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H-WA-30495

STATE OF CONNECTICUT SUPERIOR COURT
JUDICIAL BRANCH

LEND LEASE APARTMENT
MANAGEMENT, LLC D/B/A
WINNRESIDENTIAL, AS AGENT OF
BF WATERBURY, LIMITED
PARTNERSHIP D/B/A WATERTOWN
CROSSINGS

2004 SEP -8 A 9:30 AM WATERBURY

HOUSING SESSION
AT WATERBURY

VS

AT WATERBURY
HOUSING SESSION

PARRIS STRIBLING ET. AL.

SEPTEMBER 8, 2004

MEMORANDUM OF DECISION

The plaintiff seeks to obtain possession of the premises known as 100 Fulkerson Drive, Unit #31, Waterbury, Connecticut. The premises are federally subsidized pursuant to 26 U.S.C. Sec. 42. Pursuant to this section the property owner qualifies for federal tax credits by making an "extended low-income housing commitment". The defendant's rent is further subsidized by HUD through a Section 8 Housing Choice Voucher. The plaintiff's sole reason for terminating the defendant's tenancy is due to lapse of time. The defendant claims that the plaintiff must establish good cause to terminate their publicly subsidized tenancy. The plaintiff disagrees and claims that if good cause is required it can prove good cause by way of a reply to plaintiff's special defense without the benefit of a pretermination notice.

Connecticut law is clear that a landlord must comply with the requirements of both state and federal law for termination of a federally subsidized tenancy. See, Jefferson Garden Associates v. Greene, 202 Conn.128,143 (1987). It is clear to this court that termination

of a tenancy in a property subject to the Low Income Housing Tax Program can only be for good cause. This issue has been addressed by courts in Minnesota and Maryland.

Cimarron Village Townhomes, LTD. v. Washington, 1999 WL 538110, (Minn.App.July 27,1999); Carter v. Maryland Management Co. 377 Md.596, 835 A.2d 158 (2003). Both courts require good cause. These decisions are supported by the recent ruling from the Internal Revenue Service. IRS Ruling 2004-82 (to appear in Internal Revenue Bulletin 2004-35,dated August 30, 2004) makes it clear that the good cause protection applies to all Low Income Housing Tax Credit property evictions at all times .

The plaintiffs failure to provide a "Kapa" notice is fatal to their case. This notice is required by both case law and Conn. Gen. Stat. Sec 47a-15. Housing Authority of the City of Norwalk v. Harris, 28 Conn. App.684, *aff'd* 225 Conn. 600 (1993).

Accordingly judgment shall enter for the defendants.


Pinkus, J.