

IN THE SANDUSKY COUNT COURT, DISTRICT #1, CLYDE, OHIO

MADTSON CORP.

Plaintiff

vs.

Case No. 94 CVG 224

RYAN FLICK

Defendant

DECISION AND JUDGMENT ENTRY

This case came on for hearing on January 3, 1995 upon the complaint of the plaintiff to evict the defendant. Plaintiff was represented by attorney William Pearce. Defendant was represented by attorney Steve Robins. Testimony was taken, exhibits entered, and the parties have submitted memorandums in support of their positions.

Plaintiff operates a Fm.H.A. federally subsidized apartment complex in Clyde, Ohio. Defendant is a mentally challenged tenant of the plaintiff who receives Social Security Disability benefits. Defendant, on 10/3/94 gave written notice to plaintiff that he would be vacating his apartment by November 1, 1994. He told his mother about his actions, was told by her it was a bad idea, and then he attempted to rescind his notice on 10/4/94. Apparently his attempt to rescind was not given in writing.

On November 1, 1994, plaintiff sent defendant a notice to vacate within 10 days. On November 9, 1994, plaintiff received a response from defendant's mother that defendant intended to stay in the apartment, and defendant tendered rent for the months of November and December 1994. Plaintiff refused to accept the rent and proceeded to file its complaint to evict on December 5, 1994, alleging that defendant had terminated the lease by his written notice to plaintiff on 10/3/94. No other grounds for eviction have been advanced.

The Court finds in favor of the defendant and denies the plaintiff's demand for eviction. Plaintiff understands the rent subsidy business. In return for government subsidies, plaintiff agrees to deal with people with disabilities, bad luck, no jobs, etc. In this instance, plaintiff had a history of dealings with defendant's mother. Plaintiff accepted rent checks signed by plaintiff's mother, and testimony was presented that defendant's mother was present when the paperwork was signed authorizing rental of the apartment to defendant. Plaintiff, in fairness, should have communicated with defendant's mother on the issue of his attempt to vacate, and attempt to rescind the notice of vacation, prior to the November 1 notice of the plaintiff.

Further, the Court is persuaded by the language contained in the plaintiff's notice to vacate, to wit: "Your compliance with the notice within ten (10) days, after its service, will prevent any legal measures being taken by the undersigned to obtain possession." Defendant appears to have complied with the demands of the notice in that rent for November and December was tendered, and plaintiff was advised that defendant would not be terminating his tenancy. Thereafter, plaintiff filed its complaint to evict.

Judgment for defendant. Costs to be paid by plaintiff.

John P. Dewey

Judge John P. Dewey

JOURNALIZED

JAN 17 1995

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LINDA S. CONNORS
CLERK

1995 JAN 17 PM 12:05

FILED
SANDUSKY COUNTY COURT
CLERK

State of Ohio, Sandusky County, SS:
I hereby certify that this is a true copy of
the original document now on file in my
office this 12th day of January
19 95,
LINDA S. CONNORS
Sandusky County Clerk of Courts
by Sharon Feick
Deputy Clerk