

IN THE MUNICIPAL COURT OF AKRON
SUMMIT COUNTY, OHIO

AKRON METROPOLITAN HOUSING)	CASE NO. 94 CVG 10415
AUTHORITY)	
PLAINTIFF)	REFEREE TEODOSIO
v.)	
BARBARA JONES AND OCCUPANTS)	<u>REFEREE'S REPORT</u>
DEFENDANT)	

This cause came to be heard before Referee Linda Tucci Teodosio on the 3rd day of January, 1995. Both parties were present in court with counsel.

Plaintiff was found to have a possessory interest in the premises set forth in the complaint as owner of 747 Warner Court, Apartment D, Akron, Ohio. Defendant is a tenant at that address pursuant to an Akron Metropolitan Housing Authority lease.

The landlord served tenant with a notice of termination of tenancy and a statutory three day notice of November 22, 1994, which was at least three (3) days before the complaint was filed. The notice of termination of tenancy stated the following grounds for this action:

"LEASE VIOLATION: Section VII Items R.S. & T - Barbara Jones engaged in unlawful activity on or near the Development premises. On September 30, 1994, Barbara Jones was arrested and charged with Disorderly Conduct and Intoxication at Wooster and Edgewood Avenues. On March 8, 1994, Barbara Jones was issued a warning of lease violation after a relative was involved in an altercation at 747 Warner Court, Apartment D."

The Referee finds that on September 30, 1994, defendant and her guest and daughter, Ladoris Jones, were involved in an altercation with a third person in the ball field of the United Services for All

Community Center (hereinafter center). The center is located across Wooster Avenue from the Edgewood Homes Development where defendant resides. The ball field area is visible from the development, but is not a part of the AMHA premises. Defendant pled guilty to Disorderly Conduct/Intoxication on October 1, 1994.

The primary issue presented by this case is whether the conduct of the defendant at a location across the street from an AMHA development, was a violation of her lease. Specifically, Section VII R,S, and T of the lease provide as follows:

"The TENANT agrees:

R. To conduct himself/herself and cause other persons who are on the premises with the TENANT'S consent to conduct themselves in a manner which will not disturb the neighbors peaceful enjoyment of their accommodations; or to engage in illegal or other activity which impairs the physical or social environment of the development.

S. Not to engage in any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or OWNER'S employees.

T. Not to engage in; and to prevent any member of TENANT'S household, guests, or other person's under TENANT'S control from engaging in unlawful activity, including drug related criminal activity in the dwelling unit or on or near the development premises..."

The lease thus, prohibits various forms of criminal and/or disruptive activity.

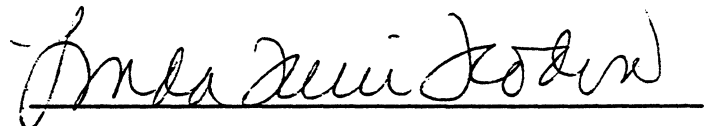
The crux of this case concerns whether the arrest and conviction of defendant and her daughter at the community center across the street from the development on charges of disorderly conduct/intoxication constitutes a breach of the lease.

The common thread through sections VII R, S, T, seems to be the prohibition of activities that somehow disrupt the enjoyment of the development by other tenants. Each of the three sections appear to prohibit criminal and/or disruptive conduct on or near the premises. However, the conduct complained of should somehow affect the operation and peaceful enjoyment of the premises before it can form the basis for a claim of forcible entry and detainer.

In the case at bar, no evidence was presented that would lead to the conclusion that the altercation in question in any way affected the development. There was no evidence that the fight was witnessed by anyone at the development. Rather, the Referee finds it unlikely that anyone at the property was even aware that fight occurred.

The Referee finds that the altercation was too far removed, both in distance and affect from the development to constitute a breach of the lease.

It is my recommendation that writ not be allowed.

A handwritten signature in cursive script, reading "Linda Tucci Teodosio", is written over a horizontal line.

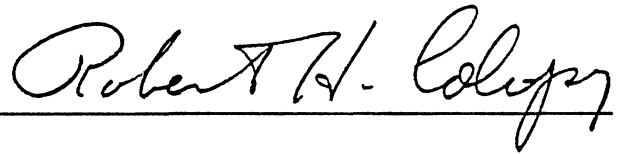
Referee Linda Tucci Teodosio

JUDGMENT ENTRY

The report of the Referee is approved.

It is the judgment of the Court that writ of restitution MAY
NOT issue.

Costs to be paid by plaintiff/defendant.



Judge