

ATHENS COUNTY MUNICIPAL COURT
ATHENS, OHIO

FILED
ATHENS COUNTY MUNICIPAL COURT

FEB 8 1991

CLERK OF THE
ATHENS COUNTY, OHIO

THE PLAINS PLAZA, Ltd.,
d.b.a. PLAINS PLAZA APARTMENTS,

Plaintiff

Case no. CIG 90-5-34

VS.

THOMAS D. MCKINLEY, et al.,

Defendants.

JOURNAL ENTRY

This matter came on for hearing on October 31, 1990 on the Defendants' Motion for Summary Judgment and the Plaintiff's Memorandum Contra Defendants' Motion. Present were the Plaintiff represented by Bradley Smith of Flanagan, Lieberman, Hoffman, and Swaim, and Defendants' counsel Anne S. Rubin of Southeastern Ohio Legal Services.

Based on the Pleadings, Affidavits and Exhibits presented, the COURT FINDS that the material facts entitling Defendants to judgment as a matter of law are not the subject of legitimate dispute. The COURT FINDS that the Plaintiff is a multi-family housing project subsidized under Section 8 of the National Housing Act, and subject to the rules and policies specified in HUD Handbook 4350.3. The COURT FURTHER FINDS that the Plaintiff did not follow the procedures set forth in HUD Handbook 4350.3 paragraph 5-16 to evaluate the conflicting information received from the tenant and third parties regarding a family member's employment. The COURT FURTHER FINDS specifically that the Plaintiff did not designate a representative who had not been involved with the gathering of the disputed information to meet with the tenant, contrary to the procedures set forth in HUD Handbook 4350.3 paragraph 5-16.


The COURT FURTHER FINDS that the lease and the regulatory requirements in subsidized housing evictions must be strictly construed in favor of the tenant, and that compliance is a condition precedent to the Court taking jurisdiction in a forcible entry and detainer action, Sandefur v. Jones, 9 Ohio App. 3d 85 (Franklin Co. 1982); Deerwood Management Co. v. Flint, Case No. M185 CVG 24397 (Franklin Co. Muni. Ct. 10-15-85). The Court concludes that Plaintiff's failure to follow the procedure set forth in HUD Handbook 4350.3 paragraph 5-16 bars the Court from exercising jurisdiction to grant the Plaintiff the relief requested.

IT IS THEREFORE ORDERED that summary judgment shall be granted to the Defendants and that Plaintiff's Complaint in forcible entry and detainer seeking a writ of eviction against the Defendants, and shall be, and is hereby, dismissed.

Costs assessed to the Plaintiff.


DOUGLAS BENNETT, JUDGE

PREPARED AND SUBMITTED BY:
SOUTHEASTERN OHIO LEGAL SERVICE


Anne S. Rubin
Attorney for Defendants

DIRECTION TO CLERK
PER CIVIL RULE 58 (B)

APPROVED:

Charles Geidner
Attorney for Plaintiff