form on the other party like you did with the *Notice of Motion and Motion for Expungement of Eviction Record*. See Step 5 above.
8. File the original *Notice of Hearing* form and *Affidavit of Service* form (for the other party or other party’s attorney, if represented) with Court Administration.

**Step 9**

**Go to Your Hearing**

To prepare for your hearing, it is a good idea to look at the court rules that apply to civil cases. You can find links to these rules online at <http://mncourts.gov/Help-Topics/Civil-Actions.aspx#tab06RulesAndLaws>. You could also visit a [law library](#) to read the court rules.

You must go to court on the date set for the hearing. It is important to be on time. If you are even a few minutes late, the judicial officer may dismiss your motion.

Bring copies of the paperwork with you to the hearing. If you are unsure how to prepare for the hearing, or what evidence you should bring, you should [get legal advice](#) before your court date.