

IN THE MUNICIPAL COURT OF CHILLICOTHE, OHIO

CHILLICOTHE METROPOLITAN
HOUSING AUTHORITY,
Plaintiff,

Case No. CVG 13 00642

vs.

JUDGMENT ENTRY

TAMEKA LYNCH, et al.
Defendants.

FILED
2013 SEP -14 AM 10:34
JULIE L. DANFORD, CLERK
MUNICIPAL COURT
CHILLICOTHE, OHIO

This matter came on for hearing upon the objection to the Magistrate's Decision filed by Defendants on July 1, 2013. According to Civil Rule 53(D)(4)(d):

If one or more objections to a magistrate's decision are timely filed, the court shall rule on those objections. In ruling on objections, the court shall undertake an independent review as to the objected matters to ascertain that the magistrate has properly determined the factual issues and appropriately applied the law. Before so ruling, the court may hear additional evidence but may refuse to do so unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate.

The Court has reviewed the objection, the memoranda, the pleadings, the Magistrate's Decision, and the applicable law. The Court finds that the objection is well taken and sustains it.

The Defendants are tenants in Sherman Park, which is a public housing complex run by Plaintiff. On April 9, 2013, Defendants were given a NOTICE OF TERMINATION OF TENANCY AND INVITATION TO CONFERENCE. The notice indicated that the lease was being terminated as of May 9, 2013. The notice stated in part:

The specific reasons for the termination of your tenancy are as follows:

You have violated Section (VII) Item (m) (1) in that you and/or your guest have acted in a manner that threatens the health, safety, or right to the other Tenants, peaceful enjoyment of their accommodations (sic).

Also, CMHA is attaching documentation that it has collected which also form the basis for the termination of your tenancy with CMHA which further describe the specific reasons for termination.¹

The notice went on to invite the Defendants to attend a conference to discuss the termination. The conference was scheduled for April 9, 2013, at 11:00 a.m. Curiously, and not explained by either side, the notice was not served on Defendants until April 9, 2013, at 11:30 a.m. Obviously, a notice to attend a meeting that has already taken place is not effective.

The rental contract between plaintiff and defendants began on May 7, 2012, when Defendants entered into a lease with Plaintiff, which would commence on August 1, 2012. Part II of the lease contained the signatures of Tameka Lynch and Jeremi Lynch. The part signed by the Defendants indicated that Part I of the lease agreement had not been provided to them. Part I of the lease agreement was where the applicable language for the termination was found. However, it was not found in Section (VII) Item (m) (1) as stated in the Notice of Termination but rather in Section (IX) (m) (1) which reads:

To assure that Tenant, any member of the household, a guest or any other person under Tenant's control, shall not engage in:

1. Any activity that threatens the health, safety, or right to other Tenants' peaceful enjoyment of their accommodations or community facilities.

On May 10, 2013, Plaintiff served a notice to leave premises on defendants requesting that they leave the property before May 14, 2013. The language contained in this notice also made reference to the wrong section number of the lease.

Because Plaintiff is a public housing authority, Plaintiff must follow not only the

¹Neither party has provided the court with a copy of the documentation mentioned by the this notice.

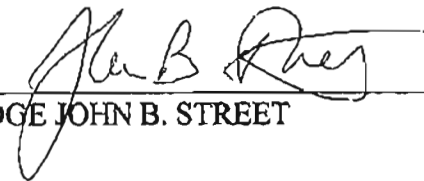
requirements of the Ohio Eviction Statutes but also the requirements set forth in federal law at 24 CFR Section 966.4(1)(3) in terminating the defendants' lease. A valid notice of termination is a prerequisite to bringing an action in Forcible Entry and Detainer. If the notice of termination omits or misstates any of the elements that the applicable federal regulations require, the defect in the notice is a defense to the eviction action. *Cherry Lee Apts. v. Walcott*, No. 03-CVG-00510 (Ohio Mun., Licking Cty., Apr. 25, 2003). The content of the notice must strictly comply with the requirements of the applicable federal regulations.

Plaintiff, however, has not complied with the dictates of federal law requiring that the notice of termination state with specificity the reasons for the proposed termination. First of all, the Plaintiff cites the wrong section of the lease. Second, the Notice of Termination must (1) refer to specific instances of conduct, and (2) specify the dates on which the alleged incidents occurred and the names of the individuals involved in the alleged incidents. In short, "the notice should describe the specific instances of tenant misconduct on which the Landlord is relying and should, generally speaking answer the questions who, what, where, when and how as to each of the specific instances." *United Prop. Mgmt. Co. v. Mundell*, No. R86-CVG-0850, slip op. At 2 (Ohio Mun. Portage Cty., Oct. 22, 1986). Even if the Tenant is aware of the reason for the proposed termination of tenancy, the written notice of termination must state the reason with the requisite specificity. The question is whether or not the Public Housing Authority complied with the federal regulations, not whether the tenant was aware of the specific violations. See Iskin, *Ohio Eviction and Landlord Tenant Law*, Section III(C)(2), at 223.

In the present case, the Plaintiff's Notice of Termination simply restated the lease provision allegedly violated. It contained no facts, no names, no dates. It did not meet the requirement for

specificity under federal law. The Magistrate should have dismissed Plaintiff's complaint because Plaintiff had not properly terminated the lease.

IT IS THEREFORE ORDERED that Defendants' Objection to the Magistrate's Decision be sustained. It is further ordered that this action be dismissed without prejudice to further action.



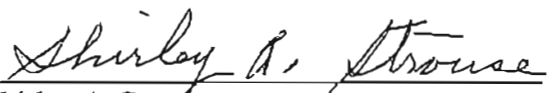
JUDGE JOHN B. STREET

CERTIFICATE OF SERVICE

Copy of the foregoing Judgment Entry mailed to the following by ordinary first class mail postage prepaid on the 4th day of September, 2013:

James K. Cutright, Cutright and Cutright, Attorneys at Law, 76 West Second Street, Chillicothe, Ohio 45601, and

Joshua M. Goodwin, Attorney at Law, SEOLS, 11 East Second St., Chillicothe, Ohio 45601



Shirley A. Strouse
Court Recorder, CMC # 2