

03/02/88 JJF/pw

IN THE CUYAHOGA FALLS MUNICIPAL COURT  
SUMMIT COUNTY, OHIO

ASSOCIATED ESTATES CORPORATION

MAR 4 10 54 AM '88

CASE NO. 87 G 2605

Plaintiff

CUYAHOGA FALLS

JUDGE BIERCE

vs.

HILDA LOCKHART

JUDGMENT ENTRY

Defendant

This cause came on for hearing before the Honorable James Bierce on the plaintiff's objections to the referee's report dated February 3, 1988. The court finds that the 30 day notice of termination which the plaintiff served to the defendant in this action does not meet the requirements of the 24 C.F.R §274.4 or of H.U.D. Manual §4350.3 Paragraph 4-20(a)(2), in that it does not state the grounds for termination with enough detail for the tenant to prepare a defense. Accordingly, the court overrules the plaintiff's objections and adopts the referee's recommendation that a writ of restitution not be allowed in this action. It is therefore

ORDERED that a writ of restitution not be allowed in this action; and it is further

ORDERED that the court shall forthwith release to the plaintiff the \$80 which represents all rent due and owing from December, 1987 through March, 1988 which the defendant has paid into the court; and it is further

ORDERED that defendant's counsel shall submit within a reasonable time any application for attorney's fees.

IT IS SO ORDERED.

JUDGE JAMES BIERCE

MUNICIPAL COURT  
OF

FEB 3 2 29 PM '88

CUYAHOGA FALLS  
OHIO

IN THE MUNICIPAL COURT OF CUYAHOGA FALLS

SUMMIT COUNTY, OHIO

ASSOCIATED ESTATES CORPORATION ) CASE NO. 87 CVG 2605  
 )  
Plaintiff )  
 )  
vs )  
 )  
HILDA LOCKHART )  
 )  
Defendant ) REFEREE'S REPORT

\* \* \* \* \*

Plaintiff is the owner of a federally subsidized housing unit which it rented to Defendant under a written lease (Plaintiff's Exhibit "A"). At the trial on December 18, 1987 the evidence showed that on September 11, 1987, Plaintiff served Defendant with a 30 day notice to vacate as of October 11, 1987 (Plaintiff's Exhibit "B"). Then on November 13, 1987 Plaintiff served Defendant with a 3 day notice to vacate. The evidence further showed that Defendant kept a large amount of newspapers and trash in her apartment which constituted a fire hazard; Defendant was seen by other tenants damaging the security doors to the common areas of the apartment building; Defendant was seen taking items from the trash container that were discarded by other tenants and confronting the tenants about the discarded items. After the trial on December 18, 1987 the writ of restitution was issued and on December 30, 1987, Defendant filed

a motion for use and occupancy bond and stay of execution pending new trial, which was granted. Defendant also filed a motion to dismiss and a motion for a new trial.

The motion to dismiss for lack of subject matter jurisdiction is brought alleging that after Defendant was served her notice to vacate on November 13, 1987, Plaintiff accepted rent from Defendant for November. The evidence at trial proved that Defendant did give Plaintiff a check for the November rent but Plaintiff returned the uncashed check to Defendant.

Since Plaintiff did not accept the November rent, the motion to dismiss for lack of subject matter jurisdiction is overruled.

The motion for a new trial alleges that the notice of termination of the lease that was served on Defendant on September 11, 1987 fails to comply with the Federal rules (See, Defendant's Exhibit "F").

Upon reconsideration, it appears that the 30 day notice of termination served on Defendant which stated that the tenancy was terminated "as a result of your violations of the rental agreement which disrupt livability of the project, adversely affect the health and safety of other tenants, prevent the quiet enjoyment of the leased premises by other tenants, interfere with the management of the project" does not conform to Title 24 C.F.R. 274.4 and H.U.D. Manual §4350.3 Paragraph 4-20(a)(2) which requires that the notice "states the grounds for termination with enough detail for the tenant to prepare a defense."

The notice is stated in broad language and does not refer

to specific instances of conduct and does not give Defendant enough detail to prepare a defense. It is therefore recommended that the writ of restitution not be allowed.

*Ronald F. Froble*  
\_\_\_\_\_  
RONALD F. FROBLE, Referee

cc: Gregory R. Sain, John J. Filak, & Jacob Reich, Attorneys  
for Defendant  
Victor M. Javitch, Attorney for Plaintiff  
File