

HAMILTON COUNTY MUNICIPAL COURT  
HAMILTON COUNTY, OHIO

THOMAS A. DENHART : CASE NO. 88 CV 16092  
dba Walnut Apartments :  
Plaintiff :  
-vs- : DECISION  
WILLIE WHALEY :  
Defendant :

This matter came on to be tried to the court on October 18, 1988, the defendant having withdrawn his jury demand previously filed herein. After hearing the evidence, the arguments of counsel, and reviewing the memoranda submitted by counsel, the court hereby determines as follows:

1. Defendant was not entitled to an R.C. 5321.11 "right to cure notice." Since the plaintiff seeks to evict defendant based upon one criminal conviction, a "notice to cure" would make absolutely no sense. One could not undo the conviction. Certainly, defendant's counsel would concede that, were Mr. Whaley to have murdered ten people in the apartment, that would be a sufficiently substantial violation to permit defendant's eviction. It would certainly not be possible to "cure" or undo such criminal act. This court is of the opinion that section 5321.11 only applies to "health and safety" types of violations, and most certainly only violations that could conceivably be "cured."

2. Considering all the facts and circumstances of this case, the defendant's conviction for attempted promotion of prostitution, a misdemeanor, does not constitute a "substantial violation" under 24 C.F.R. 247.3.

3. Even if the court were to consider the above violation "substantial," which it does not, the court finds that under all of the facts and circumstances of this case that it would be inequitable for defendant to be evicted.

For all of the above reasons, the court has determined that judgment should be for defendant.

**ORIGINAL SIGNED BY  
JUDGE MARK P. PAINTER**

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JUDGE MARK P. PAINTER  
November 2, 1988

Copies Sent To:

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