

Unlawful Detainer Court Study

State of Minnesota, Hennepin County

Fourth Judicial District Court

First Division, Minneapolis

Rachel S. Lipkin

Housing Resource Center

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University of Minnesota
330 Humphrey Center

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INTRODUCTION

The Housing Resource Center (HRC), a program of Lutheran Social Services of Minnesota, gives individual referrals to clients in need of emergency, transitional, subsidized, and affordable private market rental housing and services. HRC advocates assist over 2,000 households per year to meet their individual housing needs. The HRC also provides information to over 150 callers per week. Approximately seventy-five percent (75%) of HRC clients are people of color and ninety-eight percent (98%) have incomes below federal poverty guidelines.

In our ongoing work in support of low income tenants, we have recognized the need to review the Unlawful Detainer/Housing Court process and how it affects tenants. The Housing Resource Center, with financial support from the University of Minnesota Center for Urban and Regional Affairs (CURA) Community Grant Program, conducted the current study to better assess what outstanding needs exist for tenants in Hennepin County Unlawful Detainer Court. The primary study objectives are to develop recommendations which would better clarify the process for tenants, ensure adequate legal representation, improve housing conditions and influence appropriate public policy.

The survey was developed with the assistance of HRC staff and is based upon a Legal Aid study of Unlawful Detainer Court conducted in March, 1991. Results from the current study may be compared to the experiences of tenants in UD Court from over a year earlier. As will be detailed in the methodology section, the current survey yields additional data on:

- Assistance tenants are receiving regarding their cases before UD Court from community and private sources.
- Tenants' understanding of their specific rights and the legal process.
- Demographics of tenants who are summoned to Unlawful Detainer Court.
- Reasons why rent was not paid and causes of homelessness.
- Specific types of repair problems and housing code violations of the rental

units.

- Tenants' experiences with enforcement agencies.
- The meaning of an Unlawful Detainer Judgement to the Tenant.

In addition to conducting structured interviews with tenants, the research assistant observed hearings before the Hearing Officer and trials before the Housing Court Referee and District Judges in Housing Court and had the opportunity to interview court personnel and review court documents and public information materials regarding unlawful detainer proceedings.

Throughout the study, the research assistant tried to determine the scope of needs for tenants for representation and information about their legal rights. A primary challenge of the study was to put the experiences of the tenants into a broader perspective which included looking at the ways that low income families become victimized by landlords and agencies while forced to become homeless or endure substandard housing conditions.

In order to better understand the process tenants go through in Housing Court, this report has attempted to summarize the procedures involved in Unlawful Detainer Actions. In no way is this study to be used for legal advice. Anyone involved in a legal action is encouraged to seek advice or referrals from a reputable lawyer, legal advice clinic, tenants rights organization, or housing advocate. In addition, one could direct questions to 855C Government Center (Housing Court) and refer to the publications listed in the reference section of this report.

HOUSING COURT PROCESS

Unlawful Detainer Actions

Black's Law Dictionary defines "unlawful detainer" as:

Unjustifiable retention of the possession of real property by one whose original entry was lawful and of right but whose right to the possession has terminated and who refuses to quit as in the case of a tenant holding over after the termination of the lease and in spite of a demand for possession by the landlord. (Black, 1990, p.1536).

The purpose of an Unlawful Detainer Action is only to recover the possession of real property from a tenant. The intent of an Unlawful Detainer Action is not to recover back rent, deposits, or other monies allegedly owed by a Tenant who has moved out. If the recovery of rent owing falls within the jurisdiction of Conciliation Court, a Landlord may wish to start an action against a Tenant there. For example, if a Tenant did not pay a month's rent but remains in the apartment, a Landlord may file an Unlawful Detainer Action against the Tenant to recover the property and may ask for the unpaid rent, late fees, and court costs in the complaint.

If the Tenant failed to pay the rent but has vacated the premises, the Landlord may not use the Housing Court to recover the unpaid rent. Instead, if the claims are \$4,000 or less, the Landlord may file a claim in Conciliation Court. If the claim is over \$4,000, the Landlord may begin his or her action in District Court. (Minnesota Attorney General's Office, 1989; Hennepin County, 1989).

In Hennepin County, Unlawful Detainer Court is held at the Government Center and at the suburban courts. Hearing dates are set seven (7) to fourteen (14) days after a Landlord or Landlord's Agent files a complaint against a Tenant. Complaints heard in Hennepin County Housing Court may only be filed for property located in Hennepin County. In most cases, the action is brought against a Tenant by a Landlord who files a verified complaint.

Filing the complaint. Complaints may be initiated by a property owner, an attorney representing the owner or by a person entitled to possession of the property. An owner may designate an agent to represent him or her by attaching a Power of Authority to the complaint. However, an agent may not represent the owner in a jury trial or an appeal. Complaint forms may be purchased at stationery stores or from the court and include:

- Terms of the lease, if there is one
- Approximate date the Tenant entered into a lease agreement or took occupancy
- Complete address of the premises in question
- Length and terms of the lease or if "month-to-month"
- Name of owner of the dwelling and legal relationship to the person filing the complaint
- Indication of compliance of Minnesota Statute 504.22 which specifies that the Tenant is informed of the name and address of the managers and owners or agents for the property
- Reason(s) for wanting the Tenant evicted
- Provision for possible ordering of Writ of Restitution, which is a court order which legally allows the Landlord to physically remove the Tenant and his or her possessions from the premises and may be enforced by a Sheriff.

For the purposes of the Unlawful Detainer Action, the Landlord or person filing the complaint is known as the "Plaintiff" and the Tenant is known as the "Defendant" throughout the process. However, unlike other types of proceedings, the "Defendant" is not provided an attorney. The Defendant may hire a private attorney or may be assisted by a housing advocate during the proceedings. If the Tenant has designated an agent (attorney, advocate or other designated person) to appear for him/her at the hearing, the agent must submit a "power of attorney." However, the Tenant must appear personally for a jury trial or appeal.

The summons. A summons (sample in Appendix) is a written notice which informs the Tenant of the court hearing and provides information about how to contest the action. It basically tells the Tenant that if he or she objects to the charges or if the papers are wrong that the Tenant will be able to tell his or her side to the judge. (HC4400).

In Hennepin County, the brochure entitled "Your Rights Concerning an Eviction Summons" is stapled to the Summons issued by the Housing Court. The brochure was developed and furnished by the Judges of Hennepin County Court in cooperation with the Minnesota Tenants Union, the Legal Aid Society of Minneapolis and the Minnesota Multi Housing Association. The brochure squeezes a lot of helpful information into a multifolded piece of paper. It covers items such as how to get ready for court, what to do if the court papers say you have not paid your rent, what to do if the papers say you were given written notice to leave and what if the papers say you broke your lease. Phone numbers for resources for tenants are also listed. (The current study asks about tenants' reactions to the pamphlet and its usefulness in their situations.)

The Summons must be properly served on the Defendant (Tenant). Three legal forms of service are personal service, substitute service or posting and mailing. The summons must be first attempted to be personally served by the Sheriff or any other responsible person not named in the complaint by handing it directly to the Defendant at least seven (7) days before the hearing date, excluding the date of service. In other words, only a person not a party to the action can legally serve the Tenant. The Landlord or Agent cannot hand the Tenant the summons. Service also cannot be made on a Sunday or a legal holiday. (MPIRG, Minnesota Tenants Union, & St. Paul Tenants Union, 1991, p. 43).

If the process server cannot locate the Tenant within the county, substitute service must be tried. If personal or substitute service has been tried at least twice on two different days as specified by the court without success, then posting and mailing may be used to serve notice to

the Tenant. If it is determined that there has been "inadequate service," or the summons has been not properly served, the case may be thrown out or "stricken" by the Housing Court Referee. For example, for cases where a Landlord may hand the summons directly to a Tenant or slide it under a Tenant's door instead of having a responsible person who is not a party to the action personally hand the summons to the Tenant, the case may be thrown out. However, if a Tenant is unaware of his or her rights or lacking adequate legal representation, it is possible that the illegally-served complaint might slip through and be missed by the court.

One recent case in Minneapolis clearly illustrates attempts at illegal and improper eviction. As reported in the StarTribune on December 25, 1992, a building manager decided to evict all of his Tenants by handing out fliers which said, "Get yourself and your belongings out of the building today. This building will be closed and boarded up at 3 p.m." (Hopfensperger, 1992, December 25, p.1B). Attorneys representing some of the evicted residents reportedly commented that the Landlord "should have obeyed the law that requires them to get a court order for eviction and allow the residents time to move out." (p.2B).

During the course of the study, a Tenant arrived at Housing Court one morning with a falsified eviction summons in-hand which her Landlord had given to her. Upon examination, the summons appeared to be an altered photocopy which allegedly ordered the Tenant to appear at court. Upon learning of the hoax, the Tenant seemed to suspect that serving the false document was an attempt to intimidate her because she had complained about the condition of her rental unit to the Inspections Department.

Regarding the frequency of improper evictions, such as the one reported in the newspaper, Thomas Conley, an attorney for the Minneapolis Legal Aid Society, said that, "This kind of eviction is unusual, and when it does happen it's usually with a small landlord or someone who doesn't know you can't do it." (Hopfensperger, 1992, December 25, p. 2B). One might observe, however, that it would be difficult to quantify illegal evictions or to estimate how many Tenants become homeless without the court's involvement.

The Housing Court hearing. In suburban Hennepin County, the litigants appear before a judge. In the City of Minneapolis, all litigants first appear before a hearing officer who hears only nonpayment of rent cases in which the Defendant admits owing rent or the Defendant does not appear and the case is then said to be in "default." When the Defendant does not appear to contest the case, the Hearing Officer may issue a "default judgement" for the Plaintiff. (MPIRO, Minnesota Tenants Union, & St. Paul Tenants Union, 1991, p.70). In all other cases, the hearing officer refers the cases to either a judge or a Housing Court Referee to be heard and decided. The appointment of a Housing Court Referee in Hennepin County District Court is part of the "Housing Calendar Consolidation Project."

Housing Calendar Consolidation Project

In 1989, based upon the recommendations of the Governor's Commission on Affordable Housing for the 1990's, the Minnesota State Legislature enacted a law (Laws for Minnesota for 1989, Ch. 328, Art. 2, Sec. 17.) which established a pilot "Housing Calendar Consolidation Project" in Ramsey and Hennepin Counties. The three-year project's objective was to test whether a "specialty court would be an effective forum to address the often unique problems associated with summary proceedings in landlord-tenant disputes." (Iijima, 1992).

The project enables one Housing Referee in each county to be appointed exclusively to hear and decide criminal and civil cases related to residential housing including:

- Eviction actions prompted by the Tenant's failure to vacate after proper notice has been received or after the lease has expired or violations of the terms of the lease.

For example, the Tenant has not moved out even though he or she has received a notice from the Landlord asking him or her to move out because it was discovered that the Tenant has a dog and the lease forbids pets or the lease has expired.

- Claims of unpaid rent
- Claims for rent abatement

A Tenant may make a claim for a rent abatement or reduction, if it can be proven that there exists a serious condition affecting safety, health or the fitness of the dwelling as a place to live, that the landlord was notified, knew or should have known of the condition, and that the landlord failed to repair it adequately after having a reasonable amount of time. (Minnesota Attorney General's Office, 1991, p.19.)

- Rent escrow proceedings
- Actions for violations of state, county, or city health, safety, housing, building or fire prevention laws
- Foreclosure of a mortgage
- Cancellation of a contract for deed

The legislation was thought to be part of a strategy for "maintaining the condition of the existing housing stock in order to preserve the quality of local neighborhoods and communities." (Research and Planning, State Court Administrator's Office, 1992, p.1). By having a single Referee who is especially knowledgeable in housing law, one would assume that rulings on housing cases would be consistent. In addition, follow-up on abatement cases would be handled more smoothly before a single housing Referee rather than by having one's case heard before a rotation of judges for successive hearings.

The Unlawful Detainer Calendar is called at 9:00 a.m. Tuesday through Friday with additional 10:30 a.m. calendars conducted as needed. Often, the separate 10:30 a.m. calendar is

reserved for cases where the Minneapolis Public Housing Authority is the sole Plaintiff. During study observation days, the number of cases on the calendar would range from approximately forty to ninety cases daily. Most days, the number of cases averaged approximately sixty cases which is consistent with Referee Iijima's estimate of 1,000 cases per month being heard in Housing Court.

Prior to the Housing Calendar Project, as many as forty judges in Hennepin County were hearing Unlawful Detainer cases and an average of 142 days were required to dispose of code violation cases. (Research and Planning, State Court Administrator's Office, 1992).

How It Works

Each Housing Court Referee in Ramsey and Hennepin counties is supported by a court clerk and court reporter. The Hennepin County Housing Court Referee, court clerk and court report are all technically state employees and, like state judges, are paid by through the office of the State Court Administrator. (L. VanHeel, personal communication, 1992, December 10). In Minneapolis, if the case is uncontested and involves only nonpayment of rent claims, the Hearing Officer is empowered to decide the case. As mentioned previously, if the case is contested or concerns other issues, for example, involving business or commercial property, contract for deed, mortgage foreclosure or "other than nonpayment of rent claims," such as drug allegations, keeping pets, disturbances, breaking the lease agreement, or rent abatement, it is referred to either the Referee or a judge on rotation in Housing Court.

Rent abatement is a "reduction of rent given to the tenant, for housing conditions which depreciate the value of a rental unit." (MPIRO, Minnesota Tenants Union, & St. Paul Tenants Union, 1991, p.71.). In a situation where a Tenant decides to withhold his or her rent because of poor housing conditions, he or she may seek to have his or her rent legally abated by the court

proportionate to the depreciated value of the rental unit. In response to an unlawful detainer action, this is called a "*Fritz* defense." (*Fritz v. Warthen*, 213 N. W. 2d 339, Minn. 1973). Technically, a *Fritz* defense involves a case where a landlord or agent for the landlord rents out property which is determined to be not fit for human habitation. In such cases, a Tenant may put his or her rent into escrow with the court and have the action heard before the Housing Referee.

It is incumbent upon the Tenant to provide convincing evidence that his or her rental unit is not fit for human habitation, which may involve bringing into evidence photographs and housing inspection reports, orders and notices. Unfortunately, with only seven (7) to fourteen (14) days between Unlawful Detainer complaint filing and the hearing, there is often not enough time to get one's defense prepared.

A Tenant appearing before the Hearing Officer has the right to immediately ask to be referred to the Referee for a trial for any reason. If a Tenant would prefer to have a jury trial, he or she needs to contact the court at least twenty-four (24) hours before the scheduled hearing time shown on the summons.

Landlords and tenants are expected to bring all evidence and witnesses with them at the time of the hearing to be presented to the Hearing Officer or referred to the Referee or Judge. Litigants are informed that they do not necessarily need an attorney, but that it would be a good idea if they did contact one to receive help with their cases.

The Tenant wins. If the Tenant wins, no further action is taken. The court may also reduce the amount of back rent due if it is deemed justifiable. The "Tenants' Rights Handbook" (MPIRG, Minnesota Tenants Union, & St. Paul Tenants Union, 1991) lists various defenses a Tenant may use in an unlawful detainer hearing.

Some common defenses include:

- Defense of Waiver

The Landlord accepts all or part of the rent after filing the unlawful

detainer, he or she waives or forfeits his or her right to have you evicted.

- Defense for Non-Payment of Rent

Rent withholding due to maintenance problems or if unreasonable rent increases have been made or eviction actions were in response to the Tenant complaining to a public official.

- Improper Notice to Quit or Increase Rent

A Landlord cannot evict a Tenant, raise the rent, or decrease services without giving a minimum of one rental period plus one day's notice. (p.44).

The Landlord wins. If a Tenant does not appear in court when ordered or if a Tenant loses the case, the Referee or Hearing Officer may ask the Tenant to move immediately. The judgement for the Plaintiff is then entered into the record and a Writ of Restitution is issued. A Writ of Restitution is a legal order commanding the Defendant to vacate the premises mentioned in the complaint.

If the Tenant appears before the court, he or she may ask for extra time to move. The Tenant may be given as little as twenty-four (24) hours to vacate or up to a seven (7) day extension if minor children are on the premises or it is proven that moving in twenty-four hours is a hardship. However, if the Tenant and Landlord can work out an agreement for more time to move or pay the rent owed, the agreement is entered into the court decision and order.

If the Tenant then does not move by the ordered time, a Writ of Restitution may be issued with which the Landlord may have the Sheriff enforce the Landlord's moving the Tenant, the Tenant's family and belongings out. The Sheriff will document the Tenant's personal property so that the Landlord may then remove the property and place it into a warehouse or storage area for up to sixty (60) days.

If the Tenant does not pay for the removal and storage fees within the sixty (60) days, the Landlord may sell or dispose of the tenant's property. Before the sale can take place, the Landlord must make a reasonable effort to give the Tenant two (2) weeks notice before the sale.

Money from the sale is used to pay any debts the Tenant owes the Landlord. Any remaining money must be given to the Tenant, if the Tenant makes a request in writing. (MPIRG, Minnesota Tenants Union, & St. Paul Tenants Union, 1991).

The "decision and order" and right to review. After the hearing of a case, the findings and orders are sent in writing to the District Judge for confirmation. A sample "Decision and Order Form" is found in the Appendix of this report. The Decision and Order Form lists the case number, litigants, whether or not there was counsel and whether the Defendant admitted or denied the allegations. The court's findings are checked off as to whether the allegations were found true or false and what action must be taken. The Decision and Order form also specifies if the Writ of Restitution is to be issued immediately (24 hours) or stayed for a period of time. In addition, the form also includes an affidavit that the defendant is not currently in military service. Defendants in military or naval service of the United States may not be evicted for not appearing for their hearing.

The Landlord or Tenant may ask for a review of the finding or order within 10 days by serving the other party and filing a written notice with the court. One must cite the specific reasons for the review. A hearing is then set with the District Court Judge who will decide whether to accept, reject or change the referee's decision.

PREVIOUS STUDIES

The Housing Calendar Consolidation Project Evaluation

In February, 1992, Research and Planning of the State Court Administrator's Office released an "Executive Summary" of their evaluation of the Housing Calendar Consolidation Project Evaluation. It is assumed that the evaluation was done to review the effectiveness of the pilot Housing Calendar Consolidation Project and was state-funded. (Though the summary suggests that a more detailed report of the evaluation methodology and findings "is available to interested individuals upon request," to date our request for more information has not been fulfilled.)

The evaluation consisted of the review of a total of 300 criminal cases, an undisclosed number of civil cases, and a mail survey of "persons knowledgeable about the housing calendar projects." The survey sample of 165 individuals included housing inspectors, city attorneys, and representatives of tenant, landlord and neighborhood groups. No information was given regarding the total number of surveys sent out or the response rate. Interviews were also conducted with sources close to the project. (For the record, we have yet to find any representatives from any tenants organizations or neighborhood groups who had participated in the survey.)

The key findings of the summary are:

- Code violation cases are seen to be handled more quickly
- Landlord compliance with orders to repair code violations has improved
- Behavior of Landlords notorious for continual code violations has been addressed
- System-wide improvements in the housing code enforcement process

resulted from the housing calendar consolidation project

- Unlawful detainer cases are more consistent
- Participants have improved access to the court and are better able to take advantage of their rights
- Satisfaction levels are high among all constituencies
- The housing calendar referees and staff are recognized as hard-working and dedicated
- The effectiveness of code enforcement needs to be monitored
- The calendar consolidation projects in Hennepin and Ramsey Counties should be continued

One might surmise from the evaluation that Tenants are satisfied with their experiences in Housing Court and that the system is effective in cracking down on Landlords who are not keeping up their properties. However, of all of the constituents surveyed, from lawyers and landlords to neighborhood representatives and judges, the Tenants themselves do not appear to have been included in the study.

It may be recognized that the housing calendar consolidation offers greater efficiency and consistency over the previous court process. It appears that Landlords appreciate being able to obtain quicker decisions and having to make fewer court appearances. Nonetheless, it is not clear from the evaluation what impact the housing court process really has on Tenants.

The evaluation asserts that "participants have improved access to the court and are better able to take advantage of their rights." One might argue that access alone may not ensure one's rights. Questions remain whether Tenants adequately understand their rights or whether the quicker proceedings allow them enough access to legal representation and resources to be better prepared in their hearings.

The Legal Aid Study

In May, 1991, the Legal Aid Society of Minneapolis published a study which was designed to assess the need for additional representation of low income tenants in eviction proceedings at Hennepin County Housing Court. Unlike the "Housing Calendar Consolidation Project Evaluation" conducted by the State Court Administrator's Office, the Legal Aid Study did not attempt to compare the Consolidation Project to the former processes for hearing criminal and civil housing-related disputes. Rather, the Legal Aid Study study objective appeared to be to determine what the experiences of tenants were like in the current system. Seven (7) law students from the Minnesota Justice Foundation interviewed sixty-seven (67) people at Hennepin County Housing Court regarding:

- Tenant's understanding of his/her situation, legal rights, and the court process
- Conditions of the premises
- Amount of rent due and reason not paid on time
- Source of income
- Whether the Tenant had become homeless

Those interviewed had appeared before a Hearing Officer and had "admitted the allegations" of owing rent and did not have the money with them at the time of the hearing.

The Legal Aid study concluded that there is an unmet need for more representation of low income tenants at the Housing Court Hearing in order to support tenants living in previously condemned units and those with actionable claims. In addition, representation by an attorney could help secure emergency assistance funds or possible *Fritz* defenses could be brought with rent money available. Another finding was that the written pamphlet supplied to tenants did not adequately assist tenants in knowing their rights.

METHODOLOGY

The purposes of this study are to provide information about the experiences of Tenants who have appeared in Hennepin County Housing Court on Unlawful Detainer Actions, about characteristics of the Tenants and their housing conditions, their knowledge of their legal rights and access to representation or assistance with their cases, and to compare this information to a sample of Tenants who appeared in Unlawful Detainer Court and were interviewed in a study by the Legal Aid Society of Minneapolis (1991). The details of how the study was conducted are described below, including the sample, design, instruments, procedures, and analysis of data.

Sample

The participants in this study were adult members of sixty-eight (68) Tenant households who had appeared in Unlawful Detainer Court before a Hearing Officer. Though some of the respondents were referred to Referee Iijima, most involved in the study admitted the charges of owing rent, did not have the money with them and their cases were decided by the Hearing Officer.

Some of the households were represented by one adult while some had more than one adult present at the Hearing. In the cases where two or more adult household members were present, some jointly responded to the interview while others had one of the adults speak for all Tenant parties. Each interview, therefore, represented a single household. The participants are described in the Results section.

Design

The study was designed to address thirteen sets of information:

- 1) The respondents' understanding of the process and its impact on them
- 2) Types of assistance, information, representation, advocacy and/or mediation services the respondents had received before appearing in court
- 3) Kinds of evidence they may have been asked to show by the Hearing Officer (or Referee)
- 4) Respondents' knowledge about their right to a trial or right to request a continuance
- 5) Whether the Respondent asked for and/or received additional time to move
- 6) Condition of the premises and what actions had been taken regarding the condition by the Landlord, Tenant, and/or Inspections Department
- 7) Illegal lock-outs and personal property damage by the Landlord
- 8) How the rent is normally paid
- 9) Amount of rent due and the reason(s) not paid on time
- 10) Homelessness, eviction and rental history
- 11) Monthly household income and its source(s)
- 12) Number of adults and children in the household
- 13) Frequency of Writs of Restitution

Instruments

The structured interview. The present study was designed to allow comparisons to be made with the 1991 Legal Aid Study. Information was gathered through a structured interview which addressed all of the topics surveyed in the Legal Aid Study. In addition, after reviewing the initial study with HRC Staff and Legal Aid, questions were added to gain further insight into other areas. The additional questions are indicated by asterisks in the Appendix.

The interview consisted of both open- and close-ended questions eliciting narrative descriptions, as well as limited-choice response categories. The survey was designed to allow the interviewer to check-off more information, rather than write it all out, to enable more information to be gathered more quickly than with the Legal Aid Study. There was only one interviewer with the current study, which allowed more consistent implementation.

Condition of the rental unit. Minnesota law requires that a Landlord ensure that a rental unit is "fit to live in, kept in reasonable repair and kept in compliance with state and local health and housing codes." (Minnesota Attorney General's Office, 1991, p.10). In order to get a clearer picture of the conditions of the rental units the Tenants lived in, they were asked if particular types of repairs were needed. The general types of problems were developed based on the minimum standards of the Minnesota Covenants Act, Minneapolis Housing Code and guidelines established by the United States Bureau of the Census and United States Department of Housing and Urban Development American Housing Survey for the United States in 1989. (Dolbeare, 1992 & MPIRG, Minnesota Tenants Union, & St. Paul Tenants Union, 1991).

Participants were asked about specific types of common code violations which might warrant a work order by the Inspections Department. In addition, the types of repairs needed may call into the question the "habitability" of the dwelling as grounds for possible rent abatement proceedings. Questions were limited to the conditions inside the unit and did not include common and exterior spaces such as hallways, stairs, roofs, external weatherstripping, foundations, walkways, yards or garages or any other related conditions which might cause a danger to health or safety.

The general types of problem conditions include: bare wires or shorted fixtures; outlets do not work; pipes, toilet and faucets leak; no heat or furnace not safe; toilet, faucets do not work; no hot water or water heater leaks; peeling paint; inoperable or missing smoke detector; no deadbolt locks; bugs, mice, rats; missing storms or screens and any other code violation they

would like to add.

Review of the orders. Thanks to the cooperation of the Housing Court, the research assistant had access to the Unlawful Detainer Court files. This enabled verification of the interview responses and follow-up on whether Writs of Restitution were actually issued. Details regarding proper service, affidavits of non-military service and other relevant information could also be verified.

Discussions with persons knowledgeable of the process. In order to gain a broader perspective on the issues and concerns facing Tenants in Housing Court, the research assistant informally discussed the court experience with the Housing Court Referee, Hearing Officer, bailiffs, housing advocates, attorneys, judges, clerks, landlords and their agents.

Observations. The research assistant observed Housing Court initial hearings and referrals before the Housing Court Referee and Judges on rotation with Housing Court. The research assistant also observed Conciliation and Family Court proceedings in order to compare the experience with Housing Court.

Procedure

Recruitment of participants. The participants were solicited by the research assistant immediately after they appeared before the Hearing Officer. The research assistant recorded the case numbers from the court calendar in order to later verify the information on each case. Tenants who admitted the allegations of owing rent before the Hearing Officer and were not referred to the Referee or Judge were asked to participate in the survey. The solicitation was scripted to ensure consistency and clarity.

The majority of Tenants solicited did consent to participate, though exact numbers were not recorded as to how many declined. Roughly half of the Tenants who were summoned on a given day actually appeared; of those, most were referred to the Referee. One might estimate that approximately 10% of the cases had the Tenant appear in person and have his or her case decided by the Hearing Officer. *

After the 9:00 a.m. Housing Calendar was completed, the research assistant would sit in on proceedings with the Referee, if still in session, and would solicit other participants who had been referred for denying the charges or for any other reason. If a 10:30 a.m. calendar was added, the research assistant would also attend and repeat the process. Interviews were conducted during the summer and fall of 1992. *How many?*

Participant interviews. Each participant was administered a single interview which lasted an average of fifteen to twenty minutes. The interviews were held in the hallway outside of the Housing Court Hearing Room or Courtroom. The research assistant took detailed notes and refrained from giving any advocacy or legal advice. Certain questions were omitted if not applicable to a particular case. For example, if a respondent said that their place did not need any repairs and their landlord did a consistent job of keeping up the apartment, the research assistant did not probe as to whether the Housing Inspector had been called. (For the question regarding repairs, respondents were extremely forthcoming about how responsive their landlords were or whether the Housing Inspections Department had ever been to the property so as to give a clear picture about what was a current versus past problem.)

Participants were allowed to refrain from answering questions they were not comfortable discussing and to end the interview if they needed to leave. For those who asked for information regarding their cases, the research assistant declined giving specific advice, but did remind the participants about the informational pamphlet they had received with their summons which lists resource organizations and agencies.

Case File Verification

The following information was recorded from the case file and compared to the data gathered in the interview:

- Line and case numbers
- Court findings
- Writ of Restitution stayed or immediate
- Representation for Plaintiff and Defendant
- Whether Defendant admitted or denied allegations
- Improper Service
- Whether or not referred, continued, etc.
- Any other relevant information, court documentation about the complaint and any agreements

Analyses of the Data

This was an exploratory, descriptive study. The data were analyzed in several steps. First, responses to each item from the interview form were tallied. Second, the open-end responses were content-analyzed. Third, limited variables were selected to determine whether there were any characteristics of the cases which may have impacted the experiences. Finally, the data were compared to the findings of the Legal Aid Study and other studies previously conducted on homelessness, poverty, housing conditions and related issues.

RESULTS

The first section describes the results of the present study and is divided topically into the following sections: participant understanding of process and impact, types of assistance received prior to appearance, evidence requested, right to trial or continuance, additional time to move, condition of premises, illegal lock-outs and personal property damage, how rent is paid, amount of rent due and why, homelessness, eviction and rental history, household income and number of adults and children, judgement and orders and writs of restitutions issued. Comments by the participants are also included within each area. The second section compares the present sample to the sample from the Legal Aid study.

Section 1: Current Study

Participant Understanding of Process and Impact

Do you understand what happened here today? Nearly one quarter (n=15, 22.06%) of the participants admitted that they did not understand what had happened in Housing Court. Over three quarters stated that they did understand what had happened (n=53, 77.94%). As the interviews progressed, it became clear that many who thought they understood what had happened were unaware or unclear about the impact of the judgement against them or of their legal rights.

Comments:

"It went so fast!"

"Why are they pushing before condemnation?" (2 Respondents)

"I thought my deposit would cover it. I'm waiting for my SSI check."

"They don't want to know why. They just focus on the money."

"It's my child's birthday today."

"It's not right."

"We got no lease and we're withholding because of the way the place is." (4 Respondents)

"I was just handed the summons."

"I was asked, 'Do you deny owing rent?' That's not a clear question."

"I have some questions, but don't know who to talk with."

"Where I'm from, they wait 2 or 3 months before they take you to court."

Do you understand how the Unlawful Detainer may affect you in the future? Almost half of the participants (n=32, 47.06%) said that they did not understand how an Unlawful Detainer judgement against them would affect them in the future. Fourteen (20.59%) had a vague sense that it would affect their credit and ability to get a new place. Other individuals responded:

"Yes, makes you pay back money you shouldn't pay."

"Yes, if you get a job, you have to pay the money."

"Yes, in a year your name is clear."

"Yes, they will evict you."

"Yes, it's public knowledge."

Seventeen participants did not respond.

Are you being evicted? The majority of participants stated that they were being evicted (n=44, 64.7%). Twenty (29.41%) stated that they were not being evicted and four (5.88%) did not know. Of those who thought they were not being evicted, one said they were not because they were moving out, two negotiated agreements with their Landlords to stay, two were already out and one's case was stricken because the summons was for someone else. In reviewing the court files, fifty-eight Tenants (85.29%) had admitted the allegations of owing rent, sixty-two

44-105
20-110
4
62-105
6-110
16

(91.18%) of the allegations were found true and judgements were found for the Plaintiffs. In other words, eighteen (26.47%) of the participants "lost" their cases and believed they had "won."

Reason(s) Participants thought they were being evicted. While most participants admitted that the reason they thought they were being evicted was for "nonpayment of rent" (n=44, 64.7%), almost one-fifth (n=13, 19.12%) were said to be withholding their rent because of conditions. Other reasons included problems with housing assistance vendor payments being stopped or sent to an old landlord instead of the current landlord (n=2, 2.94%) and fighting, drinking and police involvement (n=3, 4.41%).

Other individuals each gave the following reasons:

"I was woken by the landlord to go drink with him and I didn't want to."

"Because I wanted to move away."

"The deposit from the other unit was to be used for rent."

"It was the end of the lease."

"I already moved out--but they made me come here anyway."

"More than two people living there."

Additional comments included:

"They turned off my power for nonpayment of rent."

"I had made arrangements with the old manager who was fired for embezzlement. I had no record in writing of what we had agreed."

"I refused to pay because of the conditions and because I was asked for sexual favors instead of the rent. I've met others who did do that for him--but I wouldn't. He ran his hand up and down my back."

"I was the caretaker and they fired me. I couldn't afford the rent."

"My check was late and there was excessive traffic."

"We're not behind in our rent; we're withholding."

"They [landlord] turned off my power."

"Lost my job and I have no other income."

"We offered to pay the rent, but he refused to take it."

"The County withheld my rent because of high lead."

Reason for eviction written on the complaint. The reasons for eviction, as claimed by the Landlords, were nonpayment (n=61, 89.70%), too many people in the apartment (n=2, 2.94%), drinking and police (n=1, 1.47%), excessive traffic (n=1, 1.47%), fighting (n=1, 1.47%), too many police calls (n=1, 1.47%) and broke the terms of the lease (n=1, 1.47%).

"Your Rights" brochure. As mentioned previously, the brochure entitled "Your Rights Concerning an Eviction Summons" is stapled to the Unlawful Detainer Court Summons (Form HC4400) when it is issued in Hennepin County. When asked whether they had received the brochure, fifty-nine (86.76%) claimed that they had received it, while nine (13.24%) said that they had not received it. For those who did not receive the brochure or did not notice it with their court papers, extra copies are available in the Housing Court Hearing Room. When asked if the brochure helped them, less than half (n=29, 42.65%) said "yes." Twenty-seven (39.71%) said that it did not help them, seven (10.29%) did not read it, one (1.47%) said she did not know how to read, and four (5.88%) did not respond. Comments regarding the brochure included:

"It was okay. There's not much choice on what I can do."

"It was helpful, but I didn't understand all of it."

"It was helpful, but didn't apply to my situation."

"I still assumed that my deposit would cover it."

"It helped me minimally."

"Taking pictures was good to know about."

"Not very thorough."

"Didn't fit the situation."

"I read it really late last night."

"It helped--but I wasn't worried."

"Helped to clarify things."

"You do have some rights."

"I knew a lot of information already."

"Maybe I would have read it if I had time."

"Didn't understand it."

"Didn't help me in court."

Types of Assistance Received Prior to Appearance

Information received about how to deal with your Landlord and Housing Court. Of the sixty-eight participants, less than one third (n=20, 29.41%) had received information or assistance about their cases. Forty-eight (70.59%) had not gotten help in preparing themselves for court. It may be appropriate to assume that most of the participants were not fully aware of their rights as Tenants without adequate representation or advocacy. The twenty who did receive help, were in contact with the following resources or individuals:

| | <u>n</u> | <u>Percent</u> |
|--------------------------|----------|----------------|
| Legal Aid Society | 8 | 11.76 |
| Mpls Housing Services | 6 | 8.82 |
| Tenants Union | 2 | 2.94 |
| Friends | 1 | 1.47 |
| Public Assistance Worker | 1 | 1.47 |
| Sharing & Caring Hands | 1 | 1.47 |
| Housing Resource Center | 1 | 1.47 |
| Conciliation Court | 1 | 1.47 |
| Legal Advice Clinic | 1 | 1.47 |
| Private Attorney | 0 | 0 |
| Mediator | 0 | 0 |

(Mentioned Legal Advice Clinic mailing, but did not have time to attend, n=3, 4.41%)

Legal advice. Over ninety percent of the participants did not have a lawyer helping them (n=62, 91.18%). Only six (8.82%) responded that an attorney helped them with their case, presumably from Legal Aid, as reflected in the previous question. For those who did not have a lawyer help them, the response was fairly mixed as to whether they thought a lawyer would have helped them. Fifteen (24.19%) said a lawyer would have helped them, twenty-nine (46.77%) said a lawyer would not have helped them, and eighteen (29.03%) did not respond or could not say. My observations were that most were ambivalent about having a lawyer because of a lack of faith that a lawyer would have made much of a difference or uncertainty about the process.

Comments:

"Maybe to recover money lost out for groceries ruined when the refrigerator didn't work."

"I would use a free one."

"I don't know. It would be nice to have a lawyer helping me."

"I didn't think you needed one for this."

"Not for this."

"Wouldn't do any good."

"I can't afford one. It's not right. We just made an agreement ourselves, otherwise we would have to go in front of a judge."

Mediation. None of the participants had used mediation services to try to resolve their disputes with their landlords.

Evidence Requested

Evidence requested by the Hearing Officer or Referee. None of the participants remember being asked to present any rent receipts, pictures, witnesses, inspections reports or other pertinent evidence either before or during the hearing. Some of the participants actually had brought photographs, condemnation notices, Housing Inspections work orders and even dead cockroaches with them to court but failed to mention the evidence to the Hearing Officer because they had not been asked specifically about the conditions and were not sure how to bring it up.

Right to Trial or Continuance

Asking for a trial. None of the participants had asked for a trial or referral to the Housing Court Referee or a judge, however, seven (10.29%) of the participants were referred because the case involved "other than nonpayment" issues or because the Plaintiff had requested the referral. The fact that none of the participants requested a referral would indicate that they were unclear about how to contest the allegations if they disagreed with the amount owed or had specific concerns about the housing conditions, as reflected by the thirteen who initially stated

that they thought they were being evicted because they were withholding rent because of the conditions of the rental unit.

Continuances. Only three (4.41%) of the participants knew that they may ask for a continuance if they wanted more time to seek assistance or build a defense. None of the participants asked for a continuance. A number of participants had responded that they had not had enough time between receiving their Summons and the Hearing date to get help from Legal Aid attorneys or to get a Housing Inspector to visit their apartment.

Additional Time to Move

Did you ask for additional time to move? Participants were fairly even in numbers of those who asked for more time to either move or to pay what they owed. Twenty-five (36.76%) responded that they had asked for time to move, six (8.82%) asked for additional time to pay, two (2.94%) did not have to move, and thirty-five (51.47%) did not ask for anything additional. Comments about time included the following:

"Time came automatically, so I didn't ask."

"They gave me until the 1st without me asking."

"I didn't know if you don't pay what happens."

"Didn't have time. Didn't have time to see pictures and condemnation notices."

Those who asked for additional time generally received seven days (17% of all participants); five were given the weekend (7.35%); one (1.47%) received fourteen days and eight (11.76%) did not receive any additional time because they did not have minor children living with them.

Comments:

"Will get 7 days to pay \$200."

"I wanted 8 days."

"I asked til the 30th [16 days] and got 7."

"Asked for 2 months and got 7 days."

"Didn't get more time because I don't have kids."

"I didn't ask for more time, but got it anyway." (2 Respondants.)

Condition of Premises and Actions Taken

Does your place need repairs? The majority of participants cited repair problems with their rental units and, from my observations in court, most did not bring up the problems to the Hearing Officer or Referee. Forty-eight (70.59%) participants responded that their place needed repairs compared with twenty participants (29.41%) who said that their places did not need any or appreciably any repairs. Table 1 shows the types of repair problems reported in detail.

Most who reported the need for repairs identified multiple problems. Many did not seem to be aware that their places were either partially or fully not inhabitable and that they might be eligible for a rent abatement. For example, a number of participants complained of not having working refrigerators (n=4, 5.88%), of having their electricity illegally shut-off by the Landlord (n=2, 2.94%), or of not having a stove or oven to cook with (n=3, 4.41%).

Most participants seemed to have some type of serious problem with roaches and/or mice or rats. Fifty percent (n=34) of the participants had missing storm windows or screens and some complained of their children falling out of the window or throwing toys or clothes out onto the ground through the open window without a screen. Peeling paint, no smoke detector, no working secure door lock, exposed wiring, and sinks falling off of walls were all major hazards.

The threat these problems caused to the participants' children appeared an overwhelming and common concern. One participant spoke of how her refrigerator cord was patched in several places with electrical tape and that her two-year-old had been shocked by it several times while crawling on the floor. Another related that her Landlord had pulled up some especially filthy infested carpeting--but left the carpet nails sticking up around the edges of the room where her toddler could become injured. One father told of how the Landlord had illegally shut off his electricity for two weeks and that he did not feel safe staying there with his two children without any lights. A mother spoke of how her children had both become ill from the effects of lead paint and were hospitalized. Because of the conditions, the county had cut off her Vendor (housing assistance) payment to her Landlord. Unable to find an affordable new apartment in good condition, the participant was evicted and now has an Unlawful Detainer judgement against her which makes her ineligible for Section 8 housing.

After reviewing the court files of the sixty-eight participants in the present study, only one participant put her rent in escrow with the court and successfully was able to force the Landlord to fix her repair problems in her unit.

Table 1: Repair Problems

| <u>Type of Problem</u> | <u>Number Reported</u> | <u>Type of Problem</u> | <u>Number Reported</u> |
|--|------------------------|---|------------------------|
| <u>Bare wires or shorted fixtures:</u> | 19 | <u>Outlets don't work:</u> | 20 |
| - "Turning on light causes detector to go off." | | - "Outlet hanging out of the wall." | |
| - "Doorbell is open wire--my son was shocked." | | - "There aren't any plates in my place." | |
| - "They shut my electricity off for 4 days." | | | |
| <u>Pipes, toilet, faucets leak:</u> | 48 | <u>No heat, furnace not safe:</u> | 25 |
| - "No pipe in the sink drain. The water just runs into a bucket on the floor." | | - "No natural gas in the whole building." | |
| - "Sink fell off the wall." | | - "Smells bad, needs cleaning." | |
| - "Ceiling leaks from tub upstairs." 2 | | - "Furnace falling over." | |
| - "Water pipes coming out of the wall." | | - "Last winter they turned off the heat for 2 weeks during snow." | |
| - "Toilet floods." | | | |
| - "Kitchen sink broken for 1 month." | | | |
| - "Sink hanging off the wall." 2 | | | |
| <u>Toilet, faucets don't work:</u> | 13 | <u>No hot water, heater leaks:</u> | 12 |
| - "Bathtub is scalding." | | - "Water turned off for 3 days." 5 | |
| - "Rust in water." | | - "No water pressure." | |
| | | - "Gas leaks." 2 | |
| <u>Peeling paint:</u> | 31 | <u>No smoke detector:</u> | 19 |
| - "Lead." 2 | | | |
| - "Holes in the walls." 2 | | | |
| <u>No deadbolt lock:</u> | 21 | <u>Bugs, mice or rats:</u> | 50 |
| - "All of the apartments use the same key." 6 | | - Roaches 27 | |
| - "Doorknob fell off for 2 months." | | - Ants 2 | |
| - "Just a punch button lock." | | - Centipedes 1 | |
| - "Been broken into." | | - Spiders 2 | |
| - "Put in my own lock." 2 | | - Mice 17 | |
| | | - Rats "Ate my bread and rice--then we ran out of food." 1 | |
| <u>Missing storms or screens:</u> | 34 | | |

Table 1: Repair Problems
(continued)

| <u>Type of Problem</u> | <u>Number Reported</u> | <u>Type of Problem</u> | <u>Number Reported</u> |
|---|------------------------|--|------------------------|
| <u>Other:</u> | | | |
| - No window locks | | - Broken a/c | 2 |
| - Some windows don't open or shut | | - Rotted stairs | |
| - No kitchen window | | - Refrigerator broken | 4 |
| - No screen door | 2 | - No stove or oven | 3 |
| - Window fell apart | | - Mirrors broken | |
| - 3 feet of water on roof | 6 | - Filthy--landlord didn't paint or clean | |
| - No clean carpet | | - Ceiling coming down in bathroom | |
| - Ceiling fell on me and I was hospitalized | | - They turned off my electricity | |
| - Roaches in my boxspring now makes my bed unusable | | - Tiles gone in the kitchen | |

Estimated severity of repair problems. The U. S. Bureau of the Census and the U. S. Department of Housing and Urban Development have developed criteria for rating the severity of repair problems as described in the American Housing Survey (AHS) for the United States in 1989 (Dolbeare, 1992). In reviewing the conditions reported by the participants, one is able to apply the AHS criteria in order to estimate the severity of the sample dwellings. It should be stressed that these assessments are solely estimates based upon participant reporting and not actual inspection and, as previously mentioned, the public areas, basements, foundations, roofs, stairs and yards were not included in the survey. However, the findings provide for a fairly good estimate of the severity of the problems.

Housing units described as having "severe" problems are those which have any one of these five problems:

Plumbing. Lacking hot or cold piped water or a flush toilet, or lacking both bathtub and shower, all inside the structure for the exclusive use of the unit. [For this category, if a unit had a specific fixture, like a shower, indoors, but the fixture was unusable, it was considered a severe problem.]

Heating. Having been uncomfortably cold last winter for 24 hours or more because the heating equipment broke down, and it broke down at least three times last winter for at least 6 hours each time.

Electric. Having no electricity, or all of the three electric problems: exposed wiring; a room with no working wall outlet; and three blown fuses or tripped circuit breakers in the last 90 days.

Upkeep. Having any five of the following six maintenance problems: water leaks from the outside, such as from the roof, basement, windows or doors; leaks from inside structure such as pipes or plumbing fixtures; holes in the floors; holes or open cracks in the walls or ceilings; more than 8 inches by 11 inches of peeling paint or broken plaster, or signs of rats or mice in the last 90 days. [The AHS criteria don't include roaches.]

Hallways. Having all of the following four problems in public areas: no working light fixtures; loose or missing steps, loose or missing railings; and no elevator. [This area was harder to assess.] (Dolbeare, 1992, p.21)

Dolbeare's article also describes what the AHS would call "moderate" physical problems as being if a unit has none of the "severe" problems, but any of the following problems:

Plumbing. On at least three occasions during the last 3 months or while the household was living in the unit if less than 3 months, all the flush toilets were broken down at the same time for 6 hours or more.

Heating. Having unvented gas, oil, or kerosene heaters as the primary heating equipment.

Upkeep. Having any three of the overall list of six upkeep problems mentioned above under severe physical problems.

Hallways. Having any three of the four hallway problems mentioned above under severe physical problems.

Kitchen. Lacking a kitchen sink, refrigerator, or burners inside the structure for the exclusive use of the unit. [Interpreted this as "working" items. For example, a Landlord provided a stove but did not hook it up for a Tenant--so it was not usable.]

For this study, the category of "mild" was added which were units with reported problems which did not truly fit the "moderate" or "severe" measure. For example, a unit could have exposed wiring, roaches, and leaky pipes which all warrant repair. Table 2 summarizes the estimated severity of the problems using the AHS criteria and compares this information with the primary source of the Tenant's income.

From the results shown in Table 2, it appears that Tenants whose primary source of income was from AFDC were more likely to be experiencing moderate to severe repair problems (n=25, 36.76% of all participants). Those whose primary income was from employment or SSI were more apt to be in units with mild or no repair problems. Twenty-six participants (38.24%) had severe repair problems; twelve (17.65%) experienced moderate repair problems.

What has the Tenant done about the repair problems? The overwhelming majority of participants who spoke of having repair problems reported the problems to their Landlords or Caretakers: Twenty-seven (56.25% of those reporting problems) told their Landlords; three (6.25%) wrote their Landlords; three (6.25%) told their Caretakers; one (1.47%) told the Landlord's secretary; only five (10.42%) haven't said anything to their Landlords. Two had no

response to the question. A relatively small number, seven (14.58%), called the City Inspections Department.

**Table 2: Estimated Severity of Reported Repair
Problems and Tenant's Income Source**

| | <u>Job</u> | <u>AFDC</u> | <u>Other</u> | <u>None</u> | <u>Total</u> | <u>Percent</u> |
|--------------|------------|-------------|--------------|-------------|--------------|----------------|
| Severe | 5 | 19 | 1 | 1 | 26 | 38.24 |
| Moderate | 5 | 6 | 1 | 0 | 12 | 17.65 |
| Mild | 5 | 3 | 4 | 0 | 12 | 17.65 |
| None | <u>10</u> | <u>5</u> | <u>1</u> | <u>2</u> | <u>18</u> | <u>26.47</u> |
| Total | 25 | 33 | 7 | 3 | 68 | 100.00 |

Landlord's response to the problems. For most of the cases, the Landlord reportedly had done nothing to repair the problem (n=30, 62.5% of those reporting problems). Some tried to fix the problem or attended to only covering the problem up. For example, three inadequately fixed the problem, two patched ceilings without repairing leaky pipes and one fixed only one problem and left the rest. One resourceful Landlord visited the Tenant and "did nothing but hand me [the Tenant] a fire extinguisher." Eight participants did not indicate how the Landlord had tried to repair the problem(s).

Documentation. Only six participants had taken pictures of their repair problems. This includes one Tenant who, due to lack of financial resources, could not get her pictures developed in time for her hearing and ended up losing her case. My impression from interviewing the participants is that many do not own cameras or have enough money to buy a camera and film in preparation for the hearing.

Housing inspections. Only ^{Seven} eleven participants had called the City Inspections Department (one called that day; one called two days previously; two the week before; two during the last month; and one called two months prior to the hearing.) Five reported that they had not called, but a neighbor did. Of those who had either called the Inspections Department or whose neighbor had called, four had not been inspected yet; inspector did not find any violations for two of the cases; and twelve had work orders written up on the property.

Regarding the nature of the work orders, some commented:

"Don't know what the work orders were for." (2)

"Roaches and mice."

"Wrote up a lot."

"Not licensed, no lease, forged tenant's name."

"Sink."

Only twelve participants knew that they could ask for copies of Work Orders from the Inspections Department if an inspector were to visit there place. Six had asked for copies and five had received copies prior to their Housing Court hearing. Of the five who received their copies, four had brought their's to court. One participant commented about her work order, "They never asked to see it."

Illegal Lock-Outs and Property Damage

Lock-outs and damage. Just one participant reported being "locked-out" by her Landlord and it was only her back door. However, having only one door in the duplex working seemed to be a fire hazard. One participant suffered water damage to her property from water pouring in through a light fixture from the roof of her apartment building. A participant stated that her apartment had been robbed twice by someone who had a key, presumably the Caretaker.

One woman reported that her car battery had died and she could not afford to replace it that month. She informed the apartment office that she was needing to leave her car in the building's off-street lot until the next month when she would get her check. Within a week, the Caretaker had the car towed away without informing the Tenant. The woman could not afford to pay to get the car back from the towing yard and subsequently lost her car.

Two participants complained of having their mailboxes taken down and/or their names taken off of the boxes in retaliation for rent withholding due to conditions. In both cases, having their names off of the boxes caused delays in them getting their monthly checks. One of these cases was previously mentioned where the electricity had been shut off by the Landlord for two weeks. This was also a case with some of the worst conditions reported including the bathroom sink hanging off of the wall. The participant was worried that his toddler son would try use the sink to pull himself up and that the sink would eventually fall on him.

When offered the option of paying his rent into escrow, it was later noted in a letter to the Referee that the participant had the money but had heard from relatives that the escrow/Housing Court process was unfair, long and ultimately a difficult experience. Though he had a seemingly good habitability defense, judgement was eventually made for the Plaintiff and the building was never repaired. The father and his two children were forced to move.

How Rent Is Paid

Rent payment and receipts. Table 3 depicts how rent is usually paid by the Participants. As shown, most of the Participants pay their rent using money orders, cash or have a housing assistance voucher or vendor payment. Seven Participants used personal checks. When asked about whether they normally receive receipts for their rent payments, two of the Participants who paid in cash did not receive receipts from their Landlords. The rest of the Tenants could presumably prove that they have paid their rent by contacting the county regarding vendor or voucher payments or by showing money order receipts, cancelled checks or receipts.

Table 3: How Rent Is Usually Paid

| <u>Method of Payment</u> | <u>n</u> | <u>Percent</u> |
|--------------------------|----------|----------------|
| Money Order | 20 | 29.41% |
| Cash | 17 | 25.00 |
| Vendor check | 15 | 22.06 |
| Personal check | 7 | 10.29 |
| Voucher | 2 | 2.94 |
| Money Order & Cash | 2 | 2.94 |
| Free as Caretaker | 1 | 1.47 |
| N/A | 4 | 5.88 |

Amount of Rent Due and Why

Is the rent paid up? Fifty-six (82.35%) participants responded that their rent was not paid up; eight (11.76%) said their rent was paid up; and four did not respond. In reviewing the court files, sixty-one (89.71%) participants reportedly "admitted the allegations of owing rent" when asked by the Hearing Officer. For one case, it is unknown, from the record, whether the Tenant admitted or denied the allegations. Six denied the allegations of owing rent. Of the six that did not admit the allegations, three received judgements against them, two were stricken for improper service, and one was dismissed because he told the Referee that he had moved already. One of the participants who had admitted owing rent was improperly served, as revealed through the interview, but did not know to bring it up to the Hearing Officer. Another participant informed me that she had already vacated the rental unit, but had not mentioned that to the Hearing Officer and did not know to appeal the judgement.

Comments:

"I assumed rent was due on the 30th. For the first six months it was fine. I was late once and paid on the 2nd and was charged \$35 plus \$2 per day late fee. That was never in the lease. The due date for rent was supposedly changed to the 25th without a lease or notification." (1)

"Made a deal that I could work off half of the first month's rent by cleaning." (1)

"Was told when you move in that you get one month free. I called about that but the landlord did not give it to me." (1)

The amount owed. Table 4 shows the amount of monthly rent for each participant, the amount of rent, deposit or utilities the Landlord claims the Tenant owes, late fees, court and

service costs, and the total amount owed as listed on the Decision and Order form. Each case was assigned a number by the research assistant to facilitate analysis. All but cases 4-7 were able to be verified. Eleven cases (16.18%) involved Tenants believing that they owed less than their Landlords claimed (Case numbers 8, 13, 14, 16, 19, 20, 21, 22, 23, 27, 30). Many were surprised to find service fees, the \$118 filing fee and many late fees also tacked on to their late rent. However, most had an approximate idea of how much rent they owed. It was observed that ten of the eleven participants who disagreed with the amount owed, nonetheless, admitted the allegations of owing rent and did not contest the amount.

Landlords usually tried to recover the \$118 filing fee from the Tenants in the Unlawful Detainer judgements (n=62, 91.18%). Many varied as to whether they added on service fees and late fees. Many bundled all of the fees together and some seemed to inflate the court costs. Monthly rent ranged from \$24 per month to \$650 per month. The average for the monthly rent for the participants is \$410. The average amount of rent owed is estimated at 1.59 months, which amounts to approximately \$652 in rent due. Thirty-five (51.47%) of the cases were for one month or less of rent owed. Presumably, a Tenant could be late with their rent for the first of the month and could be in court by the third week of the month.

Table 4: Amount of Money Owed

| <u>#</u> | <u>Monthly Rent</u> | <u>Amt Tenant Thought Owed (if different)</u> | <u>Amt Owed</u> | <u>Late Fees</u> | <u>Court Costs</u> | <u>Total Owed</u> |
|----------|---------------------|---|-----------------|------------------|--------------------|-------------------|
| 1. | \$500 | | \$500 | \$20 | \$118 | \$638 |
| 2. | 592 | | 1,184 | 15 | No | 1,214 |
| 3. | 394 | | 394 | 20 | 150 | 564 |
| 4. | 349 | | 349 | Yes | Yes | ? |
| 5. | 309 | | 618 | Yes | Yes | ? |
| 6. | 309 | | 618 | Yes | Yes | ? |
| 7. | 309 | | 618 | Yes | Yes | ? |
| 8. | 344 | \$344 | 344 | 38 | 118 | 500 |
| 9. | 400 | | 1,200 | No | 118 | 1318 |
| 10. | 475 | | 638 | No | No | 638 |
| 11. | 545 | | 545 | 25 | 118 | 688 |
| 12. | 475 | | 475 | | \$50,118 | 643 |
| 13. | 650 | 650 | 1,297 | 20 | \$23,118 | 1,415 |
| 14. | 550 | 550 | 1,100 | 50 | No | 1,150 |
| 15. | 240 | | 240 | | \$20,118 | 378 |
| 16. | 340 | 340 | 680 | 15 | \$67 + 118 | 780 |
| 17. | 525 | | 2,100 | | 163 | 2,263 |
| 18. | 495 | | 1,485 | | 208 | 1,693 |
| 19. | 325 | 350 | 325 | 25 | 118 | 468 |
| 20. | 650 | 650 | 1,050 | | 211 | 1,261 |
| 21. | 455 | 910 | 1,365 | | 118 | 1,483 |
| 22. | 395 | 1,065 | 1,027 | | 118 | 1,145 |
| 23. | 500 | 500 | 1,319 | 35 | 118 | 1,472 |
| 24. | 350 | | 700 | 70 | 118 | 888 |
| 25. | 425 | | 905 | | 258 | 1,163 |
| 26. | 385 | | 385 | 25 | 118 | 528 |
| 27. | 365 | 365 | 520 | | 118 | 638 |

Table 4: Amount of Money Owed
(continued)

| <u>#</u> | <u>Monthly Rent</u> | <u>Amt Tenant Thought Owed (if different)</u> | <u>Amt Owed</u> | <u>Late Fees</u> | <u>Court Costs</u> | <u>Total Owed</u> |
|----------|---------------------|---|-----------------|------------------|--------------------|-------------------|
| 28. | 150 | | 150 | 25 | 118 | 293 |
| 29. | 510 | | 510 | | 118 | 628 |
| 30. | 435 | Thought vendored | 1,305 | | 118 | 1,423 |
| 31. | 475 | | 475 | | 118 | 550 |
| 32. | 450 | | 450 | | 118 | 568 |
| 33. | 500 | 639 | 500 | 40 | 118 | 658 |
| 34. | 399 | | 399 | | 118 | 517 |
| 35. | 595 | | 595 | | 118 | 742 |
| 36. | 370 | | 370 | 20 | 118 | 508 |
| 37. | 390 | | 390 | 25 | 118 | 533 |
| 38. | 390 | | 780 | 60 | 0 | 840 |
| 39. | | | 0 | 0 | 0 | 0 |
| 40. | 485 | | 485 | 20 | 118 | 623 |
| 41. | 550 | | 1,100 | 82 | 118 | 1,300 |
| 42. | 375 | | 375 | | 118 | 493 |
| 43. | 385 | | 385 | 70 | | 455 |
| 44. | 440 | | 880 | 42 | 118 | 1,040 |
| 45. | 400 | | 450 | 45 | 118 | 613 |
| 46. | 495 | | 1,980 | | 118 | 2,098 |
| 47. | 459 | | 459 | 182(?) | 118 | 759 |
| 48. | 350 | | 700 | | 188 | 888 |
| 49. | 24 | | 48 | | | 48 |
| 50. | 355 | | 355 | 25 | 118 | 498 (L=575) |
| 51. | 395 | | 395 | 35 | 118 | 548 |
| 52. | 460 | | 460 | | 118 | 578 |
| 53. | 430 | | 430 | 135 | 118 | 683 |
| 54. | 495 | | 495 | | 118 | 613 |
| 55. | 420 | | 420 | 10 | 118 | 548 |

Table 4: Amount of Money Owed

(continued)

| <u>#</u> | <u>Monthly Rent</u> | <u>Amt Tenant Thought Owed (if different)</u> | <u>Amt Owed</u> | <u>Late Fees</u> | <u>Court Costs</u> | <u>Total Owed</u> |
|----------|---------------------|---|-----------------|------------------|--------------------|-------------------|
| 56. | 385 | | 385 | 20 | 118 | 523 |
| 57. | 385 | | 385 | 25 | 118 | 528 |
| 58. | 350 | | 1,364.96 | 145 | 118 | 1,727.96 |
| 59. | 500 | | 500 | | 118 | 618 |
| 60. | 270 | | 270 | 10 | 118 | 398 |
| 61. | 455 | Escrow | | | | 1,686 |
| 62. | 275 | | 154.32 | 200 | 118 | Agreed 272.32 |
| 63. | 298 | | 1,032 | | 153 | 1,185 |
| 64. | 135 | | 135 | 25 | 171.90 | 331.90 |
| 65. | 550 | | 1,100 | | 143 | 1,243 |
| 66. | 350 | | 375 | 507 | | 884.20 |
| 67. | 620 | | 1,575 | 90 | 118 | 1,783 |
| 68. | 460 | | 1,200 | | 118 | 1,126 |

Damage deposits. Sixty-one (89.70%) of the Participants had previously given their Landlord a damage deposit. Only seven (10.29%) had not. The present study does not reveal if the Participants eventually get their deposit back if they pay the amount owed.

Comments:

"My landlord was paid twice by the county for the deposit."

"...and last month's rent."

"...and a \$35 key deposit."

"I didn't pay the deposit because of the condition when I moved in."

"He told me I could pay it whenever I wanted."

Have you offered to pay the rent? After the Landlord has filed an Unlawful Detainer Action against a Tenant, it is important to know whether the Landlord has accepted or rejected any rent payments. If a Landlord is evicting a Tenant for nonpayment of rent, breaking the terms of a lease or failure to vacate after proper notice was given and then accepts all or a part of the rent after filing the Unlawful Detainer, then the Tenant may exercise a "Defense of Waiver" and the Landlord forfeits his or her right to evict. (MPIRO, Minnesota Tenants Union, & St. Paul Tenants Union, 1991). Of the sixty-eight participants, over one third had offered to pay the rent to the Landlord (n=24, 35.29%). Thirty (44.12%) participants had not offered to pay and four (5.88%) had no response. Of the participants who had offered to pay, eight reported that the Landlord had refused to accept the rent money.

Comments:

"Would work something out. I've lived there for 2 years and offered to pay by the 15th."

"I'll just move."

"I offered half of the rent because of the leak in the ceiling--but the landlord refused it."

"Going to check it out. I have 7 days to check out why the Vendor Check wasn't paid."

"Yes. Tried to pay half on 9/15 and the other half at the end of September."

"Didn't have a chance to."

Reasons why rent was not paid on time. Table 5 shows the different reasons participants gave for not paying their rent on time. Some participants had multiple reasons, such as have both medical problems and losing their job. The most frequent response was "bad conditions," (n=24, ^{25%}50%). It appears that many withheld rent without putting the money in escrow with the court due to poor housing conditions. The next common reasons given were "medical problems." Despite the stereotype of homeless people being perceived as former psychiatric hospital patients who were let out during deinstitutionalization, only one participant reported a history of mental illness or institutionalization as contributing to his situation.

Unemployment was another problem many reported. It is worth noting that a number of job losses were caused by participants being unable to receive sick or bereavement leave or presumably adequate health benefits. Pregnancy, miscarriage, and illness were experienced often. Twelve (17.65%) participants cited either cuts in their vendor payments, cuts in their AFDC or General Assistance, or delays in SSI or in getting their initial assistance checks.

Table 5: Reasons Reported For Not Paying Rent On Time

| | <u>n</u> | <u>Percent</u> |
|--|----------|----------------|
| <u>Bed conditions:</u> | 24 | 35.29 |
| <u>Medical problem(s):</u> | 12 | 17.65 |
| <ul style="list-style-type: none"> - Mother and children sick from lead. - Wife had miscarriage. - Wife hit by bus and child [newborn] had meningitis. - "I was sick."(5) - Psychiatric problems. - Pregnancy. | | |
| <u>Lost job:</u> | 9 | 13.24 |
| <ul style="list-style-type: none"> - "Lost my job because I had to go to a funeral." - "I took a medical leave because I was pregnant and lost my job." - "Not enough work at the factory." | | |
| <u>Delay in getting benefits check:</u> | 7 | 10.29 |
| <ul style="list-style-type: none"> - "Cut vendor check." (2) - "Delay in getting benefits appointment." - "6 months on retirement. SSI delay." - "I filed for assistance and it didn't come in time." | | |
| <u>AFDC Benefits cut:</u> | 3 | 4.41 |
| <ul style="list-style-type: none"> - Got a job so benefits stopped or were cut.(2) - "Nonreported income drove \$75 rent up to \$557 market price." | | |
| <u>Other Gov't Benefits:</u> | 2 | 2.94 |
| <ul style="list-style-type: none"> - SSI delay. (1) - "County cut benefits because of lead." | | |

Table 5: Reasons Reported For Not Paying Rent On Time
(continued)

| | <u>n</u> | <u>Percent</u> |
|---|----------|----------------|
| <u>Death in family:</u> | 1 | 1.47 |
| <u>Delay in getting paycheck:</u> | 1 | 1.47 |
| <u>Unemployment Comp Ended:</u> | 0 | 0 |
| <u>Other Reasons:</u> | 19 | 27.94 |
| - Roommate or partner left (4) | | |
| - Kids moved home and couldn't afford it. | | |
| - Signed paper saying I would leave. | | |
| - Landlord already rented it to someone else. | | |
| - Refused to take rent money. | | |
| - Had to quit my job. | | |
| - Someone stole my wallet and ID. | | |
| - Lost job as caretaker. | | |
| - Want to move and landlord won't answer his phone. | | |
| - State put hold on finances because of IRS. | | |
| - I didn't think I owed anything. | | |
| - Fighting with landlord's son. | | |
| - Was my birthday, so I threw a party. | | |
| - Landlord broke into my apartment. | | |
| - Shift deposit to new unit. | | |
| - Forced to get larger place I couldn't afford. | | |

Comments regarding why rent was not paid on time:

"My boyfriend went to boot camp." [There was no Affidavit of Military Service.]

"I gave two months notice and didn't pay the last month because I'd heard that the landlord doesn't pay back damage deposits."

"Double paid to old and new landlords on Vendor. They didn't give me any notice."

"I've decided to go. I would have paid the rent if he'd have fixed things."

"Need repairs. They pulled up the carpeting and left nails sticking up in the floor. I have a two-year-old."

"People downstairs are doing crack and turned off my electricity and jammed my locks."

Ability to pay the amount the court has ordered them to pay. Over fifty percent (n=35) of the participants responded that they could not afford to pay the amount they were ordered to pay. One third (n=23) said that they could afford to pay the amount and four stated specifically that they had the money but did not want to pay it. Nine did not respond and one was told he did not owe anything.

Aside from the reasons already discussed about why they could not pay the rent on time, many remarked that they wanted to use their "last month's rent" money for a new place, either for the next deposit or for their new rent. In other cases, however, participants were forced to use their rent money for basic necessities like food or to replace articles which were stolen from them by Landlords or burglars who had broken in easily due to there not being adequate locks on doors and windows. For example, the four participants whose refrigerators were broken used their rent money partially to purchase food to replace food which became spoiled due to their Landlord's inability to supply them with a working refrigerator.

Most of the participants appeared vulnerable to falling behind in their rent primarily due to their low income. It was recently reported in analysis of HUD's biennial American Housing

Survey that forty-two percent of all renter household nationally could afford no more than \$325 monthly for rent and utilities. (Dolbeare, 1992) As we have seen, the average monthly rent (not including utilities) for the participants was \$410 per month.

Where participants will get the money they owe. For those who wished to report in more detail about where they will get the money they owe, sources included expected rent rebate checks, Emergency Assistance, their next paycheck, borrowing from supervisors, friends, relatives and boyfriends. Most did not respond.

Homelessness, Eviction and Rental History

Wanting to stay in their place. Most participants wanted to move from their rental units. (n=43, 63.24%) However, over one third (n=25, 36.74%) wanted to remain where they were. Only eight participants were living in subsidized housing and four of them were able to identify their program (Section 8).

Emergency Assistance. The Center on Budget and Policy Priorities (Shapiro & Greenstein, 1988) describe the AFDC Emergency Assistance as a program where:

Federal law permits states to provide short-term AFDC emergency assistance to families with children if the family is threatened by broadly defined natural or domestic emergency situations including imminent homelessness and natural disasters. (p10.)

Emergency Assistance was known to forty-eight (70.59%) of the participants and twenty had applied (29.41%). Forty-one (60.29%) of the participants had used Emergency Assistance before. Though not captured in the interview, my impression was that many participants were not eligible to use Emergency Assistance during their current eviction because they had used it

too recently. Many stated that they had used Emergency Assistance in order to get into their places and that they acknowledged that the conditions were inadequate--but they were in need of a roof over their heads and did not have anywhere else to go.

Other assistance in the community. Participants were unaware of any kind of assistance in the community for rent deposits or other financial or housing assistance.

Eviction history. Most of the participants were experiencing eviction for the first time (n=38, 55.88%) contrary to views I have been aware of about housing court. Twenty-eight (41.18%) had been evicted before, but most of these stated that it had been many years earlier or in another state. Therefore, one might argue that the overwhelming majority of Tenants appearing in Housing Court are finding it a new and often confusing experience.

Homelessness. 61.76% of the participants (n=42) did not have another place to live. Twenty-one participants did say that they had another place and five did not respond. Of the twenty-one who said they had another place to live, most who said where they were going mentioned going to live with relatives. Technically, doubling up with relatives would still define them as "homeless."

Damage deposit for the next place. Thirty-nine (57.35%) of the participants did not have money for a damage deposit for a new apartment. (Eight did not respond.) Of the twenty-one (30.88%) who did have deposit money, ten thought they were getting it from Emergency Assistance, two from work, two from their mothers and one from savings. Six of those with deposit money did not indicate where they got it from.

Rental history. Most (n=40, 58.82%) of the participants had lived in their present

apartment for at least the previous twelve months. Many commented that they had lived there for a number years and only recently had run into financial difficulties. Twenty (29.41%) had lived in two places during the previous twelve months; three had lived in three places; one had lived in four places; two were new to town; and two did not respond.

Subsidized housing. Over one third (n=25, 36.76%) of the participants were on waiting lists for Section 8 housing and it was not uncommon for them to say that they had been waiting for five years or more. In one case, a woman was excited to get the judgement against her so she could run down to a Section 8-subsidized rental complex, show them the paper proving she was homeless and presumably get a nice place to live. Many management companies of subsidized housing disqualify tenants who do not have stable local rental histories ranging from a minimum of four months up to five years, depending on a management company's criteria, and those who have unlawful detainer judgements against them. H.U.D. approves the screening criteria used by all non-profit developers of Section 8 and other H.U.D. subsidy programs. (D. Faiella, personal communication, July 31, 1992).

Income and Number of Adults and Children

Household income. Table 6 shows the amount of monthly household income, income sources and the number of adults and children in their household as reported by sixty-seven participants (98.53%). Income, reflected as "take-home," ranged from no income (n=4, 5.88%) to \$3,000 per month. Two reported that they were receiving income but were uncomfortable sharing the amounts and two others claimed to be receiving income from both AFDC and employment and would not fully detail the total amount. (Participants were allowed to

not answer questions if they wished, as was true with all of the questions in the interview.) Reported income came from job(s), AFDC, GA, "Public Assistance," MSA, SSI, or unemployment compensation. The average total monthly reported take-home household income was \$794.37.

AFDC. Almost half of the participants were receiving AFDC (n=33,48.53%) with an average monthly AFDC payment of \$535.83.

Jobs. Thirty (44.12%) participants reported that at least part or the entirety of their monthly income was derived from employment. Twenty-five reported their employment income either at all or separately from other benefits. The average reported monthly household take-home income from employment was \$1,138.96.

SSI. Six respondents received SSI benefits and of those, four received their SSI in addition to employment income or another type of benefit. The average monthly income for those receiving SSI was \$509.50 from all sources.

Other assistance. One participant reported to be on unemployment compensation; one received MSA; one received "public assistance"; one participant's income was from General Assistance. Participants were not asked about in-kind benefits, WIC, Food Stamps, energy assistance or other types of assistance they might be receiving. Those who received housing assistance vouchers, direct vendor payments or lived in Section 8 housing had the opportunity to report that elsewhere.

Table 6: Number of Adults and Children, Monthly Household Income and Sources

| <u>#</u> | <u>Jobs</u> | <u>AFDC</u> | <u>Other Income</u> | <u>Total Income</u> | <u>Adults</u> | <u>Children</u> |
|----------|-------------|-------------|-------------------------|-------------------------|---------------|-----------------|
| 1. | | 697 | | 697 | 1 | 4 |
| 2. | 541 | | | 541 | 1 | 1 |
| 3. | 800 | | | 800 | 1 | 0 |
| 4. | 1,200 | | | 1,200 | 2 | 0 |
| 5. | | | | 0 | 1 | 1 |
| 6. | | 532 | | 532 | 2 | 2 |
| 7. | 1,000 | | | 1,000 | 1 | 0 |
| 8. | 1,800 | | | 1,800 | 1 | 0 |
| 9. | 1,000 | | | 1,000 | 2 | 2 |
| 10. | 162 | 532 | | 694 | 2 | 3 |
| 11. | | | 1,200 Job, SSI | 1,200 | 2 | 0 |
| 12. | | | 710 Job, SSI | 710 | 1 | 2 |
| 13. | | 677 | | 677 | 2 | 5 |
| 14. | | | | 0 | 1 | 1 |
| 15. | | | 112 MSA, 393 SSI | 505 | 1 | 0 |
| 16. | | 437 | | 437 | 1 | 3 |
| 17. | | 532 | | 532 | 1 | 2 |
| 18. | | | | N/A | N/A | N/A |
| 19. | | 532 | | 532 | 1 | 2 |
| 20. | | 773 | | 773 | 1 | 5 |
| 21. | | 100 | | 100 | 1 | 3 |
| 22. | 2,300 | | | 2,300 | 2 | 0 |
| 23. | 1,200 | | | 1,200 | 1 | 1 |
| 24. | | | 583 PubAs, Job | 583 | 1 | 3 |
| 25. | | 532 | | 532 | 1 | 2 |
| 26. | | 532 | | 532 | 1 | 2 |

Table 6: Number of Adults and Children, Monthly Household Income and Sources

(continued)

| <u>#</u> | <u>Jobs</u> | <u>AFDC</u> | <u>Other Income</u> | <u>Total Income</u> | <u>Adults</u> | <u>Children</u> |
|----------|-------------|-------------|-------------------------|-------------------------|---------------|-----------------|
| 27. | | | 203 GA | 203 | 1 | 0 |
| 28. | | 603 | | 603 | 1 | 4 |
| 29. | | 437 | | 437 | 1 | 1 |
| 30. | | 532 | | 523 | 1 | 2 |
| 31. | | | | 0 | 1 | 1 |
| 32. | | 671 | | 671 | 1 | 3 |
| 33. | 1,100 | | | 1,100 | 2 | 0 |
| 34. | | 621 | | 621 | 1 | 3 |
| 35. | | 517 | | 517 | 1 | 2 |
| 36. | | 532 | | 532 | 1 | 1 |
| 37. | | 517 | | 517 | 1 | 2 |
| 38. | | | 422 SSI | 422 | 1 | 0 |
| 39. | | 424 | | 424 | 2 | 1 |
| 40. | 1,300 | | 400 SSI | 1,700 | 2 | 0 |
| 41. | 2,250 | | | 2,250 | 2 | 1 |
| 42. | 1,200 | | | 1,200 | 1 | 1 |
| 43. | 700 | | | 700 | 1 | 0 |
| 44. | 1,000 | | | 1,000 | 1 | 0 |
| 45. | | 437 | | 437 | 4 | 1 |
| 46. | 650 | | | 650 | 1 | 0 |
| 47. | Yes | Yes | | 859 | 1 | 2 |
| 48. | | 621 | | 621 | 1 | 3 |
| 49. | | | 203 SSI | 203 | 1 | 0 |
| 50. | | 773 | | 773 | 1 | 5 |

Table 6: Number of Adults and Children, Monthly Household Income and Sources

(continued)

| <u>#</u> | <u>Jobs</u> | <u>AFDC</u> | <u>Other Income</u> | <u>Total Income</u> | <u>Adults</u> | <u>Children</u> |
|----------|-------------|-------------|-------------------------|-------------------------|---------------|-----------------|
| 51. | 1,200 | | | 1,200 | 2 | 0 |
| 52. | 1,000 | 532 | | 1,532 | 2 | 2 |
| 53. | | 532 | | 532 | 1 | 2 |
| 54. | | Yes | | ? | 1 | 3 |
| 55. | | | Unem.Comp. | ? | 1 | 0 |
| 56. | | 532 | | 532 | 1 | 2 |
| 57. | Yes | 523 | | 523+Job | 1 | 2 |
| 58. | 945 | | | 945 | 1 | 0 |
| 59. | 3,000 | | | 3,000 | 2 | 2 |
| 60. | 700 | | | 700 | 1 | 0 |
| 61. | | 621 | | 621 | 2 | 3 |
| 62. | | 337 | | 337 | 2 | 1 |
| 63. | 1,000 | | | 1,000 | 1 | 2 |
| 64. | | | | 0 | 1 | 3 |
| 65. | 900 | | | 900 | 3 | 3 |
| 66. | | 437 | | 437 | 1 | 1 |
| 67. | 2,400 | | | 2,400 | 2 | 0 |
| 68. | 1,126 | Yes | | 1,126+AFDC | 2 | 1 |

Adults. Table 7 shows the number of adults and children reported in participant households. Ninety adults reportedly were affected by the sixty-eight unlawful detainer actions filed. This averages to 1.34 adults per household. Over two-thirds of the households had one adult living alone or were single parent households (n=47, 69.12%). Slightly over one quarter of the households contained two adults (n=18, 26.47%). One household had three adults and one had four adults. One case did not report how many were in their household.

Children. One hundred-four children lived in participant households, or an average of 1.53 children per household. Most households had no children (n=20, 29.41%); one quarter had two children (n=17); 20% had only one child (n=14); eleven households had three children (n=11, 16.18%); two had four children (n=2, 2.94%); and three had five children (n=3, 4.41%).

Table 7: Summary of Adults and Children

| <u>Number of Adults</u> | <u>Number of Children</u> | <u>n</u> | <u>Percent</u> |
|--|---------------------------|-----------|----------------|
| 1 | 0 | 13 | 19.12 |
| 2 | 0 | 7 | 10.29 |
| Total Households Without Children | | 20 | 29.41 |
| 1 | 1 | 9 | 13.24 |
| 1 | 2 | 13 | 19.12 |
| 1 | 3 | 8 | 11.76 |
| 1 | 4 | 2 | 2.94 |
| 1 | 5 | 2 | 2.94 |
| Total Single-Parent Households | | 34 | 50.00 |
| 2 | 1 | 4 | 5.88 |
| 2 | 2 | 4 | 5.88 |
| 2 | 3 | 2 | 2.94 |
| 2 | 4 | 0 | 0.00 |
| 2 | 5 | 1 | 1.47 |
| Total Two-Adults With Children Households | | 11 | 16.18 |
| 3 | 3 | 1 | 1.47 |
| 4 | 1 | 1 | 1.47 |

(One household did not report.)

Judgement and Orders and Writs of Restitution

Judgement and Orders. From reviewing the court files on each of the cases, except cases 4-7 and 39, it was determined that sixty judgements were for the Plaintiff or Landlord. Case 39 was verbally reported by the participant as being a judgement for the Plaintiff. Cases 4-7 were continued due to improper service and may have been eventually found for the Plaintiff as well (unfortunately, I was unable to get case numbers for them.) Two cases were stucken and one dismissed. One of the judgements for the Plaintiff included a partial rent payment put in escrow to force repairs of the unit so that the future tenants could have a better place. The current Tenants were asked to leave and pay rent owed to the Landlord.

Writs of Restitution. Table 8 shows what was ordered, stayed, requested and actually issued. After a writ is issued, a Deputy may be called to come to the rental unit and help enforce the moving out of the Tenant and his or her belongings. A Landlord will hire workers to pack up a Tenant's belongings, in the presence of a Deputy, and then put the belongings into storage. If the Deputy successfully executes the move, the writ is signed and returned to the Tenant's file. If, however, 30 days passes without the Deputy's services used for the actual moving process, the writ is returned marked "restitution unsatisfied."

A writ will not be issued, even if the judgement was for the Plaintiff and the Writ of Resitution is "requested" by the Plaintiff if, for example, the Writ service fee or UD filing fee were not paid by the Landlord or evidence was not presented stating that the Tenant had not vacated and had not fulfilled the agreement. If the Tenant moves out after the writ is requested but before it is issued, then the writ may not be issued.

Of the fifty-nine cases in which the Judgment was found for the Plaintiff and for which the Research Assistant could verify the Decision and Order, 36 cases or 52.94% of the total participants did not have a Writ of Restitution issued. Thirteen cases (19.11%) had writs issued and executed or the writs had still not been returned by the Deputy to know whether they were executed. Another 10 cases (14.71%) had the Writs of Restitution requested and issued, but the Writs were returned "unsatisfied" either because the Plaintiff's attorney had cancelled it or because 30 days had passed since the issuance without a Deputy enforcing the move.

Table 8: Writs of Restitution

| <u>Status of Writ</u> | <u>n</u> | <u>Percent</u> |
|--|----------|----------------|
| Writ Stayed, Requested and Issued | 8 | 11.76 |
| Writ Stayed, Requested, Issued, Served and Executed by Deputy | 2 | 2.94 |
| Writ Stayed, Requested, Issued, Restitution Unsatisfied Pursuant to Plaintiff Attorney | 2 | 2.94 |
| Writ Stayed, Requested, Issued, Restitution Unsatisfied because 30 days had passed | 5 | 7.35 |
| Writ Stayed, Requested, and Not Issued | 5 | 7.35 |
| Writ Stayed, Not Requested, Not Issued | 24 | 35.29 |
| Immediate Writ, Requested and Issued | 1 | 1.47 |
| Immediate Writ, Requested, Issued, Served and Executed by Deputy | 2 | 2.94 |
| Immediate Writ, Requested, Issued, Restitution Unsatisfied Pursuant to Plaintiff Attorney | 0 | 0.00 |
| Immediate Writ, Requested, Issued, Unsatisfied because 30 days had passed | 3 | 4.41 |
| Immediate Writ, Requested, Not Issued | 3 | 4.41 |
| Immediate Writ, Not Requested, Not Issued | 4 | 5.88 |

RESULTS

Section 2: Comparison to the Legal Aid Study

Participant understanding of process and impact. Only three participants (4.47%) in the Legal Aid Study responded that they did not understand what had happened in Housing Court compared to almost one quarter of the current participants. Fifty-five Legal Aid participants (82.08%) thought they were being evicted while 44 participants in the current study (64.7%) thought that they were.

Unlike the current study, the Legal Aid Study only asked what reason for eviction was written on the summons and did not probe as to why the participant thought that they were being evicted and if that was consistent with the reason on the summons. The reasons for eviction were very consistent between the two studies with 62 Legal Study participants and 61 current study participants listing "non-payment of rent."

Also consistent were the numbers of participants who said they had received the "Your Rights" pamphlet and those that found it helpful. (Received pamphlet=Legal Aid Study: 60, Current: 59; Found helpful=Legal Aid Study and Current Study both 29 said it was helpful.) However, the current study had a much higher response rate as to the number of participants who did not find the pamphlet very helpful (Legal Aid Study: 11, Current Study: 27). This may be accounted for by the higher number of Legal Aid respondents who had no response.

Condition of premises. The current study showed that almost 14% more participants (10) had repair problems in their apartments compared to Legal Aid Study participants. The Legal Aid Study did not ask what kind of repair problems existed. Approximately 60% of the current study participants who admitted having repair problems had contacted their landlord and/or Housing Inspections compared to 71% of the Legal Aid Study. As to the Landlord's response to the problems, both studies showed that only one landlord had fixed the problem. Many more Landlords in the current study did nothing in response to the problems (62.5% of those claiming problems compared to 44.74% in the Legal Aid Study.)

In both studies, eight Landlords either tried to fix the problem unsuccessfully or only cosmetically treated the problems. Pretty similar numbers of participants called the Housing Inspector in each study. However, the current study showed that the Inspector had not come or did not find violations in six cases. The Legal Aid Study showed that in all 10 cases where Inspections had been contacted, that at least the Inspector had come out to the building. Since the current study shows more repair problems, a smaller percentage of those with problems actually called the Inspector than in the Legal Aid Study. (Legal Aid Study: 26.32%; Current:22.92%).

Illegal lock-outs and personal property damage. None of the participants were totally locked-out in the current study compared to two participants in the Legal Aid Study. Two current study participants had their mailboxes taken down or their name removed by the Landlord, one was robbed by someone with a key, one had water damage to her property, and one had her car towed away by her Landlord. The Legal Aid Study, reported that one Landlord had done something to a VCR and another had torn a door open. Some questions remained on two other cases.

Amount of rent due and why. The average amount of rent due was virtually the same for both studies (\$653 for Legal Aid study, \$652 for the current study.) Based on the Legal Aid

reasons cited, the results show the following comparisons: 1) Lost source of income was shown in 20 cases for Legal Aid Study participants, 19 cases for the current study; 2) 14 participants in each study reported unexpected expenses; 3) Delays in payments from income sources were reported by 8 participants in each study; 4) 8 Legal Aid participants compared to just one current study participant reported money being stolen; 5) Many more participants reported medical problems as a reason in the current study (7 in Legal Aid Study, 12 in current study); 6) Bad conditions was the most reported reason for the current study (n=24) compared to only four participants in the Legal Aid Study. Eleven participants in the current study and 7 participants in the Legal Aid Study cited other miscellaneous reasons (including 1 who did not respond.)

One major difference between the two studies is that the majority of participants in the Legal Aid study claimed that they would be able to pay the amount that the Court said that they owed while the current study shows that over 50% could not afford to pay the amount. In the Legal Aid Study, more than twice as many participants also had offered to pay the rent to the Landlord than in the current study. (Legal Aid study: 51 offered, Current study: 24 offered.) It is unknown how many Landlords had refused to accept the offered rent in the Legal Aid study.

Homelessness. The numbers of participants who wanted to stay in their places or who wanted to move were similar for both studies. Slightly more participants in the current study had another place to live than in the Legal Aid study, however, many had said that they were going to live with relatives. In both studies, 8 participants were being evicted from subsidized housing.

Household income and number of adults and children. The average monthly take-home income was \$70 lower in the current study than in the 1991 Legal Aid study. The average monthly net income was approximately \$864 for the Legal Aid study and \$794 in the current

study. Comparisons between the two participant groups regarding their sources of income revealed that there were eight Legal Aid study participants who received GA as all or part of their income, while there was only one participant in the current study on GA; there were four more participants on AFDC in the current study; there were twice the number of SSI recipients in the current study; the number of participants who derived at least part of their income from employment was similar.

The number of single-parent households increased from 21 in the Legal Aid study to 34 in the current study, or 31.34% of the cases to 50% of the cases. There were a total of 47 households with a single adult with and without children in the current study compared to 31 in the Legal Aid study. Demographically, this would seem to be a reflection of a general increase in divorced families and the increased vulnerability of female-headed households.

POLICY IMPLICATIONS AND RECOMMENDATIONS

Critical Issues

Lack of understanding. With close to one quarter of the current study participants reporting that they did not understand what happened to them in Housing Court and close to one half of the participants stating that they did not understand what impact an Unlawful Detainer Judgement would have on them in the future, there appears to be a strong need for advocacy, legal representation and education about the rights of Tenants.

Of great concern is that most participants did not seem to understand the implications of "admitting to the allegations of owing rent" or did not understand how having their cases heard before a Hearing Officer would differ from going before the Referee. For example, as reported, ten of the fifty-eight (85.29%) participants who admitted the allegations against them disagreed with the amount of rent allegedly owed. They did not understand that they could have disputed the amount owed before the Referee which may have resulted in a lowered judgement. In addition, eighteen of the participants claimed that they were not being evicted when in fact they had admitted the allegations and judgements were found for the Plaintiff in each of their cases and that they were being forced to pay their full amount or vacate.

Process seemed "too fast." The "Housing Calendar Consolidation Project" has eliminated a backlog of cases and appears to be an efficient way of handling nonpayment of rent cases. However, the speed of the process combined with a lack of advocacy seemed to not allow Tenants the time to have their concerns addressed. For example, many Tenants commented that they knew that they were not paid up on their rent, but that they were withholding because of conditions. For the majority of those with repair problems, the condition of their unit was

never brought up in their hearing because the process seemed to be primarily focused on the central issue of whether the rent had been paid and not their reasons why it was not paid or whether it was really owed by the Tenant.

For example, one participant had brought photographs of the serious repair problems in her apartment, a bag of dead cockroaches, and the condemnation notice from her building. She was extremely frustrated during the hearing because she did not feel she had a chance to talk about the problems with the Hearing Officer saying, "He did not ask me about it." Another Tenant had taken photographs to document her conditions but could not afford to get them developed fast enough to use as evidence in her hearing. Many commented that they did not have time to make an appointment soon enough in order to get advice on their situation or to get a Housing Inspector to visit their unit before the Hearing date.

The speed of the process also confused many of the Tenants. One Tenant said that it usually takes four to six months for a case to get to court in Illinois where she was from and that she was very surprised at how fast the process was in Minneapolis. For some, they could be five days late with their rent, have an Unlawful Detainer filed against them, have the hearing ten days later and be forced out of their apartment by the end of the third week-- in time for a new Tenant to be in by the first. For those whose first benefits checks were late, as with some participants who had recently signed up for AFDC or SSI, a few days could make a difference for them.

"Your Rights" brochure. Less than half of the participants thought that the brochure had helped them. The reasons why many they thought the brochure did not help them were that they either did not understand the brochure or that they felt it did not fit their situation. In other words, they felt that they needed personal help in answering their questions. Considering the wide range of situations and individual circumstances among the participants, in order to ensure an adequate understanding of the process, Tenants need to be able to discuss their case with

knowledgeable advocates or attorneys.

In terms of the graphic design, the effectiveness of the brochure might improve if the design were changed to make the information more readable. The brochure was said to be hard to get through for many of the participants--both due to literacy levels and the layout.

Need for legal assistance and advocacy. Seventy percent of the participants had not received any assistance in preparing themselves for Housing Court, except for the "Your Rights" brochure, and over ninety percent did not have a lawyer helping them. The overwhelming opinion regarding legal assistance was one of uncertainty. Many seemed to say, "A lawyer might have helped, but I am not sure how" or "I didn't think you needed one for this." Participants were unsure about what good it would do to receive assistance with their cases because many did not fully comprehend what would have gone differently or what their rights really were. In addition, none of the participants had used mediation.

Only one participant had attended a Legal Advice Clinic. Another mentioned receiving a mailing on the Legal Advice Clinic on a Tuesday. Her hearing was the following day and she was unable to get the clinic in time. Two had received information from the Tenants Union, but not on current cases, only on cases from a few years before. Six received assistance from Minneapolis Housing Services and were able to get their cases dismissed or at least referred in order to contest their cases. Of those who had gotten assistance from the Legal Aid Society, only one had the lawyer at the hearing. Many other participants reported how difficult it was to get through the telephone lines to Legal Aid because they were so busy and some said they had given up trying to reach them.

From the data and direct observation, it is evident that Tenants were generally not aware of how to successfully defend themselves in court. For example, a female participant met two other women who had also been asked to appear on the same morning by the same Landlord. Each

of the women lived in different buildings that the Landlord owned, but did not know one another and had never met before seeing each other in the hearing room. The three women talking excitedly in the back of the room about how all three of them had been approached by their Landlord who asked each of them to perform sexual acts for him instead of paying rent. None of the three would do as he had asked and were subsequently served their summons to appear in Housing Court. One of the women commented that another female Tenant in her building had consented to giving sexual favors to the Landlord but that she was not sure if that woman had an Unlawful Detainer filed against her or if that had been taken care of. All three of the female Tenants appearing at Housing Court that day were concerned about the poor conditions of their units. (Only one of the three was interviewed for the study.)

One could speculate that many of the cases would have had different results if the Tenants had received assistance. For example, a Tenant commented that she was already moved out of her place, but that was not mentioned at the Hearing and she received a judgement against her. Another example is of the number of Tenants who had their electricity turned off illegally by their Landlords. In addition, there was one Defendant who was in default for not appearing at his hearing because he was called away to military out-of-state and there was no Affidavit of Service signed on the complaint.

In general, greater access to advocacy and representation would allow Tenants to feel heard. Most participants seemed relieved and very willing to be interviewed so that they could personally feel that at least "someone could listen to me." One was struck by how hopeless and helpless many of the Tenants felt. Many seemed to not know how or when to discuss their concerns. None of the participants were asked to present any evidence during their hearings, though some had brought in Inspections Department work orders, photographs and receipts and none of the participants asked for a trial or continuance. This is another indication that assistance may have impacted the outcome of their cases.

Reasons for eviction went beyond "nonpayment." As reported, most of the participants thought that they were being evicted for "nonpayment of rent," however nearly one-fifth were withholding because of conditions. In addition, in a number of cases, agreements were made by Caretakers with Tenants which the Landlord would not accept. The Tenants would then be surprised to receive their summons. Some of the cases involved Hennepin County cutting off their housing assistance because of the condition of the apartment. The Landlord refused to fix the problems and the Unlawful Detainer action was be filed. In one case, a mother said that two of her children had been hospitalized because of the high levels of lead in her apartment. The county cut off her housing assistance and she could not afford the market rate for her apartment. She also faced increased expenses from having to care for her children. She did not have a new place to move to which was in good enough condition or that she could now afford.

Time to move. The majority of participants did not ask for additional time to move (51.47%). Many did not know that the Hearing Officer may only give them seven days at most when they had minor children. For example, one participant was devastated to learn she would be getting only seven days to find a new place when she had asked for two months. Realistically, considering the shortage of affordable housing, especially for those with children, the question needs to be raised as to whether seven days is an adequate amount of time to find a new place to live. In other cases, Tenants agreed to only three days when they were eligible for seven days under the law.

Condition of the premises and actions taken. Approximately seventy percent of the participants' rental units were in need of repairs and based upon the reported types of problems, 55.89% of the participants' conditions could be termed "Moderate" to "Severe"

according to HUD criteria. Considering the relatively high number of participants who had repair problems, only one participant had an escrow action for rent abatement. Part of the rationale for establishing the Housing Court was to maintain the condition of the existing housing stock and preserve the quality of local neighborhoods. It is alarming that relatively few Tenants initiate escrow actions in Housing Court.

Table 9 shows the statistics for July, August and September 1992 for Hennepin County Unlawful Detainer Court, Division 1, Minneapolis. An average of six Tenants per month initiate a formal escrow action in Minneapolis. An average of twenty-four cases per month, including Tenant-initiated escrow actions, involve Tenants depositing rent into the court--which may be in response to a Landlord's filing of an Unlawful Detainer.

Usually an escrow action involves the Tenant calling the City Inspector to come out and look at the building. Next, the Inspector must find code violations and write up work orders requiring the Landlord to fix the problem(s). Finally, there must be evidence that the Landlord has not fixed the problem after the date ordered by the Inspector. In addition, the Tenant is requested to provide an estimate of the cost to repair the violation cited. (Hennepin County District Court, 1992b).

It is possible that the process could take as long as one to two months to come to a hearing before the Referee. Meanwhile, the Landlord may initiate an Unlawful Detainer Action against the Tenant at any time in the process and a hearing is then held seven to ten days later. In other words, while a Tenant calls an Inspector, his or her Landlord may file an Unlawful Detainer Action against the Tenant and have the hearing before the Inspector has even looked at the property. If a Tenant does not have adequate legal representation, advocacy, or knowledge about the process, it is very possible for the Tenant to come into Housing Court, admit to the allegations of owing rent, and be forced to pay or move within twenty-four hours.

The results from the current study show that repair problems are fairly common, that Tenants do report these problems to their Landlords, and that the majority of Landlords do nothing to repair the problems. In addition, less than 15% of the participants called the Inspections Department to look at their buildings.

**Table 9: Hennepin County Unlawful Detainer Court Statistics
For Division 1, Minneapolis**

| | <u>July</u> | <u>Aug</u> | <u>Sept</u> | <u>Total</u> | <u>Average</u> |
|----------------------------|-------------|------------|-------------|--------------|----------------|
| Pending Beginning of Month | 349 | 324 | 325 | 998 | 332 |
| Plus Cases Added | 1,000 | 950 | 775 | 2,725 | 908 |
| ● Minus Dispositions: | | | | | |
| Cases Tried | 38 | 30 | 46 | 114 | 38 |
| Plea of Guilty | 290 | 263 | 216 | 769 | 256 |
| Dismissed | 15 | 11 | 10 | 36 | 12 |
| Settled-Stricken | 296 | 330 | 241 | 867 | 289 |
| Default | 366 | 303 | 291 | 960 | 320 |
| Pending End of Month | 344 | 337 | 296 | 977 | 326 |
| Monthly Dispositions | 1,005 | 937 | 804 | 2,746 | 915 |
| Number of Defendants Added | 1,670 | 1,547 | 1,301 | 4,518 | 1,506 |
| Transferred to Jury | 1 | 0 | 0 | 1 | |
| Juries Impaneled | 0 | 0 | 0 | 0 | 0 |
| Judgements Entered | 682 | 595 | 529 | 1,806 | 602 |
| Writs of Resitution Issued | 393 | 404 | 316 | 1,113 | 371 |

**Table 9: Hennepin County Unlawful Detainer Court Statistics
For Division 1, Minneapolis**

| | <u>July</u> | <u>Aug</u> | <u>Sept</u> | <u>Total</u> | <u>Average</u> |
|---|-------------|------------|-------------|--------------|----------------|
| Appeals Entered | 0 | 0 | 0 | 0 | 0 |
| Escrow Actions Filed By Tenant (not in response to Unlawful Detainer Action) | 7 | 2 | 8 | 17 | 6 |
| Number of Cases With Money Deposited into Court (includes Tenant-filed Escrow Actions) | 23 | 28 | 22 | 73 | 24 |

"Inadequate shelter": Child Protection Community Services involvement. In order to determine how Child Protection Community Services might get involved with a family who lives in a unit which has serious repair problems, the research assistant contacted Child Protection. During a telephone interview, Larrie Dee Price, L.I.C.S.W., C.P.S. discussed the criteria with which Hennepin County Child Protection Services determines whether a child is being neglected due to "inadequate shelter." The three major criteria which demonstrate neglect include:

1. Poor sanitation. Dirty house that presents a health hazard to children (insects, vermin, garbage, strong odor of urine, feces, animal feces, lead paint, etc.)
2. Dangerous conditions. Conditions which present risk to child (exposed wiring, broken windows, screens out of windows, dangerous objects/chemicals where a child has access, etc.)
3. Inadequate facilities. (utility shut-offs, inoperable plumbing, etc.)

(L. D. Price, personal communication, December 3, 1992)

Price also stressed that Child Protection Community Services workers take into account the season in which the complaint or investigation is made. For example, if a family is living in a car or their heat is shut off during the summer (until October 15th cut-off), Child Protection will let it go and generally not investigate. In addition, if children are sleeping on mattresses on the floor or directly on the floor, they will not get involved with the case. Families without a permanent address tend not to be investigated (i.e. those residing in overnight shelters.)

When asked how Child Protection hears of cases of "inadequate shelter," Price responded that either they receive complaints from those who are neighbors or relatives, or, in some cases, from the Housing Inspector. When receiving complaints relating to housing quality, Price commented that Child Protection workers do not interact with Landlords responsible for the upkeep of the dwelling. While enforcement of housing codes remain the responsibility of the

Inspections Department, a parent or guardian with minor children may be subject to investigation should the housing conditions become known to Child Protection.

For example, a mother who was interviewed said that Hennepin County, following their standards regarding "inadequate shelter" conditions, cut off her housing assistance. There was also the possibility that her children would be taken from her. Unable to afford her poor quality rental unit without financial assistance and unable to find an affordable new apartment soon enough for her family, the mother was subsequently served a summons for Unlawful Detainer Court and evicted without a place to live. In her case, she was not informed of her rights, had no legal counsel, would have an Unlawful Detainer judgement against her (making it more difficult to find a new place), and her Landlord was able to rent her apartment again right away to another unsuspecting family.

Though not asked of the participants in the study, the possibilities of having one's housing assistance cut off, Child Protection involved and losing one's children due to poor conditions discourages Tenants from reporting their poor conditions.

Low income Tenants need different solutions. "The root cause of most housing problems in this country is the large and growing gap between the cost of decent housing, as provided by the private sector, and the income that is available to pay for it." (Dolbeare, 1992, p.1) The current study illustrates this gap when we examine the average amount of rent due (\$652) plus typical court costs and fees (\$118 + \$25) which gives us a total amount due of \$785. Since the average total household income of the participants was \$794.37, it is understandable that over 50% of the participants responded that they were unable to pay what the court was ordering them to pay. If one considers that half of the participants were on AFDC with an average monthly payment of \$535.83 and the average monthly rent was \$410, rent can represent over 75% of a family's income. Even if one only looks at the average income amount, rent would represent

approximately 52% and does not include utilities except usually heat.

These figures are consistent with those published in a recent report on housing for the poor in the Minneapolis-St. Paul metropolitan area. (Howe, 1992) The report showed that poor families in the Twin Cities face a "severe shortage" of affordable housing and that 60 percent have to spend more than half their incomes on shelter. In addition it was found that 84 percent of Minneapolis-St. Paul poor pay more for housing than is considered affordable under federal guidelines, which defines affordability as housing costs being 30% or less of a household's income. The study found that 75,000 low income families in the Twin Cities compete for 38,600 low-cost rental units.

Because of the financial stresses on the current study's participant households, it is accurate to assume that most must choose between food costs and rent. Compounding their vulnerability are the reasons reported about why the rent was not paid on time seeming to be linked primarily to the poor conditions of the units, medical problems, pregnancy, injuries and delays or cuts in benefits. The present system of requiring rent to be paid into escrow in order for an abatement hearing to go forward seems to be an unrealistic process for the typical Tenant to be able to afford and endure. In reality, financial hardship becomes intensified under substandard conditions. Mice eat available food; children become sick from lead; poor nutrition and lack of food makes the household more susceptible to greater sickness and loss of income; money for escrow actions is better directed towards survival and possibly a deposit for a new place. The result is homelessness and an endless cycle of low income Tenants living in the same substandard conditions.

Homelessness. Most of the participants were in Unlawful Detainer Court for the first time and approximately 62% did not have another place to live; 57% did not have deposit money. Most had lived in their present place for over a year and had only run into difficulties recently

due to some type of crisis in their lives. Many studies are also beginning to recognize families, who are estimated from the literature to constitute approximately 20% of the nation's homeless population (Phillips, DeChillo, Kronenfeld, & Middleton-Jeter, 1988). Some have begun to see homeless families as principal members of what are called the "new homeless." (First, Roth, & Arewa, 1988). Furthermore, "the numbers of new homeless people have grown rapidly, and their demographic characteristics are far different than their homeless counterparts of the past. Recently, community surveys have begun to report large and growing numbers of Black, Hispanic, Native American and other minority group persons as comprising a majority of the homeless population in major urban centers." (Ibid., p.120.)

Over 68% of the participant households included minor children and may indicate that an even larger and growing number of the homeless include families--especially female-headed households (only one of the participant households with children was headed by a single male). In addition, Hagen's research (1987) confirmed that "women had a much greater risk of homelessness due to eviction and domestic violence than men had." (p.456). Clearly, solutions must be devised to adequately address the needs of this growing population of homeless families.

Recommendations

In order to address the numerous issues raised by this study, the following policy recommendations need to be developed and implemented:

Process. Change the questions and language the Hearing Officer uses to make the process more understandable. For example, ask directly if the rent is not being paid because of the condition of the unit. Be clearer about asking if the Tenant agrees or disagrees with the amount of money the Landlord claims he or she owes. Have the Landlord break out all fees clearly on the complaint form. Impose penalties for Landlords who falsify the summons. There is a need to be direct about how an Unlawful Detainer Judgment would affect people in the future. Make

available of written response forms for use by the Tenants in court. Pull file on building before case goes to court regarding inspections, past due utility bills, licenses, etc.

Reduce the amount of money required for escrow actions, continuances. By currently requiring the full amount of rent owed to be paid into court, many low income Tenants, for example, those who receive AFDC or housing assistance or those who have accrued unusual costs due to the poor conditions (i.e., spoiled food due to broken refrigerator) cannot afford to challenge their Landlords to fix their apartments and have their cases heard.

Accessibility. Hold Housing Court in the evening to allow more working low income people to be able to appear without risking losing their jobs. Many are not able to financially take off time from their work during the day.

Advocacy and representation. Low income Tenants need increased access to housing advocates, legal representation and organizations concerned with protecting their rights. The ideal would be to have housing advocates and attorneys available at all Housing Court hearings to assist Tenants.

Education. Increased training is needed on the Unlawful Detainer process for Tenants and those who assist Tenants through community and social service agencies.

"Your Rights" brochure. Rewrite the brochure in a more understandable language and revise the graphic layout to make brochure more readable.

Make assistance coordinated. Emergency Assistance often is needed for damage deposits

more frequently than allowed, often because of the housing conditions. There is a great need for a separate damage deposit program for low income Tenants. In addition, Tenants should not be penalized with an Unlawful Detainer if their assistance is delayed because of change of address, sale of the building, or administrative errors. Victims of domestic violence should not suffer an Unlawful Detainer Judgment because of the actions of the perpetrator. (For example, in one of the cases, the perpetrator violated an Order For Protection by coming to the Participant's apartment and damaged property in addition to severely assaulting the Participant. The Landlord subsequently filed the Unlawful Detainer Action against the victim.)

Inspections. Require proof of license and satisfaction of outstanding work orders before a Landlord can file. Review Inspections Department records on property to ascertain if building is in violation or if there is an intent to condemn or a condemnation. In the case of poor conditions, the Tenant should not be given a record of an Unlawful Detainer Judgment and should be given financial assistance for relocation by the Landlord.

Sale of building. If a building has sold within 60 days of the action, special consideration should be taken to help Tenants threatened with relocation.

Increase the availability of affordable, quality housing. A recent report by the U. S. Conference of Mayors stated that "the high cost of housing in the Twin Cities was cited as the leading cause of hunger and homelessness in the area." (Howe, 1992, December 12)

Increase the opportunities for meaningful employment, higher incomes, child care and medical coverage for low income Tenants.

REFERENCES

- Black, H. C., (1990). Black's Law Dictionary (6th ed.). (p. 1536). St. Paul, MN: West Publishing.
- Dolbeare, C. N., (1992). The widening gap: Housing needs of low income families, findings from the American housing survey 1989. Washington, D.C.: Low Income Housing Information Service.
- First, R. J., Roth, D. & Arewa, B. D. (1988) Homelessness: Understanding the dimensions of the problems for minorities. Social Work. (33) (pp.120-124). Silver Springs, MD: National Association of Social Workers.
- Hagen, J. L. (1987). The heterogeneity of homelessness. Social Casework: The Journal of Contemporary Social Work. (68). (pp.451-457.).
- Hennepin County District Court. (1992). Form HC4400: Eviction summons. Minneapolis, MN: Hennepin County.
- Hennepin County District Court. (1992). Your rights concerning an eviction summons. Minneapolis, MN: Hennepin County.
- Hennepin County District Court. (1989). A guide to filing an unlawful detainer action in Hennepin County. Minneapolis, MN: Hennepin County.
- Hopfensperger, J. (1992, December 25). Landlord fed up with crime evicts all the tenants. StarTribune. pp.1B-2B.
- Howe, P. (1992, November 25). Twin Cities' lack of housing for poor cited. StarTribune. (p. 11A.)
- Howe, P. (1992, December 12). Rising hunger and homelessness: Problems grow in Twin Cities, other urban areas, mayors report. StarTribune. (p.7A.)
- Iijima, W. C. (1992, March-April). Housing court: A four-cornered foundation. The Hennepin Lawyer, pp.16-18.
- Minnesota Attorney General's Office. (1991). Landlords and tenants: Right and responsibilities. St. Paul, MN: Attorney General's Consumer Division.
- Minnesota Attorney General's Office. (1989). Conciliation court. St. Paul, MN: Attorney General's Consumer Division.
- MPIRG, Minnesota Tenants Union, & St. Paul Tenants Union. (1991). Tenants rights handbook: Rights and responsibilities for tenants and landlords in Minnesota. St. Paul, MN: Authors.

REFERENCES

- Phillips, M. H., DeChillo, N., Kronenfeld, D. & Middleton-Jeter, V. (1988). Homeless families: Services make a difference. Social Casework. (69), (pp. 48-53.).
- Research and Planning, State Court Administrator's Office. (1992). Housing calendar consolidation project evaluation executive summary. St. Paul, MN: Author.
- Shapiro, I. & Greenstein, R. (1991). Selective prosperity: Increasing income disparities since 1977. Washington, D. C.: Center on Budget and Policy Priorities.

HRC Interview

Hi, my name is Rachel Lipkin. I am a volunteer with the Housing Resource Center and am conducting a survey to learn how to help tenants in Housing Court. I can't give you any legal advice, but your help with this survey may help other tenants in the future. May I ask you a few questions?

1. Do you understand what happened here today? Yes No

(Do you know what will happen if you don't pay?)

2. Are you being evicted? Yes No

* 3. Why do you think you are being evicted? _____

4. What reason for eviction was written on your summons? _____

5. Did you receive the "Your Rights" pamphlet with your summons? Yes No

Did it help? Yes No Comments _____

* 6. Have you received information about how to deal with your landlord and housing court?

Yes No

Legal Aid Society

Legal Advice Clinic

Mpls Housing Services

Tenants Union

Private Attorney

Friends

Public Assistance Worker

Mediator

Other _____

* 7. Do you have a lawyer helping you? Yes No

If not, would a lawyer have helped you? Yes No

* 8. Did you use a mediator regarding your dispute with your landlord? Yes No

If Yes, who did you use? _____

How did you find out about mediation? _____

Were you satisfied with the results? _____

Was it fair? Why or why not? _____

Did you have an attorney with you? Yes No

If No, do you wish you had? Yes No

Comments _____

* 9. Was there anything the hearing officer asked you to present today which you didn't have with you? Court papers Rent receipts Pictures Witnesses
 Inspections reports Other _____

* 10. Had you previously been asked to bring any of these things with you to court?
 Yes No

* 11. Did you ask for a trial? Yes No If yes, will you get one? Yes No

* 12. Did you know you could request a continuance which would give you more time to get your defense together? Yes No Did you ask for one? Yes No

* 13. Did you ask for additional time to move? Yes No
If yes, will you get more time? Yes No

14. Does your place need repairs? Yes No

* *Legal Aid study did not breakout categories.*
 Bare wired or shorted fixtures Outlets don't work
 Pipes, toilet, faucets leak No heat, furnace not safe
 Toilet, faucets don't work No hot water, heater leaks
 Peeling paint No smoke detector
 No deadbolt lock Bugs, mice or rats
 Missing storms or screens
 Other _____

15. What have you done about it? _____

16. What has the landlord done? _____

* 17. Have you taken pictures of the problem(s)? Yes No

18. Have you called a Housing Inspector? Yes No

If Yes, when? _____

What happened? Inspector hasn't come yet. Inspector didn't find violations.

* ___ Inspector wrote "Work Order " for the following:

* 19. Did you know you could ask for copies of the Work Orders for your place?

___ Yes ___ No

* 20. Have you asked for a copy of the Work Order? ___ Yes ___ No

If Yes, have you received the copy? ___ Yes ___ No

Did you bring it to court today? ___ Yes ___ No

Comments _____

* 21. How do you normally pay your rent? ___ Personal check ___ Money Order ___ Cash

Do you receive receipts from your landlord? ___ Yes ___ No

22. Is your rent paid up? ___ Yes ___ No

How much do you owe? _____ Rent

* Any fees that you know of? _____

* 23. Does the landlord have a damage deposit from you? ___ Yes ___ No

24. If the rent is past due, have you offered to pay the rent to the landlord? ___ Yes ___ No

25. If not paid up, why was your rent not paid on time?

___ Lost job

___ Death in family

___ Delay in getting paycheck

___ Delay in getting benefits check

___ Medical problem ___ Self ___ Other _____

___ GA Benefits cut

___ Unemployment Comp Ended

___ Other Gov't Benefits

___ Other _____

26. Are you able to pay the amount the Court said you have to pay? ___ Yes ___ No

If Yes, When _____ and How _____?

27. Do you want to remain where you are? ___ Yes ___ No

28. Are you living in any subsidized housing? ___ Yes ___ No

If yes, what program? _____?

* 29. Have you heard about Emergency Assistance? ___ Yes ___ No

If Yes, have you applied? ___ Yes ___ No

Have you used Emergency Assistance before? ___ Yes ___ No

* 30. Are you aware of any assistance available in the community? ___ Yes ___ No

* 31. Have you ever been evicted before? ___ Yes ___ No

Comments _____

32. Do you have another place to live? ___ Yes ___ No

* 33. Do you have damage deposit money for your next place? ___ Yes ___ No

Where will that come from? _____

* 34. How many places have you lived in during the past year _____? _____ Places

* 35. Are you on any housing waiting lists? ___ Yes ___ No If yes, what kind? _____

* 36. Do you understand how the Unlawful Detainer may affect you in the future? _____

* 37. Have you been locked out? ___ Yes ___ No If so, by whom _____,
the date _____, and circumstances _____

* 38. Has any of your property been taken, damaged or destroyed by landlord? ___ Yes ___ No
If so, by whom _____, date _____, what property
_____ and circumstances _____

39. What is your monthly take-home household income from all sources? _____

40. What are your sources of income? ___ Job, ___ AFDC, ___ GA, ___ SSI

41. Number of persons living with you: ___ Adults, ___ Children

Date of Interview: _____ 1992

* New questions that were not included in the Legal Aid Study.

HC4400

EXAMPLE

STATE OF MINNESOTA
COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT COURT

SUMMONS

versus

Plaintiff,

CASE NO.
UD

Defendant.

THIS IS AN EVICTION SUMMONS

Plaintiff has filed a complaint in this court to have you evicted. A true and correct copy of the complaint is attached: You, the defendant(s), are hereby summoned to appear before this court at:

At _____ on _____ at which time and place a hearing will be held. If you wish to contest the plaintiff's complaint, you must appear at the time specified above. If you do not appear, judgment may be entered against you ordering that you be evicted from the premises.

IF YOU DON'T COME TO COURT The judge can order you to move immediately; and if you do not move, the sheriff can move you and your family out and can put all your belongings into storage. Then you will have to pay the storage and moving costs before you can get your belongings back.

YOU HAVE THE RIGHT to come to court and tell your side of the case.

1. If you believe that all or some of the things that your landlord says in the attached papers are wrong, you can tell those things to the judge.
2. If you believe that your landlord is trying to evict you because of something you did to protect your rights as a tenant, you can explain that to the judge.
3. If the attached papers say that you have not paid rent, and you believe that your apartment is in bad condition and needs repairs, you can tell that to the judge, but only if you bring with you to court the total rent that the attached paper says you owe.

You may come to court and speak for yourself, or you may have someone come with you and represent you. If you want a lawyer you must get one right away.

Witness the Honorable
Judge of District Court of Hennepin County

Dated:

By _____
Court Deputy

See Attached Brochure

NOTICE

"All summons shall be properly served; and the affidavit of service thereof filed with the court by 3:00 P.M. three days prior to the hearing or the matter will be stricken." (Provided in Rule #10.05 Hennepin County Court Special Rules of Procedure.)

**STATE OF MINNESOTA
COUNTY OF HENNEPIN**

FOR PERSONAL SERVICE

_____, being sworn on oath says that in the City of _____, the County of _____ in said State on the _____ day of _____, 19 ____, he/she served the attached Summons and Complaint in Unlawful Detainer upon the named defendant(s) _____ personally by then and there handing to and leaving with the above named defendant(s) a true and correct copy(ies) thereof.

X _____
Signature of person who served papers

Subscribed and sworn to before me this _____ day of _____, 19 ____.

Notary Public, _____ County, Minn.
My commission expires _____

**STATE OF MINNESOTA
COUNTY OF HENNEPIN**

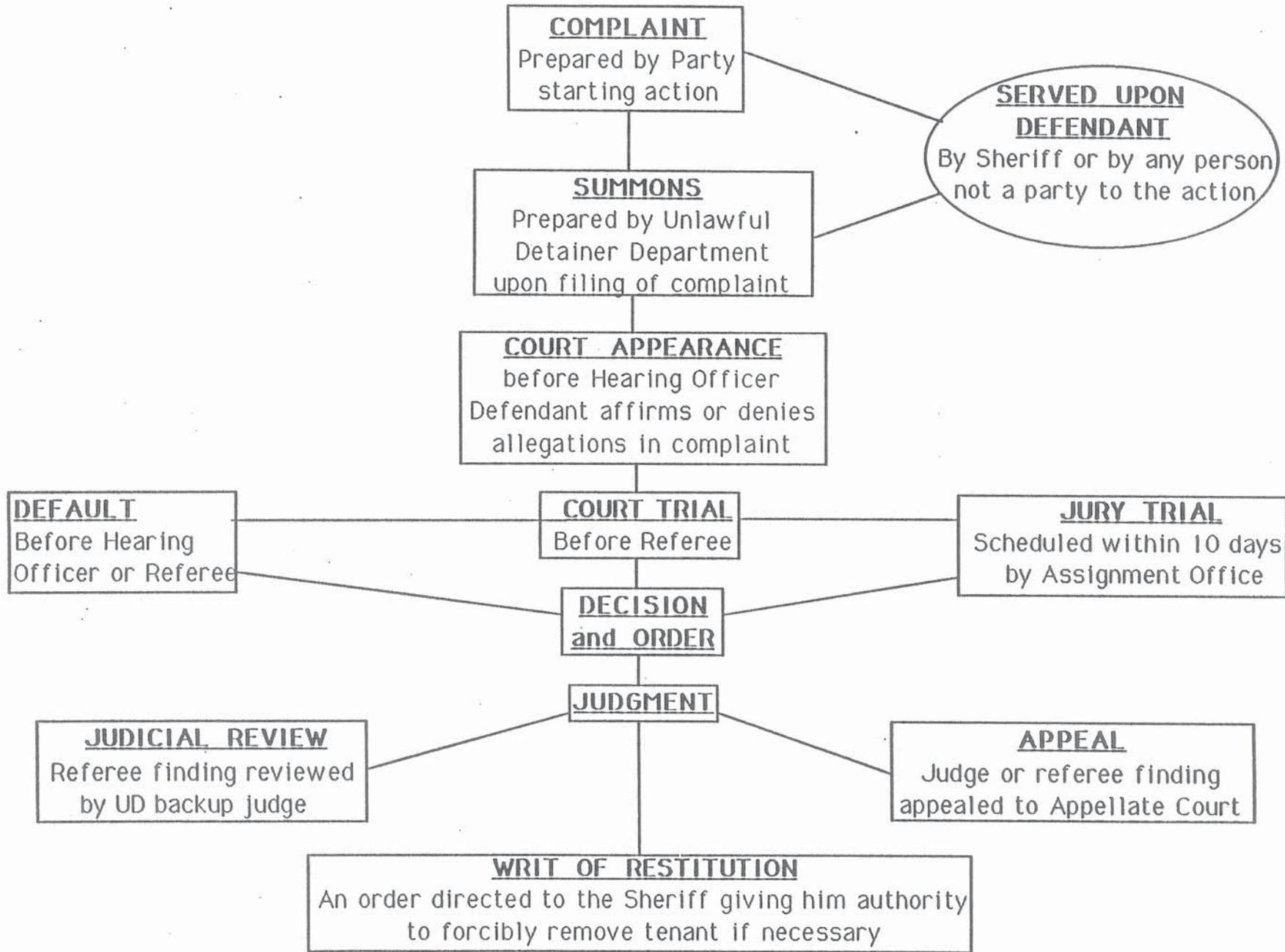
FOR SUBSTITUTE SERVICE

_____, being sworn on oath says that in the City of _____, the County of _____ in said State on the _____ day of _____, 19 ____, he/she served the attached Summons and Complaint in Unlawful Detainer upon the named defendant(s) _____. The named defendant(s) not being found within Hennepin County, a true and correct copy(ies) was handed to and left with _____ a person of suitable age and discretion residing at the house of the defendant(s) usual abode.

X _____
Signature of person who served papers

Subscribed and sworn to before me this _____ day of _____, 19 ____.

Notary Public, _____ County, Minn.
My commission expires _____



STATE OF MINNESOTA
COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT COURT
DIVISION, _____

Plaintiff(s)/Owner

UNLAWFUL DETAINER COMPLAINT

(street address)

-vs-

CASE NO. _____

Defendant(s) /Tenant

_____ (name of person signing complaint) states upon oath:

1. Landlord leased or rented to tenant(s) on _____ 19__ by an oral/written agreement the premises at: _____ Apartment # ____, and garage ____, in the city of _____, County of Hennepin, Minnesota _____. The agreement was from _____ to _____. The current rent due and payable under this agreement each month is \$_____ due on the ____ day of each month.
2. The owner of the premises described above is _____.
3. Owner having present right of possession of said property, has complied with M.S.504.22 by:
 - ___a. disclosing to tenant either in the rental agreement or otherwise in writing prior to commencement of tenancy the name and address of:
 1. the person authorized to manage premises **and**
 2. an owner or agent authorized by owner to accept service of process and receive and give receipts for notice and demands **AND**
 - ___b. posting in a conspicuous place on the premises a printed or typewritten notice containing the above information: _____ (where posted) **OR**
 - ___c. the above information was known by tenant(s) not less than 30 days before the filing of this action because _____.
4. Owner seeks to have the tenant evicted for the following reasons:
 - ___a. The tenant is still in possession of above premises and has failed to pay rent due for the month(s) of _____ in the amount of \$_____, plus _____ in the amount of \$_____ for a total due of \$_____.
 - ___b. The tenant has failed to vacate property after tenant was given written notice to do so. This notice was served on tenant on _____ and tenant was told to vacate the property by _____.
 - ___c. The tenant has broken the terms of the rental agreement with property owner by: (be specific) _____

5. The property owner seeks judgment against the above tenant(s) for restitution of said premises plus costs and disbursements herein.

Verification and Affidavit of Non Military Status

_____, being duly sworn, says that he is _____ plaintiff in this action, that he has read the complaint and that it is true of his own knowledge; that defendant(s) is/are not now in the military or naval service of the United States, to the best of his information and belief.

Subscribed and (sworn to)(affirmed under penalties of perjury) before me on _____, 19_____.

Signed _____

Phone _____

Court Deputy or Notary

REMARKS BY CLERK PRIOR TO CONVENING HOUSING COURT

Before the Court session begins the Clerk may make the following announcement:

Would any attorneys who are appearing today on behalf of either the plaintiff or the defendant in an action, please step forward at this time, locate your case on the calendar and identify yourself and your case (by line number) to me.

Ladies and Gentlemen:

This is the Housing or Unlawful Detainer Court. Most of the cases involve the right of possession of certain property. Many of the cases are for unpaid rent. All matters on this calendar will be heard by a Hearing Officer or a Referee unless a written request to have the matter scheduled before a Judge has been filed in the court office at least 24 hours before the scheduled hearing.

This court will be presided over by the Hearing Officer. ^{She} ~~He~~ is not a Judge or a Referee. ^{She} ~~He~~ has been appointed by the judges of the District Court because of ^{her} ~~his~~ court experience and ^{her} ~~his~~ knowledge of the laws and rules governing Unlawful Detainers or Evictions. ^{She} ~~He~~ will hear cases where the tenant admits owing rent or where only one party to the action appears.

All other cases will be referred to the Housing Referee who is in another courtroom. These cases include:

1. Contested matters where the defendant denies the claims in the complaint.
2. Cases involving contract for deed, notice to leave or vacate the premises, holding the premises after the lease has expired or violations of the lease agreement. This last category may involve subletting the premises, having unauthorized residents or keeping pets. Cases involving disturbing the peace, damage to property or drug allegations, will also be transferred to the referee.

If the Hearing Officer determines that your case should not be heard by ^{her} ~~him~~, ^{she} ~~he~~ will refer the matter to the Referee.

If you prefer, your case can be heard by the Referee rather than a Hearing Officer. This is your right.

If you are the plaintiff (the owner of the property or his agent or attorney) you must fill out a Decision and Order form. There is a supply of them on the table along with some pens. The title of the case must be the same as it is on your complaint. If you don't know the case number, we'll fill it out for you. In the place where you are to indicate the person who is appearing with you as counsel, if you do not have an attorney you may enter Pro Se or appearing for self.

If you are the defendant (the tenant) you should have received a pamphlet entitled Your Rights Concerning an Eviction Summons when you were served the summons. If you did not receive one or if you would like another, the pamphlets are on the table.

If you are contesting the complaint against you, please state that when your case is called.

When your case is called, please come forward. If you have witnesses, have them come too. Please do not leave the courtroom until after your case has been heard. If you are out of the courtroom the case could be dismissed or a default judgment entered against you.

After your case has been heard, please return the files to the Unlawful Detainer (Housing Court) office - 855C.

Are there any attorneys appearing on behalf of either the plaintiff or the defendant in the courtroom? If so, please identify yourselves and your case to the clerk.

If there is anyone here who has an appointment in another court this morning, or who has a medical appointment, please identify yourself to the clerk.

Please remain seated. I will now call the Hearing Officer to come in.

STATE OF MINNESOTA
COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT COURT
FIRST DIVISION, MINNEAPOLIS

_____, Plaintiff (Landlord),

DECISION & ORDER

-vs-

Case No. UD _____

_____, Defendant (Tenant)

This case was heard by the undersigned on _____, 19_____.

PLAINTIFF:

___ appeared in person _____ appeared through agent _____

___ represented by counsel _____

DEFENDANT:

___ did not appear and is in default.

___ appeared (without/with) _____ as counsel.

___ (admitted)(denied) the allegations of the complaint.

THE COURT FINDS THAT:

___ the allegations of the complaint are (true)(untrue).

___ the allegations of non-payment of rent are true.

___ this action shall be scheduled for trial by (court)(jury). It is ordered that the defendant shall pay into court the rent of \$_____ in cash or certified check payable to the Court Administrator, on or before _____ 19____. All rent shall be paid into the court as it becomes due until further order of the court. Monthly rental is \$_____ due on the ____ day of each month. If not paid, defendant shall be in default and a writ of restitution may issue.

___ this action is continued to _____, 19___ 9:00 AM (parties to appear at 855C Government Center) for the purpose of: _____

___ the parties have reached a settlement as follows OR the statutory covenants of habitability have been breached as follows: _____

___ judgment shall be entered for the Plaintiff for restitution of the premises together with costs and disbursements incurred in this proceeding.

___ the rent in the amount of \$_____ per month has been abated by \$_____ per month.

The amount due to plaintiff for months of _____ is \$_____.

If not paid on or before _____, a writ of restitution shall issue.

___ it is ordered that the rent now on deposit shall be released as follows:

\$_____ to Plaintiff \$_____ to Defendant.

___ other: _____

THE WRIT OF RESTITUTION:

RECOMMENDED BY:

___ may be issued immediately.

___ is stayed until _____ 19___

Referee/Hearing Officer

Date

FOR OFFICE USE ONLY

Writ of Restitution is requested

by _____

DATED: _____, 19___

BY THE COURT:

Judge

NON-MILITARY AFFIDAVIT

_____, being duly sworn on oath, deposes and says that he/she is the _____ plaintiff(s) in the above entitled action; that the defendant(s) named above is not now in the military or naval service of the United States; and that this affidavit is made in compliance with Soldiers' and Sailors' Civil Relief Act of 1940. (54 Stat. 1178)

Subscribed and sworn to before me on this

_____ day of _____, 19___

PLAINTIFF

COURT DEPUTY OR NOTARY

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
DIVISION: _____
CASE TYPE: UNLAWFUL DETAINER

Plaintiff (Landlord),

vs.

Defendant (Tenant).

ANSWER AND MOTION FOR
DISMISSAL OR SUMMARY
JUDGMENT

Case No. UD-_____

For my answer to Plaintiff's complaint, I state the following defenses and the reasons why I should not be evicted, and ask that the case be dismissed.

A. GENERAL ANSWER

- 1. _____ I admit the facts in these paragraphs of the complaint: _____
- 2. _____ I deny the facts in these paragraphs of the complaint: _____
- 3. _____ I cannot admit or deny these paragraphs of the complaint: _____

B. TYPE OF TENANCY OR OCCUPANCY

- 1. _____ Private term lease.
- 2. _____ Private month-to-month or periodic tenancy.
- 3. _____ Mobile home park lot rental.
- 4. _____ Foreclosed mortgage or canceled contract for deed.
- 5. _____ Other: _____

C. SERVICE

- 1. _____ I did not receive the summons and complaint (court papers) at least seven days before the court hearing. MINN. STAT. § 566.06.
- 2. _____ The court papers were delivered on a Sunday or legal holiday. MINN. STAT. §§ 624.04, 645.44.
- 3. _____ The named-Plaintiff delivered the court papers. MINN. R. CIV. P. 4.02.
- 4. _____ Plaintiff improperly used substituted service to give the court papers to another person and not me:
 - a. _____ Plaintiff could have found me in the county.
 - b. _____ The person does not reside with me.
 - c. _____ The person is not of suitable age and discretion.

- d. _____ The person was not at my residence when the court papers were delivered.
5. _____ Plaintiff improperly used service by mail and posting.
- a. _____ Plaintiff could have found me in the county.
- b. _____ Plaintiff did not try personal service twice on different days, once between 6:00 p.m. and 10:00 p.m..
- c. _____ The court papers were mailed but not posted, or posted but not mailed.
6. _____ I am/was confined to a state institution, and Plaintiff failed to serve the institution's executive officer. MINN. R. CIV. P. 4.03(a).

D. PRECONDITIONS FOR RECOVERY OF THE PREMISES

1. _____ Plaintiff is not the person entitled to possession of the building or an authorized management agent. MINN. STAT. § 481.02, subd. 3(13); MINN. GEN. R. PRAC. 603.
2. _____ I did not know the names of the owner and manager of the building and addresses at which they could be served at least 30 days before filing. MINN. STAT. § 504.22.
3. _____ Plaintiff is a business which did not register its trade name with the Secretary of State, entitling me to \$250.00 in costs or by set off. MINN. STAT. §§ 333.01-333.06.
4. _____ Plaintiff failed to state the facts which authorize recovery of the premises, by failing to state: _____

 MINN. STAT. § 566.05; MINN. GEN. R. PRAC. 603.

E. NONPAYMENT OF RENT CASES

1. _____ I paid all of the rent.
2. _____ I paid my rent into court in a rent escrow or tenants' remedies action.
3. _____ I withheld my rent because Plaintiff has violated the covenants of habitability by not making the following repairs: _____
 _____ I request that the court reduce my past rent, beginning in _____, 19____, and reduce future rent until repairs are completed, by \$ _____ per month. MINN. STAT. § 504.18; Fritz v. Warthen, 298 Minn. 54, 58-59, 213 N.W.2d 339, 341-42 (1973).
4. _____ I notified Plaintiff and paid \$ _____ for utility or essential services after the utility company terminated the service or threatened to terminate the service, due to Plaintiff's failure to pay. MINN. STAT. § 504.185; MPLS. CODE OF ORD. 244.590.
5. _____ Plaintiff wrongfully locked me out of or excluded me from the premises for _____ days, entitling me to an abatement of \$ _____. See Chapman v. Fabian, 104 Minn. 176, 177, 116 N.W. 207, ____ (1908).
6. _____ Plaintiff did not give proper notice to increase my rent. I can pay into court \$ _____, the amount of rent before the increase.
7. _____ Plaintiff raised the rent on _____, 19 ____ to retaliate against me for complaints I made about _____ to _____ on _____, 19 ____.
 I can pay into court \$ _____, the amount of rent before the increase. MINN. STAT. §§ 566.03, subd. 3, 566.28, 327C.12.
8. _____ Plaintiff is charging improper late fees or other fees.
- a. _____ The lease does not provide for the fees. Cook v. Finch, 19 Minn. 407, _____, 19 Minn. (Gil.) 350, 358 (1873).
- b. _____ The fees are penalties which bear no relationship to Plaintiff's expenses. See Gorco Const. Co. v. Stein, 256 Minn. 476, 481-82, 99 N.W.2d 69, 74 (1959).
- c. _____ The fees are usurious. MINN. STAT. §§ 334.01-334.03.

- d. _____ The premises are a mobile home park lot. The fees are improper. MINN. STAT. §§ 327C.03, 327.10, subd. 7.
- e. _____ Plaintiff waived the requirement of prompt rent payment by accepting late payments without objection. See Cobb v. Midwest Recovery Bureau Co., 295 N.W. 2d 232, 237 (Minn 1980) (repossession).
- 9. _____ The premises is a mobile home park lot.
 - a. _____ Plaintiff did not give me ten days notice before filing this case. MINN. STAT. § 327C.090, subd. 2.
 - b. _____ Plaintiff improperly raised my rent. MINN. STAT. §§ 327C.02, subd. 2, 327C.06, 327C.11.
- 10. _____ Plaintiff is discriminating against me as a member of a protected class. 42 U.S.C. § 3604; MINN. STAT. § 363.03; MPLS. CODE OF ORD. § 139.40.
- 11. _____ I have a disability. Plaintiff did not reasonably accommodate my disability. 42 U.S.C. § 3604(f)(3); 24 C.F.R. Part 100.

F. HOLDING OVER CASES

- 1. _____ Plaintiff did not give me proper notice to end my lease.
 - a. _____ I am a month-to-month tenant. MINN. STAT. § 504.06.
 - b. _____ The lease requires _____ days notice.
 - c. _____ I am a tenant of the person whose mortgage was foreclosed or contract for deed was canceled. MINN. STAT. § 566.03, subd. 1.
- 2. _____ Plaintiff did not attach a copy of the termination notice to the complaint. MINN. GEN. R. PRAC. 604(c).
- 3. _____ Plaintiff asked me to move to retaliate against me for complaints I made about _____ to _____ on _____, 19 _____.
MINN. STAT. §§ 566.03, 566.28, subd. 2, 327C.12.
- 4. _____ Plaintiff waived the notice to end my lease by:
 - a. _____ Accepting rent after the move out date.
 - b. _____ Issuing a later notice or signing a new lease.
 - c. _____ Demanding rent in this case.
- 5. _____ The premises is a mobile home park lot. The notice did not state the reason for terminating the lease. MINN. STAT. § 327C.09.
- 6. _____ Plaintiff is discriminating against me as a member of a protected class. Barnes v. Weis Management Co., 347 N.W.2d 519, 522 (Minn. Ct. App. 1984); 42 U.S.C. § 3604; MINN. STAT. § 363.03; MPLS. CODE OF ORD. § 139.40.
- 7. _____ I have a disability. Plaintiff did not reasonably accommodate my disability. 42 U.S.C. § 3604(f)(3); 24 C.F.R. Part 100.
- 8. _____ Plaintiff improperly terminated the contract for deed. Enga v. Felland, 264 Minn. 67, 70-71, 117 N.W.2d 787, 789-90 (1962).

G. BREACH OF LEASE CASES

- 1. _____ I did not violate the lease.
- 2. _____ Plaintiff did not attach a copy of the lease to the complaint. MINN. GEN. R. PRAC. 604(d).
- 3. _____ The lease does not contain a "right of reentry" clause. Bauer v. Knoble, 51 Minn. 358, 359, 53 N.W. 805, 805 (1892).
- 4. _____ The lease is oral and only provides for payment of rent.
- 5. _____ Plaintiff waived lease provisions by failing to enforce them.

- 6. _____ Plaintiff waived the alleged breaches by:
 - a. _____ Accepting rent with knowledge of the breach.
 - b. _____ Signing a new lease with knowledge of the breach.
 - c. _____ Demanding rent in this case.
- 7. _____ Plaintiff is discriminating against me as a member of a protected class. 42 U.S.C. § 3605; MINN. STAT. § 363.03; MPLS. CODE OF ORD. § 139.40.
- 8. _____ I have a disability. Plaintiff did not reasonably accommodate my disability. 42 U.S.C. § 3604(f)(3); 24 C.F.R. Part 100.
- 9. _____ The premises is a mobile home park lot.
 - a. _____ Plaintiff did not give proper notice to terminate the lease. MINN. STAT. § 327C.09.
 - b. _____ The lease provision is unreasonable. MINN. STAT. § 327C.10.
 - c. _____ The lease provision is a substantial modification of the lease in effect when I moved in. MINN. STAT. § 327C.02, subd. 2.
- 10. _____ The lease term is illegal, unconscionable, an adhesion contract, or discriminatory.
- 11. _____ Plaintiff filed this case to retaliate against me for complaints I made about _____ to _____ on _____, MINN. STAT. § 566.28.
- 12. _____ Plaintiff allowed me to take the following action to cure the breach: _____

H. OTHER

I. REQUEST FOR RELIEF

- 1. _____ Deny Plaintiff's request to evict me.
- 2. _____ Abate (reduce) the rent claimed by Plaintiff by \$ _____ to \$ _____.
- 3. _____ Abate (reduce) the future rent by \$ _____ to \$ _____ until Plaintiff completes repairs.
- 4. _____ Order Plaintiff to provide for discovery of Plaintiff's file on me, list of witness and the subject of their testimony, and evidence. MINN. GEN. R. PRAC. 612.
- 5. _____ Continue the hearing for the following reasons: _____
- 6. _____ If I owe rent, give me _____ days to pay it. 614 Co. v. D.H. Overmayer, 297 Minn. 395, 398, 211 N.W.2d 891, 893 (1973).
- 7. _____ If I lose, give me seven days to move. MINN. STAT. § 566.09.
- 8. _____ If I lose, give me 60 days to try to sell my mobile home. MINN. STAT. § 327C.11, subd. 4.
- 9. _____ Do not award costs to Plaintiff.
- 10. _____ Other: _____

Defendant(s) **acknowledges** that the court may award costs, disbursements, and reasonable attorney and witness fees to Plaintiff, if Defendant acts in bad faith, asserts a defense that is frivolous and costly to Plaintiff, **asserts** an unfounded position solely to delay the ordinary course of the proceedings or to harass Plaintiff, or **commits** a fraud upon the court.

_____ Date

_____ Defendant (Tenant)

Acknowledgements

The author would like to thank the following people for their invaluable contributions to both the existence and the quality of this study:

First and foremost, the **Tenants** who agreed to participate, in the hopes of making a difference for future tenants in the same situations.

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Fred Smith, Director of the Center for Urban and Regional Affairs, University of Minnesota.

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