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DWH/djsr

IN THE CANTON MUNICIPAL COURT
STARK COUNTY, OHIO

RON LIPFORD,	:	CASE NO. 92 CVG 0727
Plaintiff	:	
-vs-	:	DARRELL W. HOLLAND, JR.
	:	REFEREE
CINDY WARD & OCCUPANTS,	:	
Defendants	:	<u>REPORT OF REFEREE</u>

This matter came before the Referee on March 13th, 1992. The Plaintiff was present and represented by Attorney David Van Gaasbeek. The Defendant was present and represented by Attorney Ivan L. Redinger, Jr.

The facts were stipulated to by the parties and the matter submitted for a decision based on applicable law and legal memorandum submitted by the parties.

The facts, stipulated to, indicate that at least since October 1st, 1991, the Defendant has been delinquent on her rent. Under the Plaintiff's rental agreement with the Defendant, he received, directly from the Stark County Metropolitan Housing Authority, a rent subsidy. The Stark County Metropolitan Housing Authority paid the bulk of the Defendant's rent, and then the balance was paid directly by the Defendant to the Plaintiff. The Plaintiff admitted that he received the Stark County Metropolitan Housing

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Authority rent subsidy for the month of March, 1992 which was during the pendency of his eviction action against the Defendant. The Plaintiff asserts that the Defendant has not been a resident in the apartment since February 16th, 1992. The Defendant denies that she has not lived in the apartment since that date. The Plaintiff asserts the Defendant has had no personal property at that apartment since February 16th, 1992; and the Defendant also denies that allegation. The Plaintiff submits two Affidavits, attached as Exhibit "A" and Exhibit "B", which purport to verify the above information. The Defendant contests all allegations and evidence contained in the aforementioned Affidavits.

After a full review of the evidence and applicable law, the Referee finds that the Plaintiff, in continuing to accept Stark County Metropolitan Housing Authority Section 8 rent subsidies during the pendency of this eviction action against the Defendant, accepted such rent subsidies as future rent. Such rent subsidies were accepted after service of the notice to vacate required under O.R.C. 1923.04.

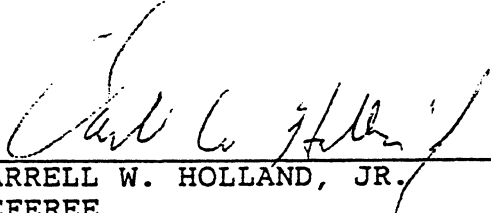
Having accepted future rent, the Plaintiff waived the notice to vacate issued to the Defendant and thus, devested this court of jurisdiction to proceed with eviction.

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Based on the above, the Referee recommends that the Plaintiff's Forcible Entry and Detainer action against the Defendant be dismissed.

DATED: March 24, 1992



DARRELL W. HOLLAND, JR.
REFEREE

cc: David Van Gaasbeek, Attorney for Plaintiff
Ivan L. Redinger, Jr., Attorney for Defendant

JUDGMENT ENTRY

Upon the Court's own motion, the Report of Referee is hereby approved and confirmed.

DATED: March 30, 1992



JUDGE JOHN W. WISE

cc: David Van Gaasbeek, Attorney for Plaintiff
Ivan L. Redinger, Jr., Attorney for Defendant
Jack Boggins, Attorney for Plaintiff