

PAINESVILLE

SEP 21 10 48 AM '95

IN THE PAINESVILLE MUNICIPAL COURT
LAKE COUNTY, OHIO

DON ORLOSKY

Plaintiff

-vs-

ANN ADAMS

Defendant

* CASE NO. 95 CVG 981

* JUDGE MICHAEL CICONETTI

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* JUDGMENT ENTRY

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This case came to be heard on August 24, 1995, on defendant's Motion for Summary Judgment. Upon consideration of the evidence, memoranda, and oral argument, this court holds that to prevail in an eviction action, a landlord must serve a notice to vacate pursuant to R.C. 1923.04. Associated Estates Corp. v. Bartell (Cuyahoga Cty., 1985), 24 Ohio App.3d 6. The landlord's acceptance of subsidized rent from the Lake Metropolitan Housing Authority for the month of August, 1995, for rent covering the month of August, 1995, and after service of the notice to vacate on August 2, 1995, represents future rent, thus voiding the notice to vacate. Accepting future rent after service of the Revised Code 1923.04 notice to vacate voids the notice, and is a complete defense to the eviction.

Accordingly, plaintiff's complaint is dismissed at plaintiff's costs.

IT IS SO ORDERED.

Michael A. Cicconetti
Judge Michael A. Cicconetti

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