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**COMMONWEALTH OF MASSACHUSETTS   
TRIAL COURT**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **a.** | **Orange** | | , ss: |  | | **e.** | **Culver Court** |
|  | County | |  |  | |  | Name of Court |
|  |  | |  |  | | **f.** | **07-04771** |
|  |  | |  |  | |  | Summary Process Docket No. |
| **b.** | **Trial Date** | |  | | --- | | Original Trial Date: January 8, 2018 (No Discovery requested)  Rescheduled Trial Date: January 15, 2018 (Discovery requested) | | | | | | |
|  |  |
| **c.** | Michael Bluth | | | |  |  |  |
|  | Plaintiff(s) – Landlord(s) | |  | |  | **MOTION TO DISMISS** | |
|  | vs. | |  |  | |
| **d.** | Tobias Fünke | | | |  |
|  | Defendant(s) – Tenants(s) | |  | |  |  |  |

The Defendant moves in this summary process action that the Plaintiff’s claim for possession be dismissed because:

1. I have paid rent or tried to pay the landlord and therefore the landlord cannot terminate my tenancy with a 14-day Notice to Quit.
2. I "revived" my tenancy by paying all the rent "owed" within the time the law allows.
3. The landlord accepted my rent without reservation after service of Notice to Quit, creating a new tenancy, and, therefore, is barred from recovering possession of premises, G.L. c. 239, §1.

**Notice of Hearing**

This Motion to Dismiss is scheduled for a hearing on (the original trial date or other date scheduled by the court): \_\_\_\_\_\_\_\_\_\_\_\_.

**Certificate of Service**

I delivered or mailed *(circle which one applies)* a copy of the Motion to Dismiss to my landlord or his/her lawyer on\_\_\_\_\_\_\_\_\_\_\_\_.

Signature of Tenant

Tobias Fünke

Tenant's Name (print)

1 Lucille Lane

Address

Sudden Valley MA 02100 617-360-4444

City State Zip Telephone Number