

IN THE MUNICIPAL COURT OF DAYTON, OHIO  
CIVIL DIVISION

GREATER DAYTON PREMIER  
MANAGEMENT,  
Plaintiff.

Case No. 12CVG1549

2012 MAY 16 AM 8:59

E. J. JONES  
CLERK

Vs.  
JEFFREY L. PHILLIPS,  
Defendant,

MAGISTRATE'S DECISION  
AND JUDGMENT ENTRY

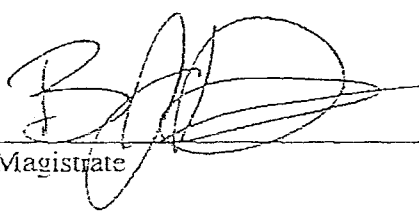
This matter came before the Court on April 26 and May 14, 2012, on Plaintiff's complaint for forcible entry and detainer. Both parties appeared represented by counsel.

At issue is whether or not Plaintiff's notice of proposed termination was in compliance with federal law. The language of the notice is undisputed as is the applicable federal law. The Court finds that the notice which states in pertinent part, "DMHA has received several complains from other residents in the building regarding loud music and noise coming from your unit at all hours of the day and night". Federal law requires that such a notice shall "state specific grounds for termination". 24CFR 966.4. Here the Court finds that "all hours of the day and night" do not provide Defendant with enough specificity that would give him the opportunity to respond.

At trial, testimony was presented by Defendant's neighbor that she complained on numerous occasions about loud music and noise coming from Plaintiff's apartment however her testimony did not indicate any dates. Furthermore when Plaintiff's property manager testified, she indicated that Plaintiff did have the dates of the alleged noise violations on file yet did not include them in the notice. Had the notice included dates of alleged noise violations it would have given Defendant adequate notice as required by law. As a result the Court concludes the notice provided in this instance was insufficient and grants Defendant's Motion to Dismiss.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, that Defendant's Motion to Dismiss is well taken therefore this complaint for forcible entry and detainer will be dismissed.

SO ORDERED.

  
Magistrate