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LORAIN COUNTY
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IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

SONIA RODRIGUEZ,

05 CV 140942

Plaintiff

JUDGE MARK A. BETLESKI

vs.

LORAIN METROPOLITAN
HOUSING AUTHORITY,

JUDGMENT ENTRY & ORDER

Defendant

This case comes on for ruling upon the appeal filed by Sonia Rodriguez, who claims that her Section 8 housing voucher was wrongfully terminated by LMHA.

The incident which resulted in the administrative hearing and the canceling of appellant's voucher was a homicide that occurred in front of the home of Sonia Rodriguez, on October 31, 2004.

The hearing officer relied on the following information presented by the Section 8 Manager, in support of the voucher termination:

- 1) A news article from the Lorain, Ohio, daily newspaper;
- 2) A news article from the daily newspaper of Elyria, Ohio;
- 3) A report on the homicide prepared by the Lorain Police Department; and
- 4) A court docket indicating the murder suspect, Jason Charles, lived at the residence of appellant Rodriguez.

If Jason Charles was indeed a resident of the Rodriguez household and committed a violent criminal act, then LMHA would be justified in terminating the Section 8 housing voucher.

Appellant Rodriguez testified at the hearing and said that she and Charles had an "on and off" relationship, but that he was at the residence on a regular basis, taking care of her children and helping transport them to school.

Rodriguez claimed that Charles did not live with her, and that his residence was at his grandmother's.

The appellant also presented correspondence sent to Charles at a different address. When Charles was released on parole, his listed address was not the one maintained by Rodriguez.

In a case such as this, if the decision below is supported by reliable, substantial and probative evidence, the Court of Common Pleas must affirm the administrative decision. See, e.g., *Dudukovich v. Lorain Metro. Hous. Auth.* (1979), 58 Ohio St. 2d 202.

Turning to the evidence presented, LMHA submitted news articles from the Elyria and Lorain newspapers that are hearsay, which the Court finds to be unreliable.

A close examination of the Lorain police report demonstrates the officer reported Rodriguez was the fiancée of the suspect and that she resided at this location. The report indicates the suspect, Jason Charles, "may be in the house". This only tends to prove that Charles might be at the residence at the time police responded to the emergency call.

LMHA also relied on the court docket in an old criminal case in which Charles had been convicted of burglary.

The court docket in Lorain County Court of Common Pleas Case 93CR-044551 includes an entry dated 5/25/04 that the defendant provided a new address to the Clerk, the same address as that of the appellant, and this change of address was made at the request of defendant Charles.

The docket entry in 93CR-044551 is the only evidence which appears to be somewhat reliable. However, there is no writing within the court file indicating Jason Charles requested a change of address. The appellant is correct in arguing that some person other than Charles may have requested the change.

In its brief, the appellee presents a valid argument that LMHA had grounds to administratively terminate the housing voucher.

Residents who benefit from subsidized housing are not permitted to engage, allow or participate in violent crime.

Jason Charles is charged with murder and is awaiting trial with respect to the shooting of October 31, 2004. *See Lorain County Court of Common Pleas Case 04CR-066543.*

If Charles was indeed an unregistered and unapproved resident of the Rodriguez household, the voucher termination would be justified, as it appears he engaged in violent crime at the residence.

However, the ruling made below must be based upon "reliable, substantial and probative evidence". The Court finds that the evidence presented by LMHA supporting the termination does not rise to the level of reliable and probative evidence.

The Court finds that the decision below of the administrative agency, LMHA, was unreasonable and not supported by reliable, substantial and probative evidence, and the decision below to cancel the Section 8 voucher of appellant Sonia Rodriguez is reversed, and the decision made by LMHA on or about 1/4/05 is vacated.

Judgment is entered in favor of appellant Sonia Rodriguez.

Costs to be paid by defendant-appellee Lorain Metropolitan Housing Authority.

Case Closed.

IT IS SO ORDERED.

Dated

10/20/06


JUDGE MARK A. BETLESKI

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