

Adjunctments,

Plaintiff,

-vs-

James Eckhard

Defendant.

FRANKLIN COUNTY :  
MUNICIPAL COURT :  
TED HYSEL, CLERK :

Case No. R'84 CVG 28561

This cause came on for a preliminary hearing before Referee Nancy Ivers Ferguson. Plaintiff was represented by J. Douglas Stewart, Attorney at Law. Defendant was represented by Ruth Jost, Attorney at Law.

Defendant moves to dismiss on the grounds that the "Notification of Termination of Lease" served on the defendant fails to comply with the requirements of 24 CFR 247.4(a)(3) as amended February 23, 1984. That Section states as follows:

"(a) Requisites of Termination Notice.

The landlord's determination to terminate the tenancy shall be in writing and shall:-- (3) advise the tenant that if he or she remains in the leased unit on the date specified for termination, the landlord may seek to enforce the termination only by bringing a judicial action, at which time the tenant may present a defense;..."

Counsel for plaintiff argues that the "Notification of Termination of Lease" substantially complies with the intent of the statute even though it does not directly quote the language set forth therein.

The referee does not agree. The referee finds that a landlord must strictly comply with the statutory requirements for terminating a tenancy. In the case currently before the Court, the landlord has failed to do so since it failed to notify the tenant that it could terminate the tenancy only through judicial action at which time the tenant could present a defense.

REFEREE'S RECOMMENDATION:

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

*Nancy Ivers Ferguson*  
REFEREE NANCY IVERS FERGUSON

Copies to:

J. Douglas Stewart, attorney for plaintiff

for defendant