

**IN THE CLEVELAND MUNICIPAL COURT**  
**CUYAHOGA COUNTY, OHIO**  
**HOUSING DIVISION**

Rainbow Group Apartments )

Date: October 31, 2006

Plaintiff )

CASE NO. 2006CVG19273

vs. )

LANDLORD – TENANT

Dwain Eatmon )

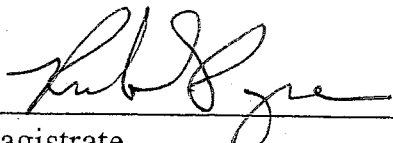
Defendant )

MAGISTRATE'S REPORT AND  
RECOMMENDATION

This matter called for hearing on **July 22, 2004**. Plaintiff was present and was represented by counsel. Defendant was present and represented by counsel. For good cause shown, Defendant's *Motion to Dismiss* is granted.

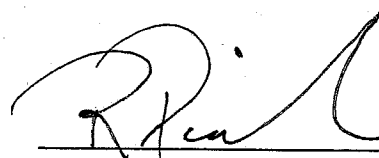
The federal regulations governing subsidized housing require that a Defendant being evicted must receive a notice which states with enough specificity so as to enable the Defendant to prepare a defense (24 C. F. R. §247.4(a)(2)). The notice provided by the Plaintiff does not meet this requirement. The requirement has been interpreted to require dates and times of the alleged lease violations along with specific instances of conduct, Associated Estates Corp. v Bartell, (Cuyahoga County, 1985) 24 Ohio App. 3d. 6, 492 N. E. 2d. 841. and Owner's Management Co. v Stern, (1995) 1995 WL 23152 and Cuyahoga Metropolitan Housing Authority v Younger, (1994) 93 Ohio App. 3d 819, 639 N. E. 2d. 1253

Recommended By:

  
\_\_\_\_\_  
Magistrate

**ATTENTION: A PARTY MAY NOT ASSIGN AS ERROR ON APPEAL ANY MAGISTRATE'S FINDING OF FACT OR CONCLUSION OF LAW UNLESS THE PARTY TIMELY AND SPECIFICALLY OBJECTS TO THAT FINDING OR CONCLUSION AS REQUIRED BY CIV. R. 53(E)(3). ALL OBJECTIONS TO THE MAGISTRATE'S DECISION MUST BE FILED IN WRITING WITHIN FOURTEEN DAYS OF THE JOURNALIZATION OF THIS DECISION. OBJECTIONS MUST BE FILED EVEN IF THE TRIAL COURT HAS PROVISIONALLY ADOPTED THE MAGISTRATE'S DECISION BEFORE THE FOURTEEN DAYS FOR FILING OBJECTIONS HAS PASSED. OBJECTIONS MUST COMPLY WITH THE OHIO RULES OF CIVIL PROCEDURE, AND THE LOCAL RULES OF THIS COURT. FOR FUTHER INFORMATION, CONSULT THE ABOVE RULES OR SEEK LEGAL COUNSEL.**

Approved:



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Judge Raymond L. Pianka  
Housing Division

SERVICE

A copy of this judgment entry was sent to the parties by regular U.S. mail to the following  
on 11/2/06.

         *awj*

**COUNSEL FOR THE PLAINTIFF**

Michael D. Linn, Esq.  
Javitch, Block & Rathbone  
1300 East 9<sup>th</sup> St., 14<sup>th</sup> Floor  
Cleveland, Oh. 44114-1503

**COUNSEL FOR DEFENDANT**

Carol A. Kile, Esq.  
1223 West Sixth St.  
Cleveland, Oh. 44113

**Rainbow Group Apartments**  
7829 Euclid Avenue  
Cleveland, Ohio 44103  
216-391-1799  
216-391-1499 Fax

April 5, 2006

**NOTICE OF NON-RENEWAL OF LEASE FOR CAUSE**

TO: DWAIN EATMON,  
2025 E. 81<sup>ST</sup> Street #110  
Cleveland, Ohio 44103

Please be advised the Cleveland Development Properties/Rainbow Group Apartments, the managing agent of the property located at 2025 E. 81<sup>st</sup> Street does hereby exercise the right to non-renew your tenancy lease at this property, within apartment #110. This notice is being served upon you within the HUD guidelines of no less than a 30 day notice from the date of lease expiration. In accordance with lease guidelines, Section 23;par(b), (c) 1,2; 6a,b;(d),1,2a,b,c,d;(e), 1, 2, 3, 4; (f).

As a result of repeated non-material compliance and lease infractions which include, but are not limited to;

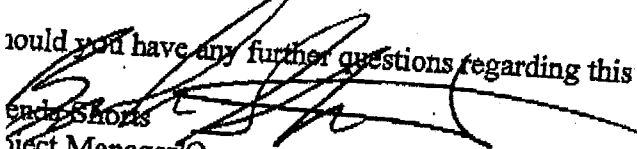
1. Unauthorized use of building equipment and materials.
2. Acts of intimidation and harassment of staff and visitors.
3. Interference with management of the site and staff operations.
4. Unauthorized sales and solicitation of goods out of the residential unit.
5. Community disruption
6. Threatening of staff and residents
7. Theft
8. Directing unauthorized access to building by visitors.
9. Continuous violation of building sign-in policy.
10. Continuous violation of non-smoking policy in the lobby areas.

Your tenancy shall be terminated as of the expiration of your current lease term. EFF. May 31, 2006.

In accordance with HUD guidelines, Rainbow Group Apartments/CDP Cleveland, Inc. hereby advises you that you have ten (10) calendar days following the date of this letter in which you may meet with the manager to discuss the proposed non-renewal of your lease.

If you remain in the premises beyond the date set forth above, Rainbow Group Apartments/CDP Cleveland, Inc. may seek to enforce the termination only by bringing legal action against you, where you shall be given the opportunity to present a defense.

If you have any further questions regarding this information please call 216-391-1799.

  
Michael Linn  
Subject Manager/Occupancy Specialist

Michael Linn, Attorney  
Kerry Kramer, Director