



Chicago Office, Region V
547 West Jackson Boulevard
Chicago, Illinois 60606-5760

APR 24 1986

ILLINOIS CIRCULAR LETTER

TO: All Owners, Managing Agents and Project Managers of Multi-Family
Housing Developments in Illinois Receiving Assistance under
Section 8 Housing Assistance Payments Contracts

FROM: Robert L. Turner, Director of Housing Management *Robert L. Turner*

SUBJECT: Late Payment of Rent by Public Assistance Recipients --
Material Non-Compliance with the Lease (HUD Handbook 4350.3)

It has come to our attention that in Illinois payment of public assistance benefits is made on a staggered system under which all recipients of public assistance benefits do not receive such benefits on the first day of the month. This fact may cause difficulty for assisted tenants to pay their rent by the first of the month.

Although HUD Handbook 4350.3 does not so state, it is implicit therein that owners and managers of federally-assisted projects shall exercise good judgment and act in a responsible fashion. Further, HUD presumes that if it becomes impossible for a tenant to pay his/her rent on time as a result of receiving public assistance on or after the date the rent payment is due, the owner or manager will attempt to reasonably accommodate the situation.

HUD does not expect that a private landlord would proceed to terminate the tenancy for untimely rent payments where it is evident to the landlord that the tenant was unable to pay his/her rent because the tenant received his/her public assistance payment after the rent due date, and the tenant, in good faith, tenders the rent as soon as possible after receipt of the public assistance funds. A reasonably prompt tender of the rent would be within three (3) business days from receipt of the public assistance check.

HUD assumes that an owner or manager will not consider a rental payment to be late, for purposes of substantial non-compliance with the lease such as to serve as a basis for eviction if rent is tendered within three (3) business days of receipt of the assistance check from the Illinois Department of Public Aid. It is HUD's interpretation of the model lease (Appendix 19a in Handbook 4350.3) that such late payments do not constitute material noncompliance with the lease notwithstanding that such late payments occur more than once.

PRAIRIE STATE LEGAL SERVICES, INC.

414 Hamilton Blvd., Suite 301
Peoria, Illinois 61602
(309) 674-9831

SUSAN DAWSON-TIBBITS
Managing Attorney

MARK T. CAMPBELL

DANIEL J. SMITH

CHARLES P. MITCHELL
Staff Attorneys

DORENE E. KEMPIN
Legal Assistant

LINDA JOHNSTON
Private Attorney Project Coordinator

Serving Peoria,
Tazewell, Woodford
and Marshall Counties
TOLL FREE NUMBER
1-800-322-2280

January 2, 1987

Robert L. Turner
Director of Housing Management
U.S. Dept. of Housing and Urban Development
Chicago Office, Region V
547 W. Jackson Blvd.
Chicago, Illinois 60606

Dear Mr. Turner:

I am writing concerning the Illinois Circular Letter dated April 24, 1986, from you concerning late payment of rent by Public Aid recipients. In that letter you state that "HUD assumes that an owner or manager will not consider a rental payment to be late, for the purposes of substantial noncompliance with the lease such as to serve as a basis for eviction if rent is tendered within three (3) business days of receipt of the assistance check from the Illinois Department of Public Aid." Your letter specifically references HUD Handbook 4350.3. I am requesting your interpretation as to whether or not such late payments as indicated in the above mentioned Illinois Circular Letter constitute material noncompliance with the lease in cases involving Public Housing Authorities. Specifically, I need to know whether your interpretation of material noncompliance under the specific Section 8 programs covered under 4350.3 is applicable generally to Public Housing Authorities who administer conventional units as well as other Section 8 programs not covered under 4350.3.

I appreciate any guidance that you can give me on this matter. If you need any other information, please feel free to contact me. Please let me know. I look forward to your response concerning this matter.

Sincerely,

Mark T. Campbell
Staff Attorney

MTC/rkm