

IN THE FRANKLIN COUNTY MUNICIPAL COURT
COLUMBUS, OHIO

FILED
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J. DANSON, CLERK

Shiloh Grove Ltd. Partnership, :
 :
 Plaintiff, :
 :
 v. :
 :
 Sonya Odom, :
 :
 Defendant. :

Case No. M 9404CVG-010436

REFEREE'S REPORT

This matter was heard before Referee Julius Nemeth. Plaintiff was represented by Milton A. Puckett and defendant was represented by Attorney Michael P. Richter of the Legal Aid Society of Columbus. Based on the sworn testimony and other evidence presented, and weighing the credibility of the witnesses, the referee makes the following findings of fact, conclusions of law, and recommendations:

FINDINGS OF FACT

1. Plaintiff, at all relevant times, has occupied 326 Wespot Drive, Columbus under a written lease, which is attached to the complaint as Exhibit A.
2. The tenancy is a subsidized one and is therefore subject to HUD regulations.
3. On January 24, 1994 plaintiff mailed and delivered to defendant a notice that her tenancy would be terminated February 28, 1994 for three reasons: domestic disputes between the tenant and Alan Daniels, the father of her children which resulted in property damage, such as a kicked-in door and shattered patio glass; several domestic disputes which violated neighbors' rights to peaceful enjoyment and endangered the safety and wellbeing of

other neighbors; and permitting unlawful activities in the unit, or in the common areas or project areas, specifically Alan Daniels being shot by another individual, as a result of a domestic dispute "from your unit" (see Exhibit B attached to complaint).

4. On March 1, 1994, plaintiff served and mailed to defendant a notice requesting that defendant vacate the premises on or before March 11, 1994 (see Exhibit C attached to complaint).

5. The parties by counsel stipulate that the lease attached to the complaint (Exhibit A) is the lease at issue and that the notices given defendant (Exhibits B and C attached to the complaint) are sufficient.

6. Since April of 1993, there have been eight incidents involving Alan Daniels and two incidents involving defendant's father, within the subject premises or on the grounds of the apartment complex in which the premises are located.

7. Defendant testified, and from her testimony the referee finds as fact, that Alan Daniels is the father of her youngest child. She broke up with him in March 1993, and in April 1993 he called and threatened to kill her. He, in fact, came over and kicked in the back door. She filed charges against him and he pleaded guilty to burglary, domestic violence, and assault (see defendant's Exhibit B).

8. In a later incident, Sherman Daniels, the father of Alan Daniels, forced himself into the subject premises, in possession of a semi-automatic pistol, and began an argument which culminated in

Alan Daniels being shot by his father, not in the subject premises but on the grounds of the apartment complex (see defendant's Exhibit C).

9. Defendant is, in fact, scared of Alan Daniels, by her own admission. Also by her own admission, she has had trouble "more or less with his family". Once he told her "If I don't give him our baby, I'd be laying beside my Mom", meaning she would be dead.

10. Notwithstanding testimony by a neighbor to the contrary, the referee finds that defendant did not and does not invite Alan Daniels into the subject premises. In fact, while discussing the notice of termination with Leslie Taylor, the site manager, defendant told the manager that she wanted to move so Alan would not know where she is.

11. On several occasions, when there was trouble at her residence, defendant called for help from plaintiff's security personnel.

12. The testimony before the referee revealed two incidents of fighting in which defendant was involved, with women who lived in or were visiting in the apartment complex where the subject premises are located. However, the testimony did not establish who started these fights, nor is it clear that these fights are among the stated grounds for the proposed eviction.

CONCLUSIONS OF LAW

A. Defendant's domestic situation, especially with respect to the Daniels family, has certainly caused disruptions in her own home

life, and to the extent that the incidents have spilled beyond the confines of defendant's home into the common areas of the apartment complex, also in the lives of her friends and neighbors. However, the testimony before the referee is insufficient to find that defendant began or condoned these incidents or that she voluntarily permitted them to continue, or that any of the instigators who were involved in the incidents were on the premises at her invitation or with her consent. The opposite appears to be the fact.

B. The testimony presented before the referee did not establish, by a preponderance of the credible evidence, that defendant, because of her own voluntary acts, is chargeable with serious or repeated violations of the lease or the applicable laws and regulations, so as to justify her eviction on the stated grounds.

RECOMMENDATION

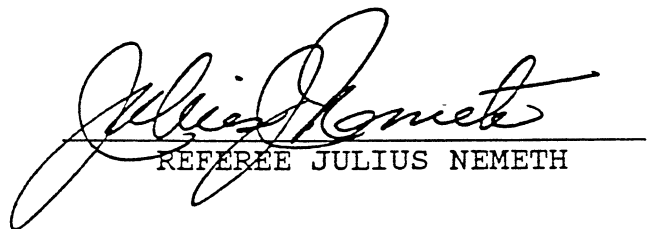
The referee recommends that the first cause of action be dismissed at plaintiff's cost.

June 1, 1994

JN/lbs

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REFeree JULIUS NEMETH