

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF MEEKER

EIGHTH JUDICIAL DISTRICT

Case Type: Civil
(Consumer Protection)State of Minnesota, by its Attorney General,
Keith Ellison,

Court File No. _____

Plaintiff,

vs.

COMPLAINTIkechukwu Michael Nwachukwu, d/b/a Divine
Estates,

Defendant.

The State of Minnesota, by its Attorney General, Keith Ellison, for its Complaint against Defendant Ikechukwu Michael Nwachukwu, d/b/a Divine Estates (hereinafter, "Nwachukwu") alleges as follows:

INTRODUCTION

1. In response to the ongoing COVID-19 pandemic, on March 23, 2020, Governor Tim Walz issue Emergency Executive Order 20-14, which prohibits landlords and property owners from filing eviction actions or terminating residential leases during the pendency of the Order, with only narrow exceptions for when a tenant seriously endangers the safety of other residents or is engaged in criminal activity in violation of 504B.171. The purpose of Executive Order 20-14 is to allow Minnesota tenants to remain sheltered for the duration of the peacetime emergency in furtherance of public health and safety.

2. In direct violation of Executive Order 20-14, Nwachukwu has continued to attempt to terminate the lease of and/or evict a tenant who currently resides at his property 280 S.

Comet St., Lot 115, in Cosmos, Minnesota. When his tenant told him he could not afford to pay the water bill due to the COVID 19 pandemic, Nwachukwu physically terminated water service to the property in violation of Minnesota law. The tenant is currently without water service. Attorney General Keith Ellison has authority to enforce Executive Order 20-14 as well as Minnesota's consumer protection laws, including laws protecting consumers in the residential rental market, and brings this action to enjoin and remediate Nwachukwu's violations described herein.

PARTIES

3. Keith Ellison, the Attorney General of the State of Minnesota, is authorized under Minnesota Statutes chapter 8 and has common law authority, including *parens patriae* authority, to bring this action to enforce Minnesota's laws, including but not limited to Executive Order 20-14 and Minnesota Statutes Chapter 504B, to vindicate the State's sovereign and quasi-sovereign interests, and to remediate all harm arising out of—and provide full relief for—violations of Minnesota's laws.

4. Defendant Nwachukwu resides at 3333 W Division St, PO Box 5162, St Cloud, MN 56302. Nwachukwu engages in the business of managing and renting residential property in Cosmos, Minnesota, including the manufactured home located at 280 South Comet St., Lot 15, Cosmos, Minnesota 56228. Nwachukwu does business under the assumed name "Divine Estates."

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to Minnesota Statutes sections 8.01, 8.31, Executive Order 20-14, 504B.221, and under common law.

6. This Court has personal jurisdiction over Nwachukwu because he rents to, and has committed acts causing injury to, Minnesota residents.

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

FACTUAL BACKGROUND

8. On March 13, 2020, Governor Tim Walz declared a peacetime emergency as a result of the COVID-19 pandemic. Subsequently, on March 23, 2020, Governor Walz issued Executive Order 20-14, which prohibits landlords and property owners from filing eviction actions or terminating residential leases during the pendency of the Order, with only narrow exceptions for when a tenant seriously endangers the safety of other residents or is engaged in criminal activity in violation of 504B.171.

9. Executive Order 20-14 was promulgated by the Governor under the authority of Minnesota Statutes section 12.21, subdivision 3, clause (1), was approved by the Executive Council, and filed in the Office of the Secretary of State. Thus, pursuant to Minnesota Statutes section 12.32 during the peacetime emergency, Executive Order 20-14 has “the full force and effect of law.” Executive Order 20-14 took effect on March 24, 2020 at 5:00 p.m., and authorized the Attorney General to enforce its provisions and seek any relief available pursuant to Minnesota Statutes section 8.31. Moreover, willful violations are subject to criminal penalties of a misdemeanor conviction and up to a \$1,000 fine.

10. Nwachukwu owns a manufactured home park located at 280 South Comet Street, Cosmos, Minnesota. Jacob Skorpak (“Skorpak”) signed a contract for deed agreement in November 2019 in which he agreed to purchase the manufactured home and rent the lot. Skorpak occupies the residence under the contract and is a resident of the manufactured home park.

11. On March 26, Skorpak looked out of his window and saw Nwachukwu near his home with a large tool. Skorstad went outside to see what he was doing, and Nwachukwu stated

that he was going to shut off Skorstad's water if Skorstad did not give him \$200. Skorstad gave him \$200 in cash.

12. On March 28, Skorpak tried to flush his toilet, but it did not work. Skorstad went outside and found Nwachukwu outside his property. Nwachukwu stated that he was shutting the water off because Skorstad had not paid the water bill. Nwachukwu stated that Skorstad needed to give him an additional \$200 if he wanted him to turn the water back on. Skorstad did not have the money right away, so Nwachukwu refused to turn the water back on. Skorstad later obtained the money, and a neighbor who works for Nwachukwu turned the water back on.

13. Skorstad's water remained on for a few days, until Nwachukwu returned on April 2, 2020 to shut Skorstad's water off yet again. Skorstad heard Nwachukwu tell a neighbor that he was sick and tired of Skorstad living in Nwachukwu's house comfortably and then stated: "let's see how comfortable he is when he spends a few days without water."

14. As a result of Nwachukwu's actions, Skorpak is without water in his home. Skorpak left the home and is currently staying with a friend in Litchfield, Minnesota.

15. Skorpak reported this matter to the Attorney General's Office on April 8, 2020. Subsequently, Assistant Attorney General Michael Goodwin called Nwachukwu on April 9, 2020, shortly after 11 a.m. During this phone call, Nwachukwu confirmed that he went by "Mike" but refused to provide his last name, despite repeated requests. He admitted he rents the Comet Avenue property to Jacob Skorpak and admitted that he had physically turned the water off at the property. During this telephone call, Nwachukwu stated he did not believe he was required to restore water to the property, and demanded to see legal authority requiring him to restore the water.

16. After Assistant Attorney General Goodwin sent Nwachukwu an e-mail with the requested legal authority, Nwachukwu restored water to the property, but demanded that no unpaid fees be assessed against the real property. Nwachukwu stated that he would turn the water off by 9 a.m. on April 10 if his demands were not addressed.

COUNT I
VIOLATION OF EXECUTIVE ORDER 20-14

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

18. Paragraph 1 of Executive Order 20-14 provides in relevant part:

Beginning no later than March 24, 2020 at 5:00 pm, and continuing for the duration of the peacetime emergency declared in Executive Order 20-01 or until this Executive Order is rescinded, for property owners . . . or other persons entitled to recover residential premises after March 1, 2020 because a household remains in the property after a notice of termination of lease . . . after a residential lease has been breached, or after nonpayment of rent, the ability to file an eviction action under Minnesota Statutes 2019, section 504B.285 or 504B.291 is suspended. This suspension will allow households to remain sheltered during the peacetime emergency.

19. Disconnecting utilities such as water amounts to an eviction under Minnesota law.

20. Executive Order 20-14 further requires all residential landlords to “cease terminating residential leases during the pendency of the emergency, except where the termination is due to the tenant serious endangering the safety of other residents or for violations of Minnesota Statutes 2019, section 504B.171, subdivision 1.” Executive Order 20-14 ¶ 2.

21. Nwachukwu’s conduct, practices, and actions described in this Complaint constitute violations of Executive Order 20-14.

COUNT II
UNLAWFUL TERMINATION OF UTILITIES (Minn. Stat. § 504B.221)

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

23. Minn. Stat. § 504B.221 prohibits landlords from interrupting or causing the interruption of electricity, heat, gas, or water services to a residential tenant.

24. The term “residential tenant” includes “a person who is occupying a dwelling in a residential building under a lease or contract, whether oral or written, that requires the payment of money or exchange of services, all other regular occupants of that dwelling unit, or a resident of a manufactured home park.” Minn. Stat. § 504B.001, subd. 12. Jacob Skorpak is a “residential tenant” within the meaning of the statute.

25. Nwachukwu’s conduct, practices, and actions described in this Complaint constitute violations of Minn. Stat. § 504B.221.

26. This Complaint serves as a petition for emergency relief from the Court, pursuant to Minn. Stat. § 504B.381 involving the loss of running water, hot water, heat, electricity, and other essential services or facilities Nwachukwu, as a landlord, is responsible for providing.

PRAYER FOR RELIEF

WHEREFORE, the State of Minnesota, by its Attorney General, Keith Ellison, respectfully asks this Court to award judgment against Defendants as follows:

1. Declaring that Defendant’s actions, as set forth above, constitute violations of Executive Order 20-14 and Minnesota Statutes sections 504B.221, 504B.381, and that the current tenant Jacob Skorpak may continue to reside at the 280 South Comet Street, Lot 15 property for the duration of the peacetime emergency pursuant to Executive Order 20-14;

2. Enjoining Defendant and his employees, officers, directors, agents, successors, assignees, affiliates, merged or acquired predecessors, parents or controlling entities, subsidiaries, and all other persons acting in concert or participation with them, from engaging in

any conduct in violation of Executive Order 20-14, Minnesota Statutes sections 504B.221, and 504B.381;

3. Enjoining Defendants and their employees, officers, directors, agents, successors, assignees, affiliates, merged or acquired predecessors, parents or controlling entities, subsidiaries, and all other persons acting in concert or participation with them, from withholding essential services or facilities (including but not limited to running water, hot water, heat, electricity, or sanitary facilities) from Jacob Skorpak while he continues to reside at the 280 South Comet Street, lot 15 property for the duration of the peacetime emergency pursuant to Executive Order 20-14;

4. Awarding judgment against Defendant for restitution under the *parens patriae* doctrine, the general equitable powers of this Court, Minnesota Statutes section 8.31, and any other authority, for all persons injured by Defendants' acts as described in this Complaint;

5. Awarding judgment against Defendant for treble damages pursuant to Minn. Stat. § 504B.221;

6. Awarding judgment against Defendants for civil penalties of up to \$25,000 pursuant to Minnesota Statutes section 8.31, subdivision 3, for each separate violation of Executive Order 20-14 and Minnesota Statutes sections 504B.221, 504B.381;

7. Awarding the State of Minnesota its costs, including litigation costs, costs of investigation, and attorneys' fees, as authorized by Minnesota Statutes section 8.31, subdivision 3(a); and

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

Dated: April 9, 2020

KEITH ELLISON
Attorney General

State of Minnesota

/s/ Michael Goodwin

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MINN. STAT. § 549.211 ACKNOWLEDGMENT

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211.

/s/ Michael Goodwin

MICHAEL GOODWIN