

SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

VERNON JONES)	CASE NO. 93 CVG 00904
)	
Plaintiff)	
)	
-vs-)	
)	
DENISE RANZY)	REPORT AND RECOMMENDATION
)	OF THE REFEREE
Defendant)	

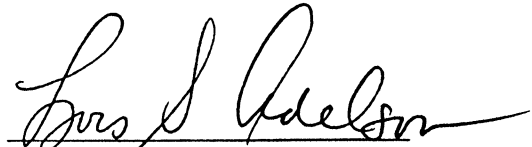
This case was referred to and came before the duly appointed referee for trial on June 9, 1993, on a first cause of action for eviction. Both parties were in court. Defendant was represented by counsel; plaintiff was not.

Plaintiff is the owner and landlord of a residential suite in the City of Shaker Heights. Defendant is a tenant in that suite on a month to month oral tenancy. Rent is due on the first of each month in an amount of \$485 per month. For the month of May 1993, defendant paid plaintiff \$97 sometime after May 1, which money plaintiff accepted. On May 20, plaintiff served defendant with a three day notice to vacate on the grounds of nonpayment of rent. When defendant failed to vacate, plaintiff filed the within action on May 28.

In court defendant's counsel moved to dismiss on the grounds that plaintiff's acceptance of the \$97 made the service of the three day notice improper.

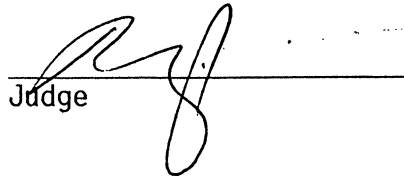
The referee finds the defendant's motion well taken. No evidence was presented to demonstrate that plaintiff terminated the tenancy in the manner set forth in O.R.C. §5321.17(B). Absent such a notice of termination plaintiff's acceptance of the partial payment resulted in a renewal of the tenancy for that month. FMJ Properties v. Hinton, unreported No.50314, (Eighth District Court of Appeals, Cuyahoga County, April 10, 1986.) Thus the three day notice was untimely.

Therefore the referee recommends that this action be dismissed.

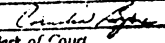


Referee

Approved:



Judge

Journalized 6-16-93

Clerk of Court

By AKZ
Deputy Clerk

FILED

JUN 16 1993

CORNELIA BYRNE, CLERK
Shaker Heights Municipal Court