

IN THE MUNICIPAL COURT OF CLARK COUNTY, OHIO

NEW PRINCE HALL HOUSING AUTHORITY \*

Plaintiff \*

-vs-

ALPHONSO THORNTON \*

Defendant \*

Case No. 91-CVG-1754

REFEREE REPORT AND  
RECOMMENDATION  
FIRST CAUSE OF ACTION  
FORCIBLE ENTRY & DETAINER  
AND ENTRY

=====  
The matter came on for hearing before the Referee this day on Plaintiff's complaint for a writ of restitution of the premises located at 1326 DELTA ROAD APT. H, Springfield, Ohio. The Plaintiff was represented by KURT S. HASSLEBACH. The Defendant was represented by FRANK P. CATANZARITI. After hearing all of the testimony, viewing all of the evidence presented and weighing the credibility of each, the Referee makes the following findings of facts and recommendation.

FINDINGS OF FACTS

1. Plaintiff is the owner of the premises located at 1326 Delta Rd., Apt. H, Springfield, Ohio.

2. Defendant has resided at these premises as a tenant pursuant to a written agreement filed with the complaint as Exhibit A since May 1985.

3. The premises are part of a government subsidized housing project.

4. Defendant's share of the rent, \$123.00 per month, is based on his income and determined pursuant to a certification and recertification procedure.

5. Plaintiff accepted part pay of rent due in February 1991 with the understanding that the Defendant would make up the balance due.

6. Defendant's sole source of income is Workers' Compensation benefits of \$173.00 bi-weekly.

7. In March these benefits were stopped on a temporary basis until he requalified under that program's guidelines.

8. Defendant informed Plaintiff's manager of his change in income and requested to be recertified under HUD's guidelines.

9. The manager made a decision not to recertify the defendant because past experience showed that he would resume his Workers' Compensation benefits in about one month, with a lump sum payment for the time he was denied the benefits.

10. The defendant received no payments for the months of March and April.

11. A ten day notice to remedy the failure to pay rent was

served by the plaintiff upon the defendant on April 9, 1991.

12. A three day notice to vacate the premises was served on the defendant on April 22, 1991.

CONCLUSION OF LAW

The landlord may not terminate any tenancy in a subsidized housing project without good cause. Section 247.3, Title 24, C.F.R.. Where the nonpayment of rent is due to circumstances beyond the tenant's control and the tenant gives the landlord prompt information of the circumstances and is diligent in an effort to pay, then a good cause claim to terminate on the basis of the nonpayment is negated. Fairborn Apartments v. Herman, Green App. Case No. 90 CA 28, (January 31, 1991); Northlake Hills Cooperative, Inc. v. Barrett, Montgomery App. Case No. 9699, unreported (Dec. 9, 1986).

RECOMMENDATION

Plaintiff should be denied a Writ of Restitution on the basis that the evidence fails to show that the eviction is based upon good grounds as required under Section 247.3, Title 24, C.F.R., and the cases cited in the conclusion of law.

DATE: 7-3-91

*Richard J. C. Bell*  
Referee

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Defendant

Case No.  
91-CVG-

JOURNAL ENTRY  
FINAL APPEALABLE ORDER

Having reviewed the report and recommendation of the Referee and approving the same:

Judgment is hereby awarded in favor of the Defendant, the Plaintiff having failed to prove that the action for eviction is based upon good grounds required under Section 247.3, Title 24, C.F.R. Request for Writ of Restitution is denied.

*[Signature]*  
JUDGE

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