



Nebraska Supreme Court suggests there may be a right to a jury trial in evictions

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LINCOLN, Neb. – The Nebraska Supreme Court issued a decision today in the case of *NP Dodge Management Company v. Teresa Holcomb*. Although the Court decided not to affirmatively rule on the issues because of mootness, three justices issued a thorough concurring opinion that recognizes the statute depriving Nebraskans of their right to a jury trial in eviction proceedings rests on “constitutionally fragile ground.” The Court recognized the grave constitutional concerns surrounding the state law and suggested that the legislature should review the issue. This is a positive indication that Nebraskans may in fact have a right to jury trial in these proceedings.

“Nebraskans deserve – and have for too long been denied – a fair process when faced with being separated from their homes,” says Kasey Ogle, Senior Staff Attorney for Collective Impact Lincoln, a partnership between Nebraska Appleseed and Civic Nebraska. “Although the Court was unable to recognize that Nebraskans have a constitutionally guaranteed right to a jury trial in eviction court proceedings today, the concurring opinion filed has made it more clear than ever that the right to a trial by jury is recognized by our State’s Constitution. We will not rest until a final authoritative opinion is issued recognizing this critical right.”

Ogle and Caitlin Cedfeldt of Legal Aid of Nebraska represented Teresa Holcomb, the tenant in the case. Additionally, in support of Ms. Holcomb, the ACLU of Nebraska, the Iowa/Nebraska NAACP, the Nebraska College of Law Civil Clinic, and Lindsay Belmont of Koenig | Dunne Law on behalf of the National Housing Law Project filed several amicus curiae (friend of the court) briefs.

“Evictions have become a horribly unfair process. In 1995, the Nebraska Legislature restricted access to the right to jury trials for eviction proceedings, and that went unquestioned for almost 30 years. Since that time, generations of Nebraskans have been forced from their homes,” says Ken Smith, Nebraska Appleseed’s Economic Justice Program Director. “It’s staggering when you think about the sheer number of people who have had their lives altered in such a fundamental way, without the option of a jury trial. And for nearly three decades, nobody bothered to challenge this unconstitutional law.”

“We are disappointed with the Court’s failure to reach a decision on the questions posed by this case, and we will continue to fight for tenant rights in Nebraska,” says Caitlin Cedfeldt, Housing Justice Project Attorney for Legal Aid of Nebraska. “Our data shows that individuals and families are more likely to remain housed when they have legal representation, which saves communities millions of dollars every year.”

“We have seen time and time again that access to an attorney changes lives and provides hope and opportunity. While the crux of this case was about the right to a jury trial, on a deeper level, it is also about the critical need for legal representation. Without it, low-income tenants cannot possibly navigate our complicated legal system and assert their rights, including the right to a jury trial,” states Laurie Heer Dale, Legal Aid of Nebraska Executive Director.



“The existing process for tenant eviction is extremely streamlined and one-sided,” concludes Cedfeldt. “We want all Nebraskans to know that they deserve access to a fair process when faced with being forcefully removed from their homes. And today, after the Nebraska Supreme Court’s ruling, people going through the eviction process should feel empowered to request a jury trial if they want one.”

Both Legal Aid of Nebraska and Nebraska Appleseed say they will continue to work on securing a right to jury for eviction proceedings.

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Legal Aid of Nebraska was established in 1963 and is the largest statewide non-profit civil legal aid provider in Nebraska, providing free high-quality services to low-income Nebraskans in all 93 counties. Legal Aid’s mission is, “to promote justice, dignity, hope and self-sufficiency through quality civil legal aid for those who have nowhere else to turn.” Legal Aid has offices in Lincoln, Omaha, North Platte, Norfolk, Grand Island, Scottsbluff and Bancroft.

Nebraska Appleseed fights for justice and opportunity for all Nebraskans. Learn more at neappleseed.org.