

IN THE MARIETTA MUNICIPAL COURT
WASHINGTON COUNTY, OHIO

FILED

2001 JAN 23 PM 3:09

Municipal Court
Marietta, Ohio

WHITE ROSE PROPERTIES,

Plaintiff,

Case No. 00CVF1355

vs.

SHEREE BABB,

Defendant.

ENTRY

This cause came before the Court January 12, 2001 for hearing on Plaintiff's Complaint and Eviction filed November 30, 2000. Plaintiff appeared via its assistant manager Shirley Cox, represented by counsel Paul G. Bertram, III. Defendant appeared, represented by her attorney Dennis Harrington, Southeastern Ohio Legal Services.

On the call of the case, Ms. Cox testified that White Rose Properties is a Section 8 apartment complex, and that Defendant's apartment is subsidized by the U.S. Department of Housing and Urban Development (HUD). Ms. Cox further testified that the Defendant had paid only \$50.00 toward her portion of the rent for October, 2000, and none since then. However, Plaintiff had received from H.U.D. the rental subsidy H.U.D. paid on Defendant's behalf for the unit for October, November and December, 2000. Defendant's share of the rent is \$211.00 per month. H.U.D. pays the balance of the \$549.00 total monthly rental amount for the unit.

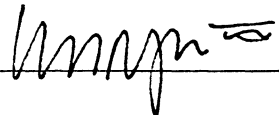
A ten day termination of tenancy notice was served 10-26-00 pursuant to H.U.D. regulations, followed by a 3 day notice to leave the premises served November 20, 2000, pursuant to R.C. 1923.04.

At the conclusion of the presentation of Plaintiff's case, Defendant moved to dismiss. Defendant argued that Plaintiff's continued receipt of future rental payments from H.U.D.

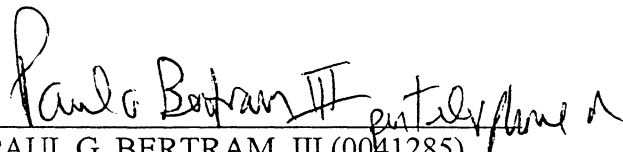
subsequent to service of the R.C. 1923.04 three day notice to vacate the premises amounted to waiver of said notice and was inconsistent with attempts to evict the Defendant. Without a proper notice to vacate, this Court lacks jurisdiction to proceed.

Upon due consideration of the evidence and arguments of counsel, the Court finds Defendant's Motion To Dismiss well taken and sustains it.

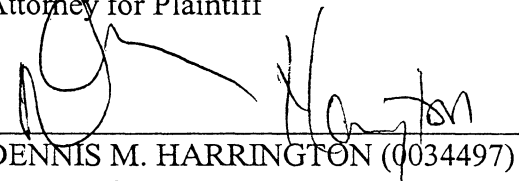
IT IS THEREFORE ORDERED that this cause is dismissed.



JUDGE



PAUL G. BERTRAM, III (0041285)
Attorney for Plaintiff



DENNIS M. HARRINGTON (0034497)
Attorney for Defendant