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## IN THE COURT OF COMMON PLEAS CUYAHOGA COUNTY, OHIO

VERONICA G. MAY Plaintiff Case No: CV-07-632536

Judge: STUART A FRIEDMAN

CUYHOGA METROPOLITAN HOUSING AUTHORITY
Defendant

**JOURNAL ENTRY** 

96 DISP.OTHER - FINAL

THE LETTER OF CMHA'S EMPLOYEE, PAULINE CHILDS, IS SO VAGUE THAT MS. MAY COULD NOT KNOW PRECISELY WHAT SHE HAD DONE WRONG. ALTHOUGH CMHA CHARGES FRAUD, WHICH IS A VALID GROUND FOR TERMINATION FROM THE HOUSING CHOICE VOUCHER PROGRAM, CMHA'S EXPLANATION REFERS TO AN "APPEARANCE" OF FRAUD. AN APPEARANCE OF FRAUD IS SIGNIFICANTLY DIFFERENT AND WOULD NOT JUSTIFY TERMINATION. THE ISSUE IS SO NUANCED THAT IT IS CLEARLY NOT FRAUD. MS. MAY SHOULD HAVE BEEN AFFORDED AN OPPORTUNITY TO EXPLAIN HER ACTIONS. THE COURT CANNOT CLARIFY THIS ISSUE AS THERE WAS NO RECORD TAKEN AT THE HEARING ON APRIL 23, 2007. WHAT IS CLEAR, HOWEVER, IS THAT CMHA HAS NOT DEMONSTRATED THAT MS. MAY COMMITTED A FRAUDULENT ACT.

WHILE CMHA HAS THE AUTHORITY TO TERMINATE UNDER SECTION 982.552(C)(1), TITLE 24, C.F.R., CMHA IS NOT MANDATED TO DO SO. CMHA IS AUTHORIZED UNDER SECTION 982.552(C)(2) TO EXAMINE ALL RELEVANT MITIGATING CIRCUMSTANCES. HERE, THE MITIGATING FACTORS ARE THAT MS. MAY'S CHILDREN CONTINUE TO LIVE WITH HER OVER WEEKENDS AND SCHOOL VACATION. BY ITS FAILURE TO EXAMINE THESE RELEVANT MITIGATING CIRCUMSTANCES, CMHA'S DECISION TO TERMINATE MS. MAY'S PARTICIPATION IN THE HOUSING VOUCHER PROGRAM WAS ARBITRARY, UNREASONABLE AND CAPRICIOUS. CMHA'S DECISION IS HEREBY REVERSED.

COURT COST ASSESSED AS DIRECTED.

Judge Signature

11/02/2007