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STATE OF MINNESOTA | SEVENTH JUDICIAL DISTRICT

COUNTY OF OTTER TAIL | CIVIL DIVISION

Stephen Roy Svendsen

Plaintiff,
v.

Pamela Joy Minten,
Ken Laney,
Mikel Bruce Olson,
Fergus Falls HRA,
Christopher Harold Harig,
Ryan Muchow,
City of Fergus Falls,

Defendants.

Case Type: Civil (Tort)
Civil No.: 56-CV-24-1426
Judge: Kevin M. Miller

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON BREACH OF CONTRACT; LIABILITY

I. INTRODUCTION

Plaintiff Stephen Svendsen moves for partial summary judgment on liability for breach of contract — Count I, the sole surviving claim against the Fergus Falls Housing and Redevelopment Authority (the "HRA"). The narrow question is whether the HRA non-renewed Plaintiff's Lease in compliance with the federal public-housing regulations the Lease incorporates and that the HRA's own Executive Director identified, in writing, as the governing authority.

The undisputed record shows the HRA failed to comply on multiple independent grounds, each fatal standing alone. The HRA's own paper makes this case exceptional. On September 19, 2022, Executive Director Mikel Olson emailed Housing Manager Pamela Minten under the subject line "24 CFR 966.4" — identifying the controlling regulation

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in writing. Two days later, the HRA's September 21, 2022 board minutes recited that "[t]he Fergus Falls HRA received correspondence from Housing and Urban Development that non-renewals need to include good cause for it to be an approved action." The HRA's own contemporaneous documents establish, by party admission, that (i) 24 C.F.R. § 966.4 governs, and (ii) the HRA knew "good cause" was required.

Yet the HRA's notices stated no good cause: the September 15, 2022 initial notice stated no reasons at all; the September 27, 2022 amended notice cited only undefined "harassment." By the HRA's own verified discovery responses, the only Lease provision it invokes is Clause 16(12), and "harassment" carries only its plain dictionary meaning. Neither Clause 16(12) nor the House Rules (Lease Attachment B) defines "harassment" or reaches Plaintiff's conduct — good-faith complaints to management and an inquiry to the Fergus Falls Fire Department about fire-safety records.

The HRA's procedural breaches are equally fatal: no specific notice content under § 966.4(l)(3); no document-examination opportunity under § 966.4(m); no grievance hearing under § 966.4(n) and Subpart B — despite four written requests. And on its own paper, the HRA decided to non-renew before it had any documented basis; the supporting materials were assembled beginning September 20, 2022, for the September 21 board meeting, five days after the non-renewal notice issued.

The Court should grant partial summary judgment on liability and reserve damages for trial or for stipulation between the parties.

II. Procedural Posture

The Court's March 6, 2025 Order on Motions to Dismiss narrowed Count I to non-renewal claims against the HRA only, capped damages at the $3,500 figure pleaded, and

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dismissed all tort claims. (SJ 01, (Order on Motions to Dismiss, Index 96 (Mar. 6, 2025)).) The Order is interlocutory. This motion seeks summary judgment on liability only; damages are reserved for trial or for stipulation between the parties. [1]

III. Statement Of Undisputed Facts

A. The Lease and the regulatory framework it incorporates.

1. Plaintiff signed the Riverview Heights Lease with the HRA on December 3, 2021. (SJ 02 (Lease (Riverview Heights, commenced Dec. 5, 2021); Index 02 pp. 4–21).) The Lease identifies the HRA as the "Authority," identifies Riverview Heights as public housing, and incorporates federal public-housing regulations as binding on the Landlord. (SJ 02, (§§ 12, 16, 18, 23, 25).)

2. The Lease attaches nine lettered documents (Attachments A through I). Attachment B is the House Rules. (SJ 02 (Lease p. 17).) The House Rules contain twenty numbered provisions. (SJ 03 (House Rules — Lease Attachment B; Index 02, attached to Lease).) None of the twenty rules contains the word "harassment." (SJ 03) None defines "harassment." (SJ 03) None protects "employees" or "contractors" as a category. (SJ 03) Only Rule 4 (loud parties and noisy disturbances to "other tenants or to the community") and Rule 6 (criminal activity threatening "the health, safety or right to peaceful enjoyment of the neighbors") touch on conduct toward others. (SJ 03)

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1. Plaintiff's Summary Judgment Exhibits are filed concurrently herewith in two PDF binders. Binder I contains Exhibits SJ 01–16 (factual proof documents, including court orders, leases, HRA internal records, notices, emails, board minutes, and discovery responses). Binder II contains Exhibits SJ 17–25 (applicable federal regulations, statutes, and legal authorities). All exhibits are fully bookmarked for the Court's convenience. Prior court filings are referenced by their Index number (e.g., Index 96).

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3. The HRA is a Public Housing Authority and Riverview Heights is public housing within the meaning of 24 C.F.R. Part 966. The applicable federal regulation governing termination of tenancy is 24 C.F.R. § 966.4, including (l)(2) (grounds), (l)(3) (notice content and procedure), (m) (right to examine documents), and (n) (grievance procedure); and 24 C.F.R. Part 966, Subpart B, §§ 966.50–966.57. (SJ 17 (24 C.F.R. § 966.4 (full text, eCFR)); SJ 18 (24 C.F.R. Part 966, Subpart B (§§ 966.50–966.57, eCFR)).) The Lease incorporates HUD regulations governing termination of tenancy (SJ 02 (§§ 12, 18, 23, 25)), including the parallel notice-and-grounds provisions of 24 C.F.R. Part 247 (24 C.F.R. §§ 247.3 and 247.4), which the Court analyzed at the motion-to-dismiss stage. (SJ 19 (24 C.F.R. §§ 247.3, 247.4 (full text, eCFR)); SJ 01, (Index 96 at pp. 20–28).)

4. The HRA's Executive Director, Mikel B. Olson, identified 24 C.F.R. § 966.4 as the controlling regulation in a contemporaneous internal email to Housing Manager Pamela J. Minten dated September 19, 2022, at 2:30 p.m. The email is subject-lined "24 CFR 966.4" and contains a hyperlink to Part 966 on the eCFR. The same exhibit also contains Plaintiff's 7:46 a.m. September 19, 2022 email to Olson, addressed to the HRA Board, with the attached Request for Information seeking the reasons and supporting documents for the non-renewal. (SJ 04, (Sept. 19, 2022 7:46 a.m. Svendsen-to-Olson email and attached Request for Information; Sept. 19, 2022 2:30 p.m. Olson-to-Minten email, HRA 000985).) The Olson-to-Minten email was sent four days after the HRA's initial no-reasons notice and during the period when the HRA was assembling non-renewal materials for the September 21, 2022 board meeting. (See ¶¶ 11–14 below.)

5. Plaintiff pleaded § 966.4 in the operative Amended Complaint at paragraph 16 (Index 36) and briefed its application in opposition to the Motion to Dismiss (Index 60). Both Part 247 and Part 966 were before the Court at the MTD stage. (SJ 01)

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B. The September 11–15, 2022 renewal reversal.

6. By letter dated August 31, 2022, the HRA invited Plaintiff to renew his Lease in the ordinary course. A renewal appointment was scheduled for September 15, 2022. (SJ 05, (Sept. 11–15, 2022 Renewal-Reversal Timeline; compiled from Index 02 Exs. 1–4 and Compl. Am. Exs.).)

7. On September 13, 2022, Plaintiff contacted the Fergus Falls Fire Department about fire-safety records concerning the building. (SJ 05; Compl. ¶¶ 38–44.)

8. On September 14, 2022, at approximately 1:19 p.m., Plaintiff's renewal appointment was rescheduled earlier — to September 15. (SJ 05)

9. On September 15, 2022, with Executive Director Olson present, the HRA converted the appointment from a renewal to a non-renewal and delivered an initial written notice. (SJ 06 (Sept. 15, 2022 Initial Notice of Non-Renewal; Compl. Ex. 05; Index 02); SJ 05)

C. The September 15, 2022 no-reasons initial notice.

10. The HRA's September 15, 2022 written notice stated that the Lease would not be renewed but stated no factual or contractual basis. (SJ 06) The notice did not identify any Lease section, any House Rule, any federal regulation, or any conduct. (SJ 06)

D. Post-decision reason assembly, September 20 onward; September 21 board meeting; HUD-correspondence admission.

11. Beginning September 20, 2022 — five days after the non-renewal decision was made and notice was delivered — HRA staff began assembling internal memoranda, notes-to-file, and supporting documents purporting to identify reasons for the non-renewal. At 9:56 p.m. on September 20, 2022, Housing Manager Pamela Minten emailed Executive Director Mikel Olson under the subject line "time line," stating: "Mikel – I have enclosed

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a copy of what I have so far – I will continue with it in the morning and then bring it over to you – I have about had it for the day…Sorry its not done yet." (SJ 07, (Minten-to-Olson email, Sept. 20, 2022, 9:56 p.m., with attached "Time line from tenant in apartment #401 (Stephen Svendsen)"; HRA 000370–000376).) The attached timeline (HRA 000372–000376) was the work product Minten was assembling that evening and continuing the next morning. These materials, including a handwritten memorandum from a New Dimensions employee dated September 20, 2022, were placed in Plaintiff's tenant file and later produced through the HRA's outside law firm on October 11, 2022, as Compl. Am. Ex. 47. (SJ 08, (Compl. Am. Ex. 47 (tenant-file production from CJB Law Office, Oct. 11, 2022); Index 39 p. 152 ff.); SJ 09, (Post-Decision Reason-Assembly Timeline); SJ 01, (Index 96 (Court noting reason-assembly materials in tenant file)).)

12. The reason-assembly materials were prepared for, and presented to, the HRA Board of Commissioners meeting held on September 21, 2022. (SJ 10, (Sept. 21, 2022 HRA Board Meeting Minutes; Compl. Am. Ex. 69; Index 104 at p. 15); SJ 08; SJ 09)

13. The September 21, 2022 board minutes (SJ 10) contain multiple separate, independent admissions material to liability:

a. The non-renewal of Plaintiff's Lease was not on the original agenda for the September 21, 2022 meeting. (SJ 10, (Sept. 14, 2022 Olson memo to Board with agenda enclosure; agenda omits non-renewal).) It was added to new business by motion at the start of the meeting. (SJ 10, ("A motion was made and seconded with ayes [to] make two additions to the agenda under new business: 1) application for Stability Housing vouchers 2) non-renewal of lease at Riverview Heights").)

b. The HRA's board record affirmatively states that HUD told the HRA non-renewals require good cause:

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"The Fergus Falls HRA received correspondence from Housing and Urban Development that non-renewals need to include good cause for it to be an approved action."

(SJ 10) In subsequent discovery, the HRA characterized that language as a "typographical error" and, through the affidavit of Executive Director Mikel B. Olson, identified the September 19, 2022 Olson-to-Minten email (SJ 04) as the underlying "correspondence." (Olson Aff. ¶ 3, Index 157.) Whether the minutes are read at face value or as the affidavit reframes them, the HRA's contemporaneous record establishes that the HRA knew on September 21, 2022, that non-renewals require good cause under the controlling federal regulation.

c. The Board was informed that no other tenants had filed harassment complaints against Plaintiff and that none were willing to participate as complaining witnesses: "The Board asked if the neighboring residents have filed harassment complaints against the tenant given the non-renewal of lease. Fellow residents do not want to participate." (SJ 10)

d. The Board acknowledged that Plaintiff had retained legal representation and was contesting the non-renewal: "The Tenant has begun working with legal representation; disagreeing with the legality of the Fergus Falls HRA not renewing the lease." (SJ 10)

e. The Board issued a four-point direction documenting, in its own minutes, that as of September 21, 2022 the harassment characterization was unconfirmed, that information requests would not be answered, and that a replacement notice would be drafted by outside counsel after "reviewing the CFR":

"The Board's direction today was to: 1) Receive confirmation from J.J. Cline on whether the actions, prior to this Recertification Appointment, conducted by this tenant of non-renewal could be classified as harassment. 2) Not respond to any of the requests for

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information. 3) Send a letter, approved by J.J. Cline, withdrawing the non-renewal, stating that after reviewing the CFR the Fergus Falls HRA will provide a termination of lease upon harassment to other tenants and staff. 4) Send letter certified mail." (SJ 10)

14. The chronology — September 13 fire-records inquiry; September 14 appointment moved earlier; September 15 no-reasons non-renewal notice; September 19 Olson-to-Minten "24 CFR 966.4" email; September 20–21 reason-assembly for the board; September 21 board minutes admission of "good cause" requirement; September 27 amended notice — is established by the HRA's own paper and is undisputed. (SJ 04; SJ 06; SJ 11; SJ 10; SJ 08; SJ 05; SJ 09)

E. The September 27, 2022 Amended Notice — undefined "harassment" only.

15. On September 27, 2022, the HRA issued an Amended Notice of Non-Renewal citing "repeated harassment" of residents, HRA employees, authority contractors, and service providers. (SJ 11, (Sept. 27, 2022 Amended Notice of Non-Renewal; Compl. Ex. 06; Index 02).) The Amended Notice does not define "harassment," identifies no specific conduct, identifies no Lease provision on its face (Clause 16(12) was named only later, in verified discovery, see ¶ 17 below), identifies no House Rule, and identifies no federal regulation. (SJ 11) The categories of complainants the Amended Notice cites expanded between September 21 and September 27, 2022: the September 21 board directive said "harassment to other tenants and staff" (SJ 10), and the September 27 Amended Notice as issued added "authority contractors" and "service providers." (SJ 11)

F. Four written requests for reasons, documents, and grievance hearing — and HRA non-response.

16. (SJ 12, (Plaintiff's Four Requests for Reasons/Hearing & HRA Non-Response; compiled from Compl. Am. Exs. 23, 32, 34, 35, 36, 37, 42, 43, 44, 50, 51).) On September

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21, 2022, the HRA Board directed staff to "[n]ot respond to any of the requests for information" (SJ 10) — and the HRA did not respond. No grievance hearing was scheduled. No documents were made available for Plaintiff's examination at HRA offices, as § 966.4(m) requires. The documents the HRA eventually produced on October 11, 2022 were sent through its outside law firm as a paper production (SJ 08), not made available for examination at the HRA's offices before any hearing or trial. (SJ 12; SJ 13 (Compl. Am. Ex. 46 — Oct. 11, 2022 list of HRA documents; Index 39 p. 148).) The Minten-to-Olson September 20, 2022 9:56 p.m. email and the timeline attached to it (SJ 07) — produced separately from the October 11, 2022 production — do not appear on the October 11, 2022 list of HRA documents in SJ 13.

G. The HRA's verified discovery position.

17. On April 30, 2026, the HRA served its verified answers to Plaintiff's Interrogatories, Set I. (SJ 14, (HRA's Verified Answers to Interrogatories, Set I, served Apr. 30, 2026; Index 204, Def. Ex. 1).) The HRA confirmed under oath that:

a. Clause 16(12) is the only Lease provision the HRA invokes as the contractual basis for the non-renewal. (SJ 14, (Ans. 4).)

b. "Harassment," as used in the September 27, 2022 Amended Notice, is given no specialized or defined meaning; the HRA relies on the plain dictionary meaning of the term. (SJ 14, (Ans. 5).)

18. The HRA has not identified — in either the Amended Notice (SJ 11), its post-hoc supporting materials (SJ 08), or its verified discovery responses (SJ 14) — any House Rule, written policy, or prior written notice that defined "harassment" or warned Plaintiff that any specific conduct would be grounds for termination of his Lease.

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19. Neither the September 15, 2022 Initial Notice (SJ 06) nor the September 27, 2022 Amended Notice (SJ 11) alleges that Plaintiff engaged in criminal activity. Neither notice identifies a criminal harassment statute, including Minn. Stat. § 609.749 (SJ 20). The HRA did not refer the matter to law enforcement, did not seek a no-trespass order, and did not invoke the criminal-activity carve-out at 24 C.F.R. § 966.51(a)(2)(i)(A). In its 2026 verified Interrogatory Answer 5, the HRA confirmed under oath that "harassment" as used in the September 27 Amended Notice carries only the plain dictionary meaning, not a criminal predicate. (SJ 14 Ans. 5.)

H. The HRA's progressive-discipline policy — applied to others, not to Plaintiff.

20. The HRA maintains and posts on the doors of its 60 units a three-step progressive-discipline policy for tenant lease violations (drug use, smoking, pets in hallways). (SJ 15, (Compl. Ex. 08 — HRA door-posted three-step warning notices; Index 02); SJ 16 (Plaintiff's Declaration in Support of SJ).) Plaintiff personally observed those posted notices during his tenancy and personally observed a Step 1 letter signed by Pamela Minten issued to a comparator tenant for a small dog in the community room. (SJ 16 ¶¶ 7–9; Compl. ¶ 86.)

21. he HRA afforded Plaintiff no step, no warning, and no progressive-discipline process before non-renewing the Lease. (SJ 16 ¶ 10; Compl. ¶ 17.)

IV. Legal Standard

Summary judgment is appropriate where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Minn. R. Civ. P. 56.01; *DLH, Inc. v. Russ,* 566 N.W.2d 60, 69 (Minn. 1997). The non-movant must come forward with specific facts showing a genuine issue for trial; bare allegations and conclusory denials are

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insufficient. Id. at 71. To defend the non-renewal here, the HRA must come forward with specific evidence on every regulatory element it must satisfy under 24 C.F.R. § 966.4.

V. Argument

A. 24 C.F.R. Part 966 governs this non-renewal — as the HRA's own Executive Director admitted in writing, and as the HRA's own board minutes admit by reference to a "good cause" requirement.

The threshold legal question — which regulation governs — is established as undisputed fact by the HRA's own contemporaneous admissions.

First, on September 19, 2022, at 2:30 p.m., Director Olson sent an internal email to Housing Manager Minten subject-lined "24 CFR 966.4," containing a hyperlink to Part 966 on the eCFR. (SJ 04) That email is a statement of a party-opponent under Minn. R. Evid. 801(d)(2). It establishes, as a matter of undisputed fact, that the HRA's top decision-maker identified Part 966 as the governing federal regulation while the non-renewal materials were being assembled for the September 21 board meeting. The HRA cannot now disclaim Part 966.

Second, the HRA's September 21, 2022 board minutes recite that the HRA "received correspondence from Housing and Urban Development that non-renewals need to include good cause for it to be an approved action." (SJ 10) The HRA later tried to recast the board-minutes language as a "typographical error," but Olson's affidavit confirms that the September 19, 2022 Olson-to-Minten email identifying 24 C.F.R. § 966.4 was the underlying "correspondence" the HRA was discussing. (Olson Aff. ¶ 3, Index 157; SJ 04.) Either reading is fatal to the HRA's defense. Under the minutes' plain language, HUD itself informed the HRA that "good cause" was required. Under the HRA's own affidavit, Director Olson informed the board by reference to § 966.4 that "good cause" was

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required. Both readings establish, by party admission, that the HRA knew on September 21, 2022, that non-renewals require good cause under the controlling federal regulation — six days before it issued the September 27 amended notice.

Third, the Lease independently confirms the result: Riverview Heights is public housing; the HRA is a Public Housing Authority; the Lease incorporates federal regulations governing termination of tenancy. (SJ 02, (§§ 12, 18, 23, 25).) The Court's March 6, 2025 Order analyzed the parallel notice-and-grounds requirements of 24 C.F.R. Part 247. (SJ 01, (Index 96 at pp. 20–28).) The MTD ruling is interlocutory and the Part 966 / Part 247 question was not contested or decided there. In any event, the result is the same under either Part because the Lease independently requires compliance with HUD regulations, and the HRA's notice and process violated both regulatory regimes.

The Part 966 framework is therefore established by the Lease, the public-housing character of the tenancy, and the HRA's own contemporaneous records. Argument A proceeds on that foundation.

B. The HRA cannot establish "serious or repeated violation of material terms of the Lease" under 24 C.F.R. § 966.4(l)(2)(i).

Under § 966.4(l)(2)(i), the HRA may non-renew only for "serious or repeated violation of material terms of the lease." The HRA cannot meet that burden as a matter of law on this record.

1. The HRA has, by verified discovery, narrowed the universe to Clause 16(12) and dictionary "harassment."

In its verified discovery responses, the HRA has locked itself, under oath, to a single contractual hook and a single source of meaning. The contractual hook is Lease Clause

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16(12). (SJ 14, (Ans. 4).) The source of meaning is the plain dictionary definition of "harassment." (SJ 14, (Ans. 5).) That is the universe of the HRA's defense. The Court may decide this motion on that universe alone.

2. Clause 16(12) cannot reach Plaintiff's conduct.

Clause 16(12) prohibits conduct that "may threaten the health, safety or right to peaceful enjoyment" of others. (SJ 02, (§ 16).) Good-faith tenant complaints to management, and tenant inquiries to the Fergus Falls Fire Department about building fire-safety records, do not threaten anyone's health, safety, or peaceful enjoyment. No reasonable factfinder could conclude otherwise on this record.

3. Every definitional source the HRA has put in play forecloses its theory in two independent layers — illegality and absence of legitimate purpose.

The HRA relies on the plain dictionary meaning of "harassment." (SJ 14, (Ans. 5).) Every authoritative source the HRA has invoked or that is available defines harassment in terms that exclude Plaintiff's conduct in two independent ways.

First — illegality. The Cambridge Dictionary defines harassment in its legal sense as "illegal behaviour towards a person that causes mental or emotional suffering, which includes repeated unwanted contacts without a reasonable purpose, insults, threats, touching, or offensive language." (SJ 21, (Cambridge Dictionary, "harassment" (LAW sense)).) That definition has a threshold element: the conduct must be illegal. The HRA has never alleged that any of Plaintiff's conduct was illegal. Neither the September 15 nor September 27, 2022 notice referenced any criminal harassment statute. (SJ 06; SJ 11) The HRA made no referral to law enforcement, sought no charge under Minn. Stat. § 609.749 (SJ 20), and in its 2026 verified Ans. 5 disclaimed any criminal predicate, relying on plain

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dictionary meaning. (SJ 14) On the threshold element of the dictionary the HRA itself put in play, Plaintiff's conduct does not qualify.

Second — absence of legitimate purpose. Each definitional source independently requires the absence of a legitimate purpose. Black's Law Dictionary defines harassment, citing the federal statute, as "a course of conduct directed at a specific person that causes substantial emotional distress in such person and serves no legitimate purpose." (SJ 22, (Black's Law Dictionary 6th ed. p. 717; quoting 18 U.S.C. § 1514(c)(1)).) The Model Penal Code definition Black's reproduces similarly requires conduct "serving no legitimate purpose of the actor." (SJ 22, (Model Penal Code § 250.4).) Cambridge requires conduct "without a reasonable purpose." (SJ 21) Minnesota's criminal harassment statute requires intent to kill, injure, harass, or intimidate, and expressly excludes conduct authorized, required, or protected by law or by the state, federal, or tribal constitutions. (SJ 20, (Minn. Stat. § 609.749, subds. 2, 7).)

Plaintiff's conduct on this record was legitimate-purpose conduct as a matter of law. Good-faith tenant complaints to management are expressly authorized by Lease §§ 22 and 23. (SJ 02) An inquiry to the Fergus Falls Fire Department about fire-safety records is a constitutionally protected petition to a government body and is expressly protected from harassment liability by Minn. Stat. § 609.749, subd. 7. (SJ 20) No reasonable factfinder could conclude on this record that those activities were "without a reasonable purpose," "served no legitimate purpose," or were undertaken with "purpose to harass." The HRA's dictionary-meaning theory therefore fails as a matter of law on the second layer as well. The timeline the HRA itself assembled and attached to SJ 07 confirms the point on the HRA's own paper: it documents years of Plaintiff's complaints to management — about dog barking, items in common areas, contractor noise, security concerns, and

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unattended medical alarms — and documents Minten responding to those complaints with information, ordinance copies, and remedial action. (SJ 07, (HRA 000372–000376).) The HRA treated this exact category of communication as legitimate tenant correspondence for years, until Plaintiff's September 13, 2022 fire-records inquiry. Only then did the same category of conduct become "harassment."

4. The House Rules — Attachment B to the Lease — contain no "harassment" rule and do not reach Plaintiff's conduct.

The HRA's verified Interrogatory Answer 4 invokes only Clause 16(12). (SJ 14) The Court in Index 96 observed that no house rules had been put before it and that "the records and briefing do not allow the Court to identify a specific term of the rental agreement" violated by Plaintiff's conduct. (SJ 01, (Index 96 at p. 27).) Discovery has now cured the absence — and confirms the gap. The House Rules (Lease Attachment B) are before this Court at SJ 03. They contain twenty numbered provisions. None contains the word "harassment." (SJ 03) None defines "harassment." (SJ 03) None protects "HRA employees" or "authority contractors" — the categories the September 27 Amended Notice invokes. (SJ 03) The only rules touching on conduct toward others are Rule 4 (loud parties and noisy disturbances) and Rule 6 (criminal activity threatening neighbors). (SJ 03) Neither reaches good-faith complaints to management or inquiries to the Fire Department.

The result is decisive: the HRA cannot rescue its non-renewal with a house-rule theory because (a) by verified discovery, it does not invoke one (SJ 14), and (b) even if it tried, the House Rules contain no rule reaching Plaintiff's conduct (SJ 03).

5. The HRA cannot establish material noncompliance because, on its own paper, the non-renewal decision preceded any documented basis.

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This is the single fact that disposes of the § 966.4(l)(2)(i) defense most cleanly. As of September 13, 2022, the HRA was prepared to renew the Lease in the ordinary course: it had sent a routine renewal letter and scheduled a renewal appointment. (SJ 05) The non-renewal decision was made by September 14–15, 2022, when the appointment was reversed and the no-reasons notice delivered. (SJ 06; SJ 05) The supporting documentation — the memos, notes-to-file, and internal emails purporting to justify the non-renewal — was assembled beginning September 20, 2022, for the September 21 board meeting, and was not finalized and produced until October 11, 2022. (SJ 10; SJ 08; SJ 09) The Court in Index 96 itself noted the September 20, 2022 handwritten New Dimensions memorandum in Plaintiff's tenant file — a same-day note generated during the same post-decision period when Minten was preparing the non-renewal "time line" materials for Olson and the Board. (SJ 01, (Index 96 at pp. 13, 16–17); SJ 07; SJ 09.)

Two contemporaneous HRA admissions confirm that the supporting record was constructed after the September 15 decision, not before it. On the evening of September 20, 2022, at 9:56 p.m., Housing Manager Minten emailed Director Olson under the subject line "time line": "Mikel – I have enclosed a copy of what I have so far – I will continue with it in the morning and then bring it over to you – I have about had it for the day…Sorry its not done yet." (SJ 07) That email is a statement of a party-opponent under Minn. R. Evid. 801(d)(2). The work product Minten attached and would continue assembling the next morning was the reason-supporting timeline (HRA 000372–000376) for Plaintiff's tenant file. Minten herself confirms, in her own words, that the timeline was not complete on September 20, 2022 — five days after the September 15 no-reasons notice.

The second admission appears in the September 21, 2022 board minutes. The Board

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directed J.J. Cline, the HRA's outside counsel, to "[r]eceive confirmation… on whether the actions, prior to this Recertification Appointment, conducted by this tenant of non-renewal could be classified as harassment." (SJ 10) The Board, on September 21, 2022 — six days after the no-reasons notice and six days before the September 27 Amended Notice characterizing Plaintiff's conduct as "repeated harassment" — did not yet know whether the conduct "could be classified as harassment." The legal characterization was being shopped to counsel after the non-renewal decision was made. That is a textbook party admission that the harassment theory was constructed, not justified.

"Material noncompliance" sufficient to terminate a public-housing tenancy under § 966.4(l)(2)(i) must exist and motivate the termination decision at the time it is made. A PHA cannot decide first and document second. The HRA's own paper trail shows it did exactly that. The September 19 Olson-to-Minten "24 CFR 966.4" email crystallizes the point on the regulatory side: as of September 19, four days after the no-reasons notice, the Executive Director was emailing his Housing Manager about the controlling regulation — confirming that the regulatory hook was being identified after-the-fact. (SJ 04) The September 20 Minten "Sorry its not done yet" email confirms it on the factual side. The September 21 board direction to counsel confirms it on the legal-characterization side. That is not "for cause." That is constructed cause.

6. If the HRA had actually believed Plaintiff's conduct constituted "serious or repeated violation of material terms of the Lease," its own published procedures would have produced a documented Step 1 warning.

The HRA maintains and posts on its doors a three-step progressive-discipline policy for lease violations. (SJ 15; SJ 16) Pamela Minten signed a Step 1 letter to a comparator tenant for a small dog in the community room. (SJ 16; Compl. ¶ 86.) The HRA afforded Plaintiff

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no step, no warning, no process. (SJ 16; Compl. ¶ 17.) If the HRA had actually believed Plaintiff's conduct constituted "serious or repeated violation of material terms of the Lease," its own published procedures would have produced a documented Step 1 warning. There is none. Its own conduct contradicts the position it now asserts.

C. The HRA cannot establish "other good cause" because (i) Part 247 expressly forbids it absent prior written notice the HRA never gave, and (ii) Part 966 requires "specific grounds" the notices never stated.

If the HRA were to retreat from the Clause 16(12) / "material noncompliance" defense and assert "other good cause" — the catch-all hook at 24 C.F.R. § 966.4(l)(2)(iv) — the defense fails as a matter of law on two independent regulatory grounds, each rooted in the text of HUD regulations the Lease incorporates.

First, Part 247 expressly forbids it. The Lease incorporates HUD regulations governing termination of tenancy. (SJ 02, (Lease §§ 12, 18, 23, 25).) 24 C.F.R. Part 247, governing evictions from federally subsidized projects, contains the controlling express prior-notice rule for "other good cause" non-renewal:

"The conduct of a tenant cannot be deemed other good cause under § 247.3(a)(4) unless the landlord has given the tenant prior notice that said conduct shall henceforth constitute a basis for termination of occupancy."

24 C.F.R. § 247.3(b). (SJ 19) The rule is not implicit; it is the text of the regulation. The record contains no such prior notice. The HRA has identified none in discovery. (SJ 14) The Court's March 6, 2025 Order already analyzed Part 247 at the MTD stage as applicable to this tenancy. (SJ 01, (Index 96 at pp. 20–28).) Section 247.3(b) is therefore both incorporated by the Lease and previously treated as applicable by this Court — and its plain text forecloses the HRA's "other good cause" defense.

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Second, Part 966 requires the same result. Section 966.4(l)(3)(ii) requires the termination notice to "state specific grounds for termination." Neither the September 15, 2022 no-reasons notice (SJ 06) nor the September 27, 2022 "repeated harassment" notice (SJ 11) identifies specific grounds in the form Part 966 requires. The Lease itself echoes the same standard at § 18, requiring notice with "enough detail for the Resident to prepare a defense" — language traceable directly to 24 C.F.R. § 247.4(a)(2) ("enough specificity so as to enable the tenant to prepare a defense"). (SJ 19) The notices fail under Part 966, fail under Part 247, and fail under Lease § 18.

Third, on the face of the (l)(2)(iv) categories themselves, the HRA cannot match its theory to the regulation. The (l)(2)(iv) examples include criminal activity, alcohol abuse, ineligibility-after-admission, material false statements or fraud, service-requirement failure, and refusal to accept a lease revision. The HRA has identified none of those. By verified discovery, its theory is undefined dictionary "harassment" (SJ 14 (Ans. 5)) — not criminal harassment, not fraud, not ineligibility, not service-requirement failure, not lease-revision refusal. The (l)(2)(iv) hook is unavailable on its face.

The HRA's own conduct through September 13, 2022 — the routine renewal letter and pre-approved renewal appointment (SJ 05) — is an admission, by conduct, that no terminable conduct then existed. A landlord that on September 13 invites a tenant to renew cannot, on September 15, terminate for "other good cause" without first giving the prior written notice § 247.3(b) requires and identifying the specific grounds § 966.4(l)(3)(ii) requires. That did not happen here.

D. The HRA breached 24 C.F.R. § 966.4(l)(3), (m), and (n) plus Subpart B — every notice-and-procedure requirement it knew applied.

The procedural breaches are independent of the substantive grounds. Even if the HRA

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could show "material noncompliance" or "other good cause" — and it cannot — its notice and process violated three subsections of § 966.4 and all of Subpart B.

1. § 966.4(l)(3) — notice content.

The September 15, 2022 initial notice stated no grounds at all. (SJ 06) The September 27, 2022 amended notice cited only undefined "harassment" — failing both the regulatory specificity requirement and Lease § 18's "enough detail to prepare a defense" standard. (SJ 11; SJ 02 (§ 18).)

2. § 966.4(m) — document examination.

§ 966.4(m) requires the PHA, upon the tenant's request, to provide a reasonable opportunity to examine documents directly relevant to the termination before a PHA grievance hearing or court trial. The regulation contains an eviction-bar consequence: "if the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction." Plaintiff requested those documents on October 3, 2022. (SJ 12) The HRA did not make them available at its offices. The documents that came on October 11, 2022 came through outside counsel as a paper production (SJ 08), not as the examination the regulation requires. (SJ 13, (Oct. 11 list confirming production "via third party").)

3. § 966.4(n) and Subpart B — grievance hearing.

§ 966.4(n) and Part 966, Subpart B (§§ 966.50–966.57) require the PHA to provide a grievance hearing for a tenant who disputes a PHA action adversely affecting the tenant's rights. (SJ 18) Plaintiff requested a grievance hearing on October 3, 2022, and again on October 10, 2022. (SJ 12) No hearing was held. The HRA's non-response was not inadvertent — it was directed by board vote. On September 21, 2022, the HRA Board

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of Commissioners adopted a directive that staff "[n]ot respond to any of the request for information." (SJ 10) That directive is itself a statement of a party-opponent under Minn. R. Evid. 801(d)(2). The board voted, in writing, to violate § 966.4(m)'s document-examination requirement and § 966.4(l)(3)(ii)'s requirement that the notice inform the tenant of the right to request a grievance hearing.

No exception under § 966.51(a)(2) applies. The narrow Subpart B carve-out at § 966.51(a)(2)(i) excludes from the grievance procedure only terminations involving (A) criminal activity threatening the health, safety, or right to peaceful enjoyment of other residents or PHA employees; (B) violent or drug-related criminal activity; or (C) criminal activity resulting in felony conviction — and even then only when HUD has issued a due-process determination for the jurisdiction's eviction procedure. The HRA did not invoke that carve-out in 2022 and cannot invoke it now. Nor did either notice contain the statements required by § 966.4(l)(3)(v) when a PHA excludes a termination from the grievance procedure.

At the time, the HRA was positioned to allege criminal harassment under Minn. Stat. § 609.749 (SJ 20). Had the HRA characterized Plaintiff's conduct as criminal harassment threatening health, safety, or peaceful enjoyment, it would have been positioned to invoke § 966.51(a)(2)(i)(A) and deny Plaintiff a grievance hearing on that basis. It did not do so. The September 15 and September 27, 2022 notices alleged no criminal activity, identified no criminal harassment statute, and pursued no police, prosecutorial, or no-trespass process. The HRA routed the matter through the ordinary non-renewal channel, not the criminal-activity carve-out — which means Subpart B applied in full.

The HRA's 2026 verified discovery position locks the result. In Interrogatory Answer 5, the HRA confirmed under oath that "harassment" as used in the Amended Notice

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carries only the plain dictionary meaning — not criminal harassment under Minn. Stat. § 609.749 or any other criminal predicate. (SJ 14, (Ans. 5).) The HRA cannot now reach back and claim it could have invoked a criminal-activity carve-out it neither asserted contemporaneously nor preserved in its verified discovery position. The grievance hearing was required, and the HRA's failure to provide one is an independent breach of § 966.4(n) and Subpart B.

4. Lease § 18 — independent contractual breach.

Lease § 18 binds the HRA to "rely solely on the grounds stated in the Notice of Lease Termination" and requires the notice to "state the grounds for termination with enough detail for the Resident to prepare a defense." (SJ 02, (§ 18).) A no-reasons notice followed by an undefined-"harassment" notice fails § 18 on its own terms, independent of the federal regulations.

The HRA's contemporaneous regulatory awareness aggravates each of these breaches and forecloses any "good-faith mistake" defense. The September 21, 2022 board minutes establish four matters by party admission: (a) the HRA had received correspondence from HUD that non-renewals require good cause (SJ 10); (b) the HRA knew Plaintiff had retained counsel and was contesting the non-renewal (SJ 10); (c) the harassment characterization was unconfirmed as of September 21 and was being shopped to outside counsel for confirmation (SJ 10); and (d) the Board affirmatively directed staff to "[n]ot respond to any of the request for information" (SJ 10). The Olson-to-Minten "24 CFR 966.4" email two days earlier confirms the HRA was reviewing the controlling regulation in the same window. (SJ 04) The HRA therefore knew, on September 21, 2022, that (1) good cause was required, (2) it did not yet know whether its harassment characterization would hold, (3) the tenant was litigating, and (4) the regulations required document

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examination and a grievance hearing. With that knowledge, the Board voted to refuse the information requests § 966.4(m) requires and proceeded to issue the September 27 Amended Notice without scheduling the grievance hearing § 966.4(n) requires. That is not regulatory oversight. That is a board-level decision to violate the regulations the HRA's own Executive Director had identified six days earlier.

E. The *Parkin / Hill v. Primeaux* timing and pretext analysis confirms the breach.

Plaintiff does not invoke Parkin as an independent retaliation claim here, but as Minnesota timing-and-pretext authority confirming the absence of contemporaneous good cause.

Minnesota authority is consistent with the regulatory analysis. In Parkin v. Fitzgerald, 240 N.W.2d 828 (Minn. 1976), the Minnesota Supreme Court held that a landlord asserting a nonretaliatory reason for non-renewal must show the reason was "wholly unrelated to and unmotivated by" the tenant's protected activity. (SJ 23, (*Parkin v. Fitzgerald*, 240 N.W.2d 828 (Minn. 1976)).) Implicit and necessary to that test is that the asserted reason existed at the time of the non-renewal decision — not constructed afterward.

The Minnesota Court of Appeals applied *Parkin in Hill v. Primeaux*, A19-2058 (Minn. Ct. App. Sept. 8, 2020) (Segal, C.J.) (unpublished), on a September 15/16 reversal timeline materially identical to the one here. (SJ 24, (*Hill v. Primeaux*, A19-2058 (Minn. Ct. App. Sept. 8, 2020)).) And in *Central Housing Associates, LP v. Olson*, 929 N.W.2d 398 (2019), the Minnesota Supreme Court confirmed that tenant complaints to government bodies are protected activity. (SJ 25, (*Central Housing Associates, LP v. Olson*, 929 N.W.2d 398 (2019).)

On this record — September 13 fire-records inquiry; September 14 appointment moved earlier; September 15 renewal-to-non-renewal flip; September 19 Olson email identifying

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§ 966.4; September 20 onward reason-assembly for the September 21 board meeting; September 21 board minutes admission of a good-cause requirement — the HRA cannot establish that its stated reason for non-renewal was "wholly unrelated to and unmotivated by" Plaintiff's protected reporting. The same record that defeats the § 966.4(l)(2) defense also confirms, under Parkin's timing-and-pretext analysis, the absence of contemporaneous good cause.

VI. Conclusion

For the reasons above, the Court should grant Plaintiff partial summary judgment establishing the Fergus Falls HRA's liability for breach of contract on Count I, with damages reserved for trial or, in the alternative, for stipulation between the parties.

Dated May 22, 2026

By /s/Stephen R. Svendsen
Stephen Roy Svendsen, Plaintiff pro se
540 E 100 N Apt 307
Moab UT 84532
stephenroysvendsen@icloud.com
612 840-7301

MINNESOTA JUDICIAL BRANCH