

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

EVE L. CHAMBERS)
)
Plaintiff)
)
Vs.)
)
STARK METROPOLITAN)
HOUSING AUTHORITY)
)
Defendant.)

Case No. 1997cv02490
JUDGE JOHN F. BOGGINS
JUDGMENT ENTRY

FILED
AUG - 3 1998
PHIL G. CIAVASIS
STARK COUNTY OHIO
CLERK OF COURTS

The Court has reviewed the appeal, Affidavit, Briefs and Responses of the parties.

The Court is somewhat puzzled in that Appellant has spent considerable efforts in her Brief as to the necessity for an oral hearing to present testimony when the Court previously relied on appellant's Motion requesting either an oral hearing to present such testimony or in the alternative an extension of time, which the Court granted.

The Court finds that the statements as to the prior criminal history and the "no-bill" by the Grand Jury as to Appellant's son have not been controverted.

Appellee in its responsive Brief quotes Section 10 of the Lease as follows:

The authority may terminate the tenancy whether or not the person committing the criminal activity is arrested, charged or convicted by law or whether the Tenant had any knowledge of the activity.

It appears that the primary basis upon which Appellee terminated occupancy was either the 1997 arrest or such arrest coupled with the earlier record.

The Court does not doubt the language of Section 10 of the Lease providing authority to terminate when criminal activity takes place even without arrest or charges.

There is no allegation that such activity actually took place or that Appellee knew of such conduct, but that Appellant's son was arrested for a violent crime.

However, the "no bill" indicated lack of probable cause that such criminal activity actually took place.


Section 10 of the Lease, as a basis for terminating, must be premised on actual criminal activity even though no arrest takes place.

Here, in the Grand Jury's determination, criminal activity did not, based on probable cause, occur.

The authorizing language of Section 10 has not, therefore, been established as a cause for termination.

The Court determines that the action taken by Appellee was not in conformity with law and is reversed.

Costs charged to Appellee.


Hon. John F. Boggins

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