

Eviction in Olmsted County One Agency's Observations



United Way of Olmsted County
903 W. Center Street, Suite 100
Rochester, MN 55902
507-287-2000

Preface

A household is considered cost-burdened if more than 30% of household income is spent on housing. In Olmsted county, 21% of homeowners and 46% of renters report a housing burden (Olmsted County Public Health Services, Olmsted Medical Center, Mayo Clinic Rochester, 2016), including 59% of all senior renters (Minnesota Housing Partnership, 2017). More than half of Minnesota’s renters of color are cost-burdened by housing, and nearly a quarter face extreme housing cost-burden – meaning they pay more than 50% of their income on rent (Norton & Jaramillo, 2017).

Families and individuals facing a cost burden may find it difficult to pay their rent in the face of income shocks such as unemployment, medical emergency, or motor accident. In Olmsted County in 2015, approximately 30% of eviction cases were filed due to the tenant not paying rent. Once an individual has an eviction case on record, they may find it difficult to rent again in the future. Understanding evictions is therefore important in understanding homelessness.

The following write-up was provided by staff at Southern Minnesota Regional Legal Services upon request by United Way. It is a reflection of the agency’s experience in the field and is intended to serve as a beginner’s guide to understanding eviction in Olmsted County.

Prevalence

In 2015 (the most recent year we have data), there were 314 evictions filed in Olmsted County District Court. In 2013 and 2014, there were 364 and 327 evictions filed, respectively. So it is reasonable to assume that there were at least 300 to 350 evictions filed in 2016 and 2017 each year. Keep in mind that these are only the evictions that are filed in court – this does not include when a landlord “informally” evicts a tenant by giving a notice terminating the lease and the tenant moves out on their own.

Reasons for Eviction

It is difficult to say the most common reason without reviewing each case, but a review of the evictions filed in 2015 reflects that approximately 100 cases were filed due to the tenant not paying rent. In our experience, a non-payment of rent often occurs because the tenant does not have sufficient income to cover all of their expenses and an emergency (medical or otherwise) has used up their money for the month. Another common reason for eviction to be filed is where a landlord gives the tenant a notice terminating the lease (or the tenant signs an agreement to move out), but the tenant is unable to find a new apartment or cannot afford to move out by the deadline.

Who is Most Affected

We have noticed that larger families have a more difficult time finding housing that meets their needs (i.e. sufficient number of bedrooms). In Rochester, we see a lot of immigrant Somali families with several children who need an affordable unit with three (or more) bedrooms that are difficult to come by. Even if they have a Section 8 Housing Choice Voucher (to assist with the rent payment) there are no available rentals to use the voucher at so the voucher ends up expiring and the family loses the benefit. Due to the lack of available units that meet their needs, large families are often required to split up into two units (i.e., two two-bedroom apartments).

We also see that people with disabilities have a harder time finding an affordable unit that meets their needs. Often people with disabilities have adapted to be able to utilize the unit that they have but when they are displaced (due to eviction or increase in rent) they have a difficult time relocating. Sometimes we are able to work with their landlord to give them more time to move or to otherwise accommodate their disability but it is a difficult situation for everyone because there are generally very few available options for the displaced tenant.

Service Providers

Legal Assistance of Olmsted County (LAOC) provides legal advice and representation to tenants facing eviction in Olmsted County. Southern Minnesota Regional Legal Services (SMRLS) also provides legal advice and representation in Olmsted County in cases involving subsidized housing or discrimination (or when a case is referred by LAOC). Private attorneys ordinarily do not represent tenants in an eviction because the tenant cannot afford to hire a private attorney.

Olmsted County and Three Rivers Community Action will sometimes provide emergency financial assistance to tenants in order to prevent eviction. However, emergency assistance runs out fast and is difficult to qualify for. St. Vincent De Paul also sometimes provides emergency financial assistance if there is a one-time emergency that resulted in the tenant not being able to afford the rent.

Gaps in Eviction Prevention

The biggest gap is lack of affordable housing options in Rochester for people to go to when they are evicted from their current apartment. People often end up doubling up with other households or end up homeless because they are unable to find a new apartment. Also, when emergency assistance funds run dry, there is no place for tenants to turn if they are behind on their rent.

Also, there is a lack of attorneys available to represent tenants in eviction proceedings. Due to limited resources, LAOC and SMRLS are only able to represent a small fraction of the tenants being evicted in Olmsted County.

Another issue that makes things more difficult for tenants facing eviction is that, when an eviction action is filed for non-payment of rent, the landlord will sometimes overstate the amount of rent that is owed. Generally, the court will require the amount that is claimed owed by the landlord to be paid by the tenant into the court before the tenant is allowed to have their day in court (even if the tenant has a good argument for why the rent isn't owed). This means that tenants without the resources to post the rent will be evicted without having an opportunity to raise any legal defenses to the eviction. SMRLS has created a Rent Escrow Eviction Defense fund through a grant from the Rochester Area Foundation in an effort to assist tenants in this situation.

Consequences of Eviction

Currently, an eviction stays on the Court's record forever (unless it is expunged). It is very difficult to find stable, quality housing with an eviction on your record. Most landlords will refuse to rent to someone with a single eviction, no matter how old it is. The landlords who do rent to people with an eviction on their record can take advantage of this by mistreating the tenant and allowing rental units to fall into disrepair because they know the tenant is not able to move out if they don't like the conditions.

Another issue is that an eviction will show up on a tenant's record even if the tenant wins their case in court. Notably, the eviction shows up on the record as soon as it is filed (before a decision is reached). This allows landlords to use the threat of an eviction filing as a way to persuade a tenant to move out of the unit even when the landlord would be unable to succeed in court if an eviction was filed. Some landlords charge people with an eviction on their record double deposit or first and last months' rent, claiming that they are "higher risk" making it even harder for someone with an eviction on their record to afford housing.

Eviction Expungement

Evictions are expungable at the time of the eviction hearing in front of the judge (if the tenant wins the case and requests expungement). When the tenant has legal representation, evictions are also commonly expunged after a settlement is reached (i.e., the tenant agrees to move out by a certain date) and the tenant complies with the settlement. However, this often means that the eviction stays on the tenant's record until they move out of the unit (making it difficult for them to find stable alternative housing in the meantime).

Evictions can also be expunged by making a written request (motion) to the court at any time after the eviction case is closed. It is the former tenant's burden to show why an expungement is warranted and the landlord can appear and object to expungement. If the tenant lost their case and was evicted, it is generally less likely that the court will grant the expungement. It is possible for someone to request expungement without legal representation, but it is uncommon due to the complexities of the court system and they may not know that the option is available. It is difficult to know how many cases are expunged because, once they are expunged, there is no public record of them in the court system.

Sources:

- Minnesota Housing Partnership. (2017). *2017 County Housing Profile: Olmsted County*. Retrieved from <https://www.mhponline.org/images/stories/images/research/coprofs/2016/Olmsted.pdf>
- Norton, G., & Jaramillo, A. (2017). *State of the State's Housing 2017*. Minnesota Housing Partnership. Retrieved from <https://drive.google.com/file/d/0B6RPwPgu6BjTT2VEVDk5TjIzWTQ/view>
- Olmsted County Public Health Services, Olmsted Medical Center, Mayo Clinic Rochester. (2016). *Community Health Needs Assessment*. Retrieved from <https://www.co.olmsted.mn.us/OCPHS/reports/Needs%20Assessment/Documents/2016FullCHNA.pdf>