

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

Case Type: Other Civil

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

Court File No. _____

Plaintiff,

COMPLAINT

vs.

Joanna Wentzlaff,

Defendant.

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

INTRODUCTION

1. In response to the emergence of the COVID-19 pandemic, on March 13, 2020, Governor Tim Walz declared a peacetime emergency, which was most recently extended through March 15, 2021, pursuant to Emergency Executive Order 21-08. Throughout the peacetime emergency, the Governor has issued Executive Orders to protect the public's health and safety from this deadly and infectious disease. In order to keep Minnesotans safely housed at a time when sheltering at home was critical, Governor Walz issued a series of Executive Orders, including Emergency Executive Order 20-79, that prohibited evictions and tenancy terminations for the duration of the COVID-19 peacetime emergency. Executive Order 20-79 contains a narrow exception that provides that a property owner can refuse to renew a tenants' lease if the property owner or her family need to move into the home.

2. Last fall, Wentzlaff began the process of selling a residential home that she was renting out and gave her tenants a two-week notice that they had to move out. After learning that her notice violated the Governor's Executive Order, Wentzlaff falsely represented to her tenants that they were not protected by the Executive Order because she or a family member needed to move into the home. Instead of her or her family moving in to the home, however, Wentzlaff put the home on the market less than a month after forcing her tenants out in clear violation of Executive Order 20-79. Attorney General Keith Ellison has authority to protect the public's health and safety by enforcing Executive Order 20-79 and brings this action to enjoin and remediate Wentzlaff'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 Executive Order 20-79, to vindicate the State's sovereign and quasi-sovereign interests, and to remediate all harm arising out of—and obtain full relief for—violations and/or threatened violations of Executive Order 20-79.

4. Defendant Joanna Wentzlaff is a resident of Apple Valley. Wentzlaff is a landlord engaged in the business of managing and renting a residential property located at 5637 126th Street West, Apple Valley, Minnesota 55124.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to Minnesota Statutes sections 8.01, 8.31, Executive Order 20-79, and under common law.

6. This Court has personal jurisdiction over Defendant because Defendant has violated Executive Order 20-79 in Minnesota thereby causing injury to the tenants whose

tenancy she wrongfully terminated as well as threatening the public health and safety of Minnesota residents.

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

FACTUAL BACKGROUND

I. THE COVID-19 PANDEMIC IS AN ONGOING PUBLIC HEALTH EMERGENCY THAT HAS REQUIRED MINNESOTA TO TAKE EMERGENCY ACTION TO PROTECT PUBLIC HEALTH AND SAFETY.

8. In response to the emergence of the COVID-19 pandemic, on March 13, 2020, Governor Tim Walz declared a peacetime emergency by issuing Emergency Executive Order 20-01.¹ On March 23, 2020, Governor Tim Walz issued Emergency Executive Order 20-14, which prohibited landlords and property owners from filing eviction actions or terminating residential tenancies during the pendency of the Order, with only narrow exceptions related to criminal acts. Governor Walz issued Emergency Executive Order 20-14 to allow Minnesota tenants to remain sheltered for the duration of the peacetime emergency in furtherance of public health and safety.

9. On July 14, 2020, Governor Walz issued Emergency Executive Order 20-79 (“Order 20-79”), which modified the exemptions by which a landlord or property owner could file an eviction action or terminate a tenancy during the peacetime emergency, but otherwise maintained the broad prohibition on termination of tenancies. The Order became effective August 4, 2020, and rescinded and replaced Executive Order 20-14. Executive Orders 20-01 and 20-79 were promulgated by the Governor under the authority of Minnesota Statutes section 12.21, subdivision 3, clause (1), were approved by the Executive Council, and filed in the Office of the Secretary of State. Thus, pursuant to Minnesota Statutes section 12.32, Executive Orders 20-01 and 20-79 have “the full force and effect of law” during the peacetime emergency.

¹ All Executive Orders are available at <https://www.lrl.mn.gov/execorders/eoresults?gov=44>.

10. Order 20-79 contains a narrow exemption allowing property owners to refuse to renew residential leases during the peacetime emergency if the property owner or property owner's family member needs to move into the home and does so within seven days after it is vacated by the tenant.

II. WENTZLAFF VIOLATED EXECUTIVE ORDER 20-79.

11. In early September 2020, Wentzlaff began the process of putting the rental house she owned, which is located at 5637 126th Street West, Apple Valley, Minnesota 55124 ("the Property") on the market. At that time, the Property was occupied by tenants who had not indicated to Wentzlaff that they intended to move when their lease was set to expire at the end of September 2020. To her tenants' surprise, they received a voicemail from Wentzlaff's real estate agent Shantelle Odegard in mid-September stating that Wentzlaff intended to sell the property that they were living in. The tenants were surprised that Wentzlaff was ending their tenancy as she had never indicated that she would not renew their lease or that she wanted to sell the property. Wentzlaff's decision to end their tenancy stressed and worried the tenants who were suddenly faced with finding a new home and moving during a pandemic, in a matter of days, so they contacted Wentzlaff and asked to continue their tenancy through the end of October 2020.

12. On or about September 20, 2020, Wentzlaff, through Ms. Odegard, communicated to the tenants that she would not permit them to stay past the end of September and that they had to move out of the Property by September 30. Concerned that their landlord was forcing them to vacate the Property in a matter of days during a pandemic and frustrated at her refusal to communicate directly with them, the tenants contacted the Minnesota Attorney General's Office ("AG's Office") for help.

13. The AG's Office contacted Wentzlaff and informed her that Order 20-79 prohibited property owners from terminating tenancies during the peacetime emergency with only narrow exemptions. It also provided her with a copy of Order 20-79.

14. On September 30, 2020, after the AG's Office contacted Wentzlaff, she issued a notice to vacate to her tenants stating that they must vacate their home on or before October 31, 2020. In the notice to vacate, Wentzlaff cited Order 20-79 and claimed, for the first time, that it allowed her to not renew their lease because "the property owner – or property owner's family member(s) – needs to move into and intends to move into the property." Feeling that they had no recourse and relying on Wentzlaff's assertion that she met an exception under Order 20-79, on October 31, 2020, the tenants vacated the property as Wentzlaff instructed.

15. Contrary to her representations, Wentzlaff did not need or intend to move her or her family into the Property. Instead, she falsely professed to meet the above-described "move-in" exception under Order 20-79, in order to get her tenants to vacate the Property so she could sell it more easily.

16. After her tenants vacated the Property on October 31, 2020, neither Wentzlaff nor her family moved into the Property within seven days. Instead, Wentzlaff listed the Property for sale on or about November 23, 2020. When it was listed for sale, the home was empty.

17. Wentzlaff twice unlawfully terminated her tenants' tenancy without a valid exception under Order 20-79, and her conduct constitutes multiple violations of Order 20-79.

18. Landlords, like Wentzlaff, who defy Emergency Executive Order 20-79 and force their tenants to move out against their will during a pandemic put both their tenants' health and the community's health at risk. The Attorney General brings this action to enforce the Governor's Order in order to protect the public's health and safety and to remediate all harm arising out of—and obtain full relief for—Wentzlaff's violations of Executive Order 20-79.

COUNT I
VIOLATION OF EMERGENCY EXECUTIVE ORDER 20-79

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

20. Paragraph 3 of Emergency Executive Order 20-79 provides:

Residential landlords must not issue notices of termination of lease or nonrenewal of lease or terminate residential leases during the pendency of the peacetime emergency unless the termination or nonrenewal is based upon one of the grounds permitted by paragraph 2.

21. Defendant Wentzlaff is a residential landlord as the term is used by Executive Order 20-79.

22. Defendant Wentzlaff repeatedly violated Emergency Executive Order 20-79 by issuing multiple terminations of her tenants' lease or nonrenewals of her tenants' lease that were not based on one of the grounds permitted by the Order. Specifically, despite representing to the contrary, Defendant Wentzlaff did not need to move herself or her family member(s) into the property and did not move herself or her family member(s) into the property within seven days after it was vacated by her tenants. Thus, paragraph 4 of Executive Order 20-79 did not authorize Defendant Wentzlaff to refuse to renew her tenants' lease.

23. Defendant Wentzlaff's conduct described herein constitutes multiple, separate violations of Emergency Executive Order 20-79.

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 multiple separate violations of Emergency Executive Order 20-79;

2. Enjoining Defendant and her 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 or threatened violation of Emergency Executive Order 20-79 or any future Executive Orders relating to residential landlords;

3. Awarding judgment against Defendant for restitution and/or disgorgement to the State under the *parens patriae* doctrine, the general equitable powers of this Court, Minnesota Statutes section 8.31, Emergency Executive Order 20-79, and any other authority, for all violations described in this Complaint;

4. Awarding judgment against Defendant for civil penalties of up to \$25,000 pursuant to Minnesota Statutes section 8.31, subdivision 3, and section 645.24, for each separate violation of Emergency Executive Order 20-79;

5. 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 3a; and

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

Dated: February 16, 2021

KEITH ELLISON
Attorney General
State of Minnesota

/s/ Katherine Kelly
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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/ Katherine Kelly _____
KATHERINE KELLY

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