

FILED

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STATE OF OHIO )  
                  ) BARBERTON MUNICIPAL COURT  
                  ) SS BARBERTON, OHIO IN THE BARBERTON MUNICIPAL COURT  
SUMMIT COUNTY )

SUMMIT MANAGEMENT SERVICES, INC., )      CASE NO. 91 CV G 1451  
  )      )  
  )      JUDGMENT ENTRY  
  )      )  
VS.   )      January 2, 1992  
  )      )  
MARLA SPRINKLE & ALL OCCUPANTS,     )      )  
  )      )  
  )      Defendant     )

This case came on for trial on plaintiff's complaint in Forcible Entry and Detainer.

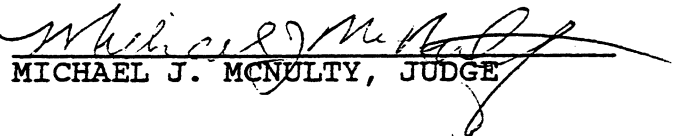
The defense made a motion to dismiss the case at the close of the plaintiff's case alleging that the notice to leave the premises was defective. The Court reserved judgment on said motion and went on to hear all of the evidence.

From the evidence presented it is clear that the parties hereto are bound by the provisions of 24 CFR Chapter VII and more specifically Section 882.511 (Termination of Tenancy). Subsection (C)(2)(i) thereto indicates that a notice of termination must advise the tenant (family) that if a judicial proceeding for eviction is instituted the tenant may present a defense in that proceeding. A similar requirement is contained in the Lease Agreement entered into between these parties, to wit: Paragraph 15 (C)(3).

A copy of the Notice to Leave the Premises served on the defendant in this case was admitted into evidence. A careful review of said notice reveals that it does not include the mandatory language advising the defendant of her right to defend an eviction action in Court. See Summit Management v. Denise Martin, Akron Municipal Court, Case # 90 CVI 12958.

Therefore, the defendant's motion to dismiss is well taken. The plaintiff's complaint is dismissed at plaintiff's cost.

It is further ordered pursuant to Civ. R. 58 (B) the Clerk of Courts shall serve upon all parties not in default for failure to appear, by ordinary mail at their last known address or if represented by an attorney of record at his designated address, notice of this judgment and shall record evidence of the same upon the journal.

  
MICHAEL J. MCNULTY, JUDGE

cc: Atty. Lee Peterson  
Atty. James Brown