

MINNESOTA BOARD ON JUDICIAL STANDARDS

In the Matter of the Hon. _____,
_____ Judicial District Judge.

PRIVATE ADMONITION

BJS File No. __-11

To: Judge _____

Pursuant to Rule 6(f), Rules of the Board on Judicial Standards (Board Rules), the Board on Judicial Standards (Board) considered the results of an investigation in the above matter and determined that there was reasonable cause to believe that you committed misconduct. The Board found that the misconduct in this matter appears to be of an isolated and non-serious nature and that, in lieu of public discipline under Board Rule 6(f)(5)(iii) (public reprimand) or Board Rule 8 (formal complaint), a private admonition with conditions should be issued pursuant to Board Rule 6(f)(5)(ii).

The Board served a proposed private admonition on you and notified you that you had the right within 20 days to serve the Board with either a written demand for a private hearing before the Board or your written comments and criticisms regarding the proposed private admonition. You did not demand a hearing or submit comments and criticisms within this time period. Consequently, the contents of the proposed private admonition are now conclusively established, and the Board now makes the following:

Findings

1. Judge _____ has been a judge of the Minnesota _____ Judicial District since _____.
2. Complainant _____ and his wife were public housing tenants. Their rent was set at 30% of their income. The housing authority believed that the [tenants] had additional income which required a corresponding rent increase. The [tenants] disputed that they had additional income and did not pay the additional rent. The housing authority gave the [tenants] a notice to vacate. Although the [tenants] vacated the unit, the housing authority proceeded with an eviction action.
3. The [tenants] appeared at the eviction hearing pro se and denied they owed the rent increase. Judge _____ was the presiding judge. Judge _____, without taking any testimony or receiving any other evidence, issued an order finding that the [tenants] admitted the allegations in the eviction action and had failed to pay rent.

4. Contrary to Judge _____'s order, the hearing transcript shows that the [tenants] clearly disputed the housing authority's complaint:

THE COURT: You agree that you were behind in rent?

MR. [TENANT]: No.

MS. [TENANT]: No, absolutely not.

* * * *

THE COURT: When did they raise your rent?

MR. [TENANT]: About a month ago.

THE COURT: Did you pay the increase?

MR. [TENANT]: No.

THE COURT: Why didn't you pay the increase if they raised it?

MR. [TENANT]: I didn't owe it.

* * * *

THE COURT: They can raise your rent. You understand that?

T. 4-5.

Conclusion

1. The conduct set forth above violated Minnesota Code of Judicial Conduct, Rule 1.2 (requiring a judge to act in a manner that promotes public confidence in the impartiality of the judiciary), Rule 2.5(A) (requiring a judge to perform judicial duties competently), and Rule 2.6(A) (requiring a judge to accord a party the right to be heard according to law).

Based upon the foregoing Findings and Conclusion, the Board now issues the following:

Private Admonition

1. Judge _____ is hereby admonished for the foregoing misconduct.

The attached Memorandum is made a part hereof.

MINNESOTA BOARD ON
JUDICIAL STANDARDS

Date: _____

By: _____
Thomas C. Vasaly
Executive Secretary

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MEMORANDUM

A landlord does not have an unqualified right to raise a tenant's rent. The housing authority had the burden of proving that it had the right to increase the rent, that it had calculated the rent increase correctly, and that it had given the [tenants] proper notice of the rent increase. Since the [tenants] had vacated prior to the hearing, the housing authority had the option of dismissing the case. However, having chosen to proceed, the housing authority was required to prove its case.

The unsworn assertion of the housing authority's attorney that the housing authority "went through the process, Your Honor, of doing what they needed to do," T. 5-6, was insufficient to entitle the housing authority to a judgment. Since the [tenants] disputed the rent increase, they were entitled to their day in court. While a judge has the discretion to find in favor of or against a party after a trial, a judge does not have the discretion to deny a party a trial.

In his response to the complaint, Judge _____ acknowledged that "Mr. [tenant] did dispute the rent owed." Nevertheless, Judge _____ states that he concluded that the [tenants] "admitted the allegations of the petition" because they indicated that they did not pay the increased rent and vacated the property. In his response, Judge _____ did not explain how an admission that a rent increase was not paid is tantamount to an admission that the rent increase was proper, nor did he explain how vacating the property constitutes an admission that the rent increase was proper. Thus, Judge _____ has not provided a meritorious legal basis for his actions.

A private admonition may be issued if a judge's "misconduct appears to be of an isolated and nonserious nature." Board Rule 6(f)(5)(ii). It is questionable whether Judge _____'s conduct can be characterized as nonserious. Although the [tenants] had vacated prior to the hearing, an eviction judgment against them could affect their credit and could affect their ability to find landlords willing to rent to them in the future.

"The right to be heard is an essential component of a fair and impartial system of justice." Rule 2.6, cmt.1. The law is clear that the [tenants] were entitled to a trial, and Judge _____ offers no meritorious reason for depriving the [tenants] of their fundamental right to be heard. Nevertheless, the Board has decided that this matter may be resolved with a private reprimand rather than more serious discipline.