

## When Is “Wrongful” Eviction Intentional And Therefore Not Covered?

June 2, 2016 | [Insurance, Policyholder Protection](#)

On May 23, the Minnesota Court of Appeals issued an unpublished decision addressing what actions by a rental home owner would be considered an “occurrence” triggering coverage and whether the actions would constitute an intentional act to exclude coverage. In *State Farm Fire & Cas. Co. v. Otten*, No. A15-1574, 2016 WL 2946110 (Minn. Ct. App. May 23, 2016), the court focused on whether an insurance policy covered or excluded the personal injury resulting from the rental home owners’ wrongful eviction of their tenant. The rental home was insured by State Farm’s Rental Dwelling Policy. This policy allowed coverage for personal injury resulting from an “occurrence,” which specifically included wrongful evictions, but excluded coverage for personal injury resulting from intentional acts. The Minnesota Supreme Court has interpreted the word “occurrence” as “an unexpected, unforeseen or undersigned happening or consequence.” *Am. Family Ins. Co. v. Walser*, 628 N.W.2d 605, 608 (Minn. 2001). Similarly, the policy’s intentional-acts provision excluded coverage when the insured expected or intended the injury. The evicted tenant, seeking to collect judgment from the insurer pursuant to an agreement with the lessor/homeowner, argued that the relevant insurance policy was ambiguous in explicitly providing coverage for the insured’s wrongful eviction while simultaneously purporting to exclude coverage for the insured’s intentional acts. Although this language seemed contradictory, the court held the two provisions could be reconciled. The court concluded that the act of wrongful eviction does not require intent; there is the possibility of mistaken wrongful eviction that would square the two phrases. However, this interpretation likely works an unexpected reduction in coverage for most lessors who thought they were obtaining coverage for wrongful eviction, but in fact are only obtaining coverage where those evictions were unintentional. This ruling may make it more difficult for lessors to settle claims with renters by assigning their insurance coverage rights. This case demonstrates that for an insured with a rental policy to overcome summary judgment based upon the intentional acts exclusion, the insured needs to offer evidence that the conduct of evicting a tenant was accidental rather than intentional, and that the harm resulting from the conduct was neither intended nor expected.

*Thanks to our law clerk, Molly Sigler, a student at the University of St. Thomas School of Law for her help in researching and preparing an initial draft of this blog post.*

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