

FILED  
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IN THE FRANKLIN COUNTY MUNICIPAL COURT, COLUMBUS, OHIO  
SMALL CLAIMS DIVISION

Capital Park, Inc.,  
Plaintiff,

-vs-

Diana Robinson,  
Defendant.

Case No. M'79CV G 34117

This cause came on for hearing before Referee Donna Bowman on January 8, 1980. Based on the testimony and evidence presented, and weighing the credibility of the witnesses, the referee makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. That the defendant occupied the premises known as 2257 Alberta Ave., Columbus, Ohio, on a written lease (Plaintiff's Exhibit 1), at the rate of \$135.00 per month, due on the 1st day of each month of which defendant paid \$12.00 and the U.S. Department of Housing and Urban Development paid \$123.00.
2. The defendant was served with a 10-day notice (Plaintiff's Exhibit 3) on November 19, 1979.
3. A copy of plaintiff's exhibit 3 was served on defendant personally and a copy was mailed to defendant.
4. Plaintiff is an eligible project as that term is defined in 24 CFR 886.101.

CONCLUSIONS OF LAW

The referee finds that the plaintiff has complied with the provisions of O.R.C. 1923.04 in that the defendant was given a proper 3 day notice to vacate the premises and that defendant was duly served with a copy of the complaint which is found to be proper on its face. Even though plaintiff has complied with the requirements of Section 1923.04 O.R.C. and 24 CFR 450., plaintiff failed to meet the requirements of 24 CFR 886.128. That section provides:

The owner shall not evict the family unless the owner complies with the requirements of local law, if any, and of this section. The owner shall give the family a written notice of the proposed eviction, stating the grounds and advising the fam-

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ily that it has 10 days . . . within which  
to respond to the owner.


Plaintiff's Exhibit 3, although it gives defendant 10  
days notice of the proposed eviction did not notify defendant  
of her right to respond to the owner. Even if defendant did  
contact plaintiff, plaintiff is not relieved of its burden of  
complying with the above federal regulation. In Ivywood v.  
Baker, 76 AP-669 the Franklin County Court of Appeals held:

Appellee, by choice, is a landlord operating  
a housing project under the National Housing  
Act. As such, he is required to comply with  
federal requirements concerning notice and  
just cause for terminating appellant's ten-  
ancy. If one accepts the subsidies, he also  
accepts the responsibility for compliance  
with rules and regulations.

See also Joy v. Daniels, 479 F2d 1236 (4th Cir 1976).

REFEREE RECOMMENDS:

Defendant's motion to dismiss sustained, case dismissed  
at plaintiff's costs.

  
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Donna Bowman, Referee

Copies to:

James Schottenstein, Attorney for Plaintiff  
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