

HAMILTON COUNTY MUNICIPAL COURT
CIVIL DIVISION
HAMILTON COUNTY, OHIO



Charles Spaulding : Case No. 01 CV 19578
Plaintiff :
-vs- : Motion to Dismiss
Sign of the Cross Housing : Judge James Patrick Kenney
Defendant :

Upon hearing, the Court hereby denies Defendant's Motion to Dismiss. Although the Court does not determine if the provisions of Ohio Revised Code § 5321 are applicable to this case, the Court finds that the Plaintiff is on the premises as a result of a contract between the parties. This is not an action solely in equity but is an action at law to "determine, preserve and enforce all legal and equitable rights involved in the contract." R.C. 1901. 18(A). This Court does have jurisdiction over this case. *See: Colquett vs. Byrd* (1979) 59 Ohio Misc. 45 and *Behrle vs. Bean* (1983) 6 Ohio St. 3d 41.

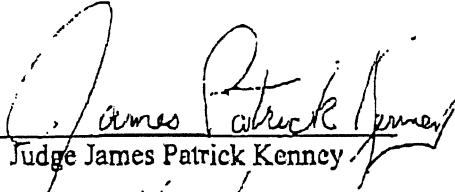
The preliminary injunction will be granted until the trial on the merits. The Court finds that the Plaintiff will suffer irreparable harm. Upon consideration of Plaintiff's application for a Preliminary Injunction, the Court finds that Plaintiff will suffer irreparable harm in that he and his family will be homeless if the injunctive relief is not granted; that the harm suffered by Plaintiff far outweighs any harm suffered by Defendant, of whom it is requested only that he obey the law; that Plaintiff has demonstrated a sufficient likelihood of success on the merits; and that the public interest is served by entering immediate injunctive relief for Plaintiff.

OIC V 19578

The Court orders that the Defendant, Sign of the Cross Housing, forthwith allow Plaintiff, Charles Spaulding, immediate and continuous access to the apartment located at 1616 Walnut Street, Apt. 10, Cincinnati, Ohio 45210.

The Court further orders that no bond shall be required.

The Defendant's Motion to Dismiss is denied.



Judge James Patrick Kenney
8/30/01

Date

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