

Hobart E. Wiseman, et al :
 :
 Plaintiff, :
 :
 vs. :
 :
 Mary Turner :
 :
 Defendant. :

Case No. M9112CVG-042342

FILED
NOV 13 1991
3:32
[Signature]

REFEREE'S REPORT

This cause came on for hearing before Referee Susan E. McNally on plaintiff's complaint in Forcible Entry and Detainer on the issue of possession only.

Plaintiff appeared unrepresented. Defendant appeared represented by the Legal Aid Society. From the sworn testimony taken the Referee finds as follows:

FINDINGS OF FACT

1. Plaintiff tendered a thirty (30) day notice to terminate a federally subsidized unit. The notice is dated November 2, 1991 and required the defendant to comply by December 1, 1991.

2. Defendant's attorney moved to dismiss on the basis that the Notice to Leave Premises did not comply with 24 CFR 882. The court finds that the notice does not allow a full thirty (30) days as required by the regulations. Since this is federally subsidized housing, the regulations and requirements of those regulations are to be strictly construed.

WISEMAN VS. TURNER

Case No. M9112CVG-042342

3. In addition, the notice fails to state language specifically enumerated in the regulation.

CONCLUSIONS OF LAW

Plaintiff's Notice to Leave Premises does not fulfill the federal regulations in that it does not "advise the tenant that if a judicial proceeding for eviction is instituted, the tenant may present a defense in that proceeding."

The landlord's notice meets the state requirements pursuant to R.C. 1923.04. However, he fails to state specific language cited above which is in the federal regulation and he failed to allow a full thirty (30) days from the date of delivery of the notice pursuant to the regulations. Since the regulations must be strictly construed, according to the case law in federally subsidized housing, the landlord's notice is defective. This is jurisdictional.

RECOMMENDATION

Case dismissed at plaintiff's cost.

January 3, 1992

SEM:cg

Susan E. McNally
REFeree SUSAN E. McNALLY