

FILED
MUNICIPAL COURT
PERRYSBURG, OHIO
88 FEB 17 PM 1:38

IN THE MUNICIPAL COURT OF PERRYSBURG, WOOD COUNTY, OHIO

Perrysburg Ecumenical Housing * CASE No. 87 CVG 977
Plaintiff *
vs. * Decision and Order
Theresa A. Leu *
Defendant *

* * * * *

This matter came on to be heard on plaintiff's complaint in Forcible Entry and Detainer. The court heard testimony and took evidence from the parties and requested briefs from the parties as well. The court finds that defendant is a tenant of plaintiff and that the parties receive a subsidy for the rent under Section 202 of regulations required with the United States Department of Housing and Urban Renewal. Defendant qualifies to live in this subsidized housing under certain Federal Regulations due to her health or age or both.

Plaintiff filed this action alleging material violation of terms of the lease for the premises, specifically, that defendant had another person, her son, living with her. Defendant was

properly served with notification of said violation as well as a properly served three day notice.

The court determines from the evidence submitted that defendant's son is a frequent visitor of defendant and may have on several occasions stayed with defendant overnight. The court finds, however, for purposes of this action, that defendant's son does not reside with her. Further, the court finds that defendant has not materially breached her lease with plaintiff and that plaintiff is not entitled to a writ of restitution as prayed for in its complaint. The court determines that to evict a tenant for a material breach of a lease, said breach must be substantial and affecting other tenants of their quiet enjoyment or other benefit. That case was not made here, nor under the circumstances the court heard does the court believe it may ever be made. Defendant is allowed all the rights and privileges due any individual in our society as long as she is law abiding. This includes allowing her son to visit her (as long as he is law abiding and does not affect the quiet enjoyment of other tenants), especially so given her physically condition to which she testified.

Accordingly, plaintiff's first cause of action is dismissed. Second cause continued for further proceedings.


JUDGE PRO TEMPORE

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