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CANTON MUNICIPAL COURT  
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IN THE CANTON MUNICIPAL COURT

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STARK COUNTY, OHIO

SKYLINE TERRACE APARTMENTS, : CASE NO. 97 CVG 6830  
PROFESSIONAL PROPERTIES, INC., :  
Agent, :  
  
Plaintiff :  
  
-vs- : JUDGE RICHARD J. KUBILUS  
  
HELEN BRUNNER, :  
  
Defendant : JUDGMENT ENTRY

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This matter came before the Court upon the Defendant's Motion for Judgment Notwithstanding the jury Verdict rendered on January 26, 1998.

The Supreme Court of Ohio has established a trial court's consideration of a motion for judgment notwithstanding the verdict as follows:

"The test to be applied by a trial court in ruling on a motion for judgment notwithstanding the verdict is the same test to be applied on a motion for a directed verdict. The evidence adduced at trial and the facts established by admissions in the pleadings and in the record must be construed most strongly in favor of the party against whom the motion is made, and, where there is substantial evidence to support his side of the case, upon which reasonable minds may reach different conclusions, the motion must be denied. Neither the weight of the evidence nor the credibility of the witnesses is for the court's determination in ruling upon either of the above motions."

Osler v. Lorain, 28 Ohio St.3d 345 (1986).

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The compelling issue presented to this Court centers on the Defendant's status as a twenty-year lease resident under Section 8 Housing, and her later employment by the lessor. The following facts are not seriously in dispute with respect to Defendant's status as a tenant:

1. On or about April 14, 1986, the Defendant signed an approved HUD Section 8 Housing Lease Agreement which contained the following provision:

"(22) The Landlord may, with the prior approval of HUD, change the terms and conditions of this Agreement. Any changes will become effective only at the end of the initial term or a successive term. The Landlord must notify the Tenant of any change and must offer the Tenant a new Agreement or an amendment to the existing Agreement. The Tenant must receive the notice at least 60 days before the proposed effective date of the change. The Tenant may accept the changed terms and conditions by signing the new Agreement or the amendment to the existing Agreement and returning it to the Landlord. The Tenant may reject the changed terms and conditions by giving the Landlord written notice that he/she intends to terminate the tenancy. The Tenant must give such notice at least 30 days before the proposed change will go into effect. If the Tenant does not accept the amended agreement, the Landlord may require the Tenant to move from the project, as provided in Paragraph (23)."

2. On or about March 6, 1992, the Defendant signed a document referenced as "Apartment Agreement" which referred to her employment by the Plaintiff and a change in her status as a tenant as follows:

"Because employee is a licensee and not a tenant and the apartment is provided as a condition of employment..."

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3. In April of 1997, the Defendant left her employment with the Plaintiff due to an injury.

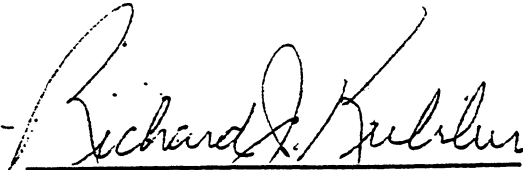
4. In June of 1997, the Plaintiff apparently re-adjusted the Defendant's rent obligation; however, the Plaintiff did not recertify the Defendant's rent obligation in a timely manner.

The Court finds that the Plaintiff failed to properly comply with the Occupancy Requirements of Subsidized Multifamily Housing Programs and Paragraph (22) of the Defendant's Lease Agreement before changing the tenant status of the Defendant.

WHEREFORE, the Motion for Judgment NotWithStanding the Verdict of the Defendant is GRANTED, and the Writ of Restitution is DENIED.

The Plaintiff shall recertify the Defendant's rent obligations retroactively to July 1, 1997.

DATED: March 2, 1998

  
JUDGE RICHARD J. KUBILUS

cc: Kathleen O. Tatarsky, Attorney for Plaintiff  
Chrysanthe E. Vassiles, Attorney for Defendant