

WISCONSIN COURT OF APPEALS  
DISTRICT IV

---

WATERTOWN HOUSING AUTHORITY,  
Plaintiff-Respondent,

v.

Case No. 2023-AP-1018

HARRIET KESTER-PALETTI,  
Defendant-Appellant

---

**NON-PARTY BRIEF OF *AMICUS CURIAE* NATIONAL HOUSING LAW  
PROJECT IN SUPPORT OF DEFENDANT-APPELLANT**

---

APPEAL FROM THE JUDGMENT OF THE CIRCUIT  
COURT OF JEFFERSON COUNTY, THE HONORABLE  
WILLIAM V. GRUBER PRESIDING

PEOPLE'S LAW CENTER  
Erica K. López  
State Bar No. 1083680  
P.O. Box 7413  
Madison, WI 53707  
[erica@peoples-law-center.org](mailto:erica@peoples-law-center.org)

NATIONAL HOUSING LAW PROJECT  
Marie Claire Tran-Leung  
Wisconsin State Bar No. 2000003539 (admitted *pro hac vice*)  
Sarah Brandon  
Wisconsin State Bar No. 2000003528 (admitted *pro hac vice*)  
1663 Mission St., Suite 460  
San Francisco, CA. 94103  
Phone: (415) 546-7000  
[mctranleung@nhlp.org](mailto:mctranleung@nhlp.org)  
[sbrandon@nhlp.org](mailto:sbrandon@nhlp.org)

**TABLE OF CONTENTS**

TABLE OF AUTHORITIES ..... 3

ARGUMENT ..... 7

I. PUBLIC HOUSING IS A VENERABLE, DEEPLY-SUBSIDIZED HOUSING PROGRAM THAT SERVES THE NATION’S POOREST AND MOST VULNERABLE RENTERS..... 8

    A. Eviction from public housing is commonly an irrecoverable event. . 9

    B. Good cause for eviction from public housing requires serious tenant wrongdoing and a material risk of harm to others. .... 12

        1. Material lease terms relate to protecting persons, property, or the integrity of the public housing program..... 13

        2. A serious lease violation requires culpability and significant or ongoing noncompliance..... 14

        3. A “repeated” violation of the lease requires a pattern of infractions suggesting a probability of future repetition..... 16

    C. Parking a nonoperable vehicle in violation of project rules does not constitute a serious or repeated violation of a material lease term. . 17

CONCLUSION ..... 18

CERTIFICATION BY ATTORNEY ..... 19

**TABLE OF AUTHORITIES**

**Cases**

*Bella Vista Apts. v. Herzner*, 796 N.E.2d 593 (2003) ..... 11

*Fairview Co. v. Idowu*, 559 N.Y.S.2d 925 (Civ. Ct. 1990)..... 14

*Greene Ave. Assocs. v. Cardwell*, 743 N.Y.S.2d 842, 858 (Civ. Ct. 2002). ..... 15

*Hempstead Vill. Hous. Assocs. v. Pitts*, 961 N.Y.S.2d 358 (N.Y. Dist. Ct. 2012). 12

*Hous. Auth. of Bangor v. Bush*, 2001 WL 1719230 (Me. Super. Ct. Feb. 2, 2001)  
..... 14

*Houston Hous. Auth. v. House*, 2011 WL 3628851 (Tex. App. Aug. 18, 2011) ... 14

*In re Day*, 208 B.R. 358 (Bankr. E.D. Pa. 1997). ..... 11

*In re Sweeney*, 215 B.R. 97 (Bankr. E.D. Pa. 1997). ..... 11

*Indigo Real Estate v. Wadsworth*, 280 P.3d 506 (Wash. Ct. App. 2012). ..... 13

*Investors Diversified Prop. Mgmt., Inc. v. Brown*, 1988 WL 102781 (Tenn. Ct.  
App. Oct. 7, 1988) ..... 15

*Mid-Northern Management, Inc. v. Heinzeroth*, 234 Ill.App.3d 240, 174 Ill.Dec.  
784, 599 N.E.2d 568 (1992). ..... 15, 16

*Millennium Hills Hous. Dev. Fund Corp. v. Patterson*, 2009 N.Y. Slip Op.  
52088(U) (Dist. Ct. 2009)..... 14

*North Shore Plaza Assocs. v. Guida*, 459 N.Y.S.2d 685, 687 (N.Y.Civ.Ct.1983)14,  
15

*State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 681 N.W.2d 110, 124 (2004)..... 13

*Teamster Retiree Hous. of Minneapolis, Inc. v. Goldstein*, No. UD-1960919514  
(Minn. Dist. Ct. Oct. 21, 1996)..... 14

*Tucker v. Chicago Hous. Auth.*, Dkt. No. 14CH000009 (2015) ..... 14

*Waimanalo Vill. Residents' Corp. v. Young*, 956 P.2d 1285, 1299 (Ct. App. 1998)  
..... 14, 15

**Statutes**

42 U.S.C. § 1436 ..... 10  
42 U.S.C.A. § 1437n ..... 10

**Other Authorities**

American Law Institute, Restatement (Second) of Contracts § 241 (1981) ..... 11  
Frederick J. Eggers, U.S. Dept. of Housing & Urban Dev’t, Office of Policy  
Development & Research, *Characteristics of HUD-Assisted Renters and Their  
Units in 2019* (June 2021)..... 7  
Harvard Joint Center for Housing Studies, *America’s Rental Housing* (2024) ..... 9  
HUD Office of Policy Development & Research, “Affordable Housing, Eviction,  
and Health,” Evidence Matters (Summer 2021)..... 8  
Letter from Mel Martinez, HUD Sec’y, to Public Housing Directors (Apr. 16,  
2002), ..... 5  
Matthew Desmond, "Eviction and the Reproduction of Urban Poverty," *American  
Journal of Sociology* (2012). ..... 9  
National Low-Income Housing Coalition, *The Gap: A Shortage of Affordable  
Homes* (March 2024). ..... 6, 7, 8  
Robert Collinson and Davin Reed, The Effects of Evictions on Low-Income  
Households (2018)..... 8, 9  
Stout, EVICTION FREE MILWAUKEE ANNUAL INDEPENDENT EVALUATION 12  
(2023)..... 9

**Regulations**

24 C.F.R. § 5.506 ..... 10  
24 C.F.R. § 5.603 ..... 6  
24 C.F.R. § 960.202 ..... 6  
24 C.F.R. § 960.203 ..... 9

24 C.F.R. § 966.4 .....	10, 11, 12
24 C.F.R. § 982.552 .....	9

## **INTEREST OF NON-PARTY AMICUS CURIAE**

*Amicus* National Housing Law Project (NHLP) is a national, non-profit legal advocacy center whose mission is to advance housing justice for poor people by increasing and preserving the supply of decent, affordable housing; expanding and enforcing low-income tenants' and homeowners' rights; and increasing housing opportunities for racial and ethnic minorities. Through its Evictions Initiative, *Amicus* provides technical assistance to legal services attorneys engaged in eviction defense and conducts advocacy on eviction prevention for low-income tenants across the country, including those living in public housing.

*Amicus* NHLP's interest in this case stems from a long history of advocating to protect the rights of those living in public housing, one of the last sources of truly affordable housing available to tenants with very low and extremely low incomes. *Amicus* can provide a national perspective on the impact of the Circuit Court's interpretation of the "good cause" requirement to allow evictions of public housing residents on the basis of minor lease violations. *Amicus* can also discuss how these unwarranted evictions destabilize low-income tenants, families, and broader communities.

## ARGUMENT

In this case, a public housing resident faces eviction for having an inoperable vehicle in the project's parking lot. This violation of the project's parking rules did not risk the safety of any person or the security of the project. Even if it did, Watertown Housing Authority (WHA) had other alternatives to eviction, such as towing the vehicle, as provided for in the project's rules. This Court should hold that WHA did not establish good cause for evicting the tenant and reverse the trial court.

In interpreting the "good cause" requirement to eviction from subsidized housing, courts have consistently rejected evictions that were not sufficiently necessary either to protect other residents and staff, or to protect the physical or financial security of the housing project. Acknowledging the role of public housing in providing basic shelter to some of the nation's most impoverished households, the U.S. Department of Housing and Urban Development (HUD) has stated that eviction from public housing should be the last option after all other alternatives are exhausted.<sup>1</sup> Any interpretation of the good cause requirement that permits eviction for minor lease violations having little or no material impact on the project environment would conflict with such a position and further destabilize this vulnerable group of tenants. Such an interpretation would also undermine

---

<sup>1</sup> Letter from Mel Martinez, HUD Sec'y, to Public Housing Directors (Apr. 16, 2002), <https://www.nhlp.org/wp-content/uploads/Ltr-from-Mel-Martinez-HUD-Secy-to-Pub-Hous-Dirs-Apr.-16-2002.pdf>.

public policy objectives because tenants evicted from public housing face the greatest risk of homelessness.

**I. PUBLIC HOUSING IS A VENERABLE, DEEPLY-SUBSIDIZED HOUSING PROGRAM THAT SERVES THE NATION’S POOREST AND MOST VULNERABLE RENTERS.**

The United States has been plagued by a severe shortage of affordable housing for decades. About one-fourth (11 million) of the roughly 44.1 million renter households in the United States have extremely low-incomes, meaning incomes at or below 30% of the area median.<sup>2</sup> At this income level, only 34 affordable and available homes exist for every 100 households who need them, both nationwide and in Wisconsin.<sup>3</sup> This number reflects a shortage of some 7.4 million units nationwide and nearly 124,000 units in Wisconsin.<sup>4</sup>

Public housing provides a lifeline to renters most in need. Throughout its history, the public housing program has created nearly 1.4 million permanently affordable units targeted at extremely low-income families. In recent years, however, the program has declined, leaving fewer than 900,000 public housing units remaining in operation, despite growing need.

Rents are capped at 30% of a tenant’s family income, and new public housing admissions are targeted at extremely low-income families.<sup>5</sup> Collectively,

---

<sup>2</sup> National Low-Income Housing Coalition, *The Gap: A Shortage of Affordable Homes*, 4 (March 2024), <https://nlihc.org/gap>.

<sup>3</sup> *Id.* at app. A.

<sup>4</sup> *Id.*

<sup>5</sup> *See* 24 C.F.R. § 960.202 (a)(2)(i). Once admitted, a family remains eligible for public housing so long as its income remains below 80% of the area median. 24 C.F.R. § 5.603(b).



in 2019 the median income for all public housing tenants was \$13,240.<sup>6</sup> More than 30% of public housing tenants lack a high school diploma or GED, and fewer than 10% have college degrees.<sup>7</sup> Among public housing tenants who have been in their units between 2-9 years, more than 63% have at least one household member with a disability.<sup>8</sup> For many of these tenants, the ability to afford housing absent the deep federal subsidy is practically unthinkable.

Access to subsidized housing is not a complete panacea for extremely low-income renters. A significant percentage still experience housing cost burden.<sup>9</sup> Moreover, their meager incomes leave these tenants with limited funds to pay for other necessities or weather an income disruption or unexpected expense. But the income-based rents and good cause eviction protections that characterize public housing at least give extremely low-income renters a fighting chance to overcome such shocks and setbacks and regain stability.

**A. Eviction from public housing is commonly an irrecoverable event.**

With so few affordable housing resources available relative to the need, extremely low-income renters across the country face serious financial hardships. Nearly three-fourths (74%) of those households have severe housing cost

---

<sup>6</sup> Frederick J. Eggers, U.S. Dept. of Housing & Urban Dev't, Office of Policy Development & Research, *Characteristics of HUD-Assisted Renters and Their Units in 2019* at 25-26 (June 2021),

<https://www.huduser.gov/portal/sites/default/files/pdf/2019-Characteristics-Report.pdf>

<sup>7</sup> *Id.* at 21.

<sup>8</sup> *Id.* at 22.

<sup>9</sup> National Low-Income Housing Coalition, *The Gap: A Shortage of Affordable Homes*, 11 (March 2024) (showing that 87% of extremely low-income renters are housing cost-burdened).

burden—or pay more than half their incomes on rent and utility charges.<sup>10</sup> This percentage is marginally lower in Wisconsin at 72%.<sup>11</sup> With such severe cost burdens, these renters face a high risk of eviction.

Evictions “are extremely disruptive experiences that have numerous negative economic, social, and health impacts for affected families and communities [including] an increase in all-cause mortality, higher mortality rates in several substance use categories, and a likelihood of committing suicide that is four times higher[.]”<sup>12</sup> The risk of mental health hospitalization increases,<sup>13</sup> as does the risk of homelessness,<sup>14</sup> which carries its own broad range of adverse health impacts. Households often lose personal property, important documents and records, employment, school progress, and social networks as a result of evictions. Eviction also impacts a household’s future housing prospects because landlords often deny admission to applicants with an eviction history, meaning that they “often must accept conditions far worse than those of their previous dwelling,” [...] resulting in moves within disadvantaged neighborhoods [that] are associated

---

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at App. A.

<sup>12</sup> HUD Office of Policy Development & Research, “Affordable Housing, Eviction, and Health,” Evidence Matters (Summer 2021), <https://www.huduser.gov/portal/periodicals/em/Summer21/highlight1.html>

<sup>13</sup> *Id.*

<sup>14</sup> *See e.g.*, Robert Collinson and Davin Reed, The Effects of Evictions on Low-Income Households (2018) (eviction increased likelihood of homeless shelter admission by 14%), [https://www.law.nyu.edu/sites/default/files/upload\\_documents/evictions\\_collinson\\_reed.pdf](https://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf).

with negative outcomes such as poor school performance, loss of social ties, increased rates of adolescent violence, and health risks.”<sup>15</sup>

These risks are perhaps greatest for public housing tenants, whose limited income leaves the fewest housing alternatives available. Readmission to other subsidized housing programs is unrealistic. Prior evictions from federally-assisted housing within five years is a statutorily-authorized ground for denial of a housing voucher<sup>16</sup> and may preclude admission to other subsidized housing as well.<sup>17</sup> Evicted tenants also face the practical barrier of waiting lists that are many years long, use a lottery system, or are simply closed.

What remains for evicted public housing tenants is extreme housing scarcity. Without access to subsidized housing, these tenants are likely to live in unsafe, substandard, or overcrowded conditions, constantly on the brink of displacement. Many eventually descend into homelessness, whether short-term or prolonged; nationwide homelessness hit a record high of 653,100 people in January 2023, and over 256,600 persons experienced unsheltered homelessness during 2023.<sup>18</sup>

---

<sup>15</sup> *Id.*, quoting Matthew Desmond, "Eviction and the Reproduction of Urban Poverty," *American Journal of Sociology* 118 (2012).

<sup>16</sup> 24 C.F.R. § 982.552(c)(1)(ii).

<sup>17</sup> *See, e.g.*, 24 C.F.R. § 960.203(c).

<sup>18</sup> Harvard Joint Center for Housing Studies, *America's Rental Housing* 3-4 (2024), [https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard\\_JCHS\\_Americas\\_Rental\\_Housing\\_2024.pdf](https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2024.pdf). Homelessness is also expensive for governments and communities. An independent evaluation of Milwaukee's right to counsel program estimated that the county "likely realized economic benefits of \$9 million to \$9.3 million" as a result of reducing evictions over a little more than a year. Stout, EVICTION FREE MILWAUKEE ANNUAL INDEPENDENT EVALUATION 12 (2023).

Given the dire options available to those evicted from public housing, continued occupancy of public housing at income-based rents are, in the words of one court, “matters upon which the Tenant's entire economic status is dependent”<sup>19</sup> and “should not be taken from any such tenant lightly, but only for reasons which are at once culpable and significant.”<sup>20</sup> A court interpreting whether a lease violation is sufficiently material to justify eviction from public housing should bear these grave consequences in mind.<sup>21</sup>

**B. Good cause for eviction from public housing requires serious tenant wrongdoing and a material risk of harm to others.**

Harsh though eviction from public housing may be, ultimately PHAs may evict tenants where sufficient cause exists. Outside of specific reasons enumerated by federal law,<sup>22</sup> termination of a public housing tenancy is generally reserved for situations in which eviction is necessary to protect against physical dangers to persons or property, or threats to the fundamental integrity and financial security of the program.<sup>23</sup> For these cases, the regulations governing public housing state

---

<sup>19</sup> *In re Day*, 208 B.R. 358, 367 (Bankr. E.D. Pa. 1997).

<sup>20</sup> *In re Sweeney*, 215 B.R. 97, 103 (Bankr. E.D. Pa. 1997).

<sup>21</sup> *See, e.g., Bella Vista Apts. v. Herzner*, 796 N.E.2d 593, 597 (2003) (dismissing eviction for lack of good cause because extent of lease violation would not justify eviction in light of policy goals of family cohesion and assistance for people with disabilities).

<sup>22</sup> One category of authorized public housing evictions pertains to tenancies inconsistent with the purposes and political goals of the program. Tenants may potentially face eviction for reasons such as earning too much income 24 C.F.R. § 966.4(1)(2)(ii), lacking an eligible immigration status, *see* 42 U.S.C. § 1436; *see also* 24 C.F.R. § 5.506, or having a statutorily-disqualifying criminal conviction. *see, e.g.,* 42 U.S.C.A. § 1437n(f)(1).

<sup>23</sup> *See* 24 C.F.R. § 966.4(1)(2) (defining good cause for eviction from public housing).

that a tenant’s “[s]erious or repeated violation of material terms of the lease” establishes good cause for eviction.<sup>24</sup>

**1. *Material lease terms relate to protecting persons, property, or the integrity of the public housing program.***

For a lease violation to potentially support eviction from public housing, the specific provision violated must be a “material” term.<sup>25</sup> This analysis focuses on the centrality of the lease provision in question to the use and occupancy of the housing; that is, in determining whether a contractual provision is material, courts generally consider whether the provision was fundamental to the overall transaction, whether the breach can be cured, and the reasons for the breach and surrounding circumstances.<sup>26</sup> A lease term is material where noncompliance endangers persons or property or damages the financial or legal integrity of the housing. Lease violations that are likely to be material include nonpayment of rent,<sup>27</sup> fraud relating to the tenant’s eligibility or rent obligation,<sup>28</sup> or maliciously damaging the physical premises.<sup>29</sup> By contrast, a New York court ruled that a sign-in requirement for tenants entering the building was not material because violations of that provision did not adversely affect health and safety, did not disrupt the livability of the project, and had no financial impacts.<sup>30</sup>

---

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> American Law Institute, Restatement (Second) of Contracts § 241 (1981) (factors to consider in determining whether a breach of a contract).

<sup>27</sup> 24 C.F.R. § 966.4(1)(2)(i)(A).

<sup>28</sup> 24 C.F.R. § 966.4(1)(2)(iv)(C).

<sup>29</sup> 24 C.F.R. § 966.4(1)(2)

<sup>30</sup> *Hempstead Vill. Hous. Assocs. v. Pitts*, 961 N.Y.S.2d 358 (N.Y. Dist. Ct. 2012).

In *Indigo Real Estate v. Wadsworth*, the Washington Court of Appeals reversed the eviction of a subsidized housing tenant who left a plywood panel on her balcony despite the fact that failure to remove the panel violated a lease provision prohibiting storage of such material on balconies.<sup>31</sup> The appellate court remanded for the trial court to determine whether leaving the plywood on the balcony amounted to noncompliance with a *material* lease term, an inquiry that would turn on such factors as whether the plywood posed any kind of safety risk to people, the building, or the grounds.

To interpret the public housing regulations as making any rule governing the tenancy a material lease term would improperly render the materiality requirement superfluous in the eviction context.<sup>32</sup> Such an interpretation would also conflict deeply with the underlying objective of ensuring public housing tenants security of tenure against arbitrary and unnecessary eviction.<sup>33</sup>

**2. *A serious lease violation requires culpability and significant or ongoing noncompliance.***

Closely related to the question of materiality is whether a lease violation is “serious.” But while the materiality question tends to look at the centrality of the relevant lease provision in the context of the proposed eviction, evaluating the

---

<sup>31</sup> *Indigo Real Estate v. Wadsworth*, 280 P.3d 506 (Wash. Ct. App. 2012).

<sup>32</sup> 24 C.F.R. §§ 966.4(f), (l)(2)(i); see *State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 681 N.W.2d 110, 124 (2004) (“Statutory language is read where possible to give reasonable effect to every word, in order to avoid surplusage.”).

<sup>33</sup> See *id.* at 663.

seriousness of a lease violation focuses on the degree to which the policy was violated and the extent of the tenant's blameworthiness.

Mere technical violations of leases and project rules that cause no actual harm are well established as insufficiently serious to warrant eviction from public housing.<sup>34</sup> But even substantial violations have been held insufficiently serious to evict tenants when the impacts were mild,<sup>35</sup> or where tenants took subsequent actions to cure or mitigate the harm.<sup>36</sup>

Furthermore, even substantial lease violations resulting in significant harm have been held insufficiently serious to warrant eviction where the conduct was unknowing, accidental, or otherwise not purposeful. For example, multiple courts have rejected eviction claims based on accidental fires.<sup>37</sup> Lease violations committed by children have also been routinely held insufficiently culpable,

---

<sup>34</sup> See, e.g., *Hous. Auth. of Bangor v. Bush*, 2001 WL 1719230 (Me. Super. Ct. Feb. 2, 2001) (permitting guest to spend more than 14 days in three month period in violation of lease did not constitute serious or repeated violation); see *Waimanalo Vill. Residents' Corp. v. Young*, 956 P.2d 1285, 1299 (Ct. App. 1998) (failure to replace damaged floor tiles not a "substantial" lease violation).

<sup>35</sup> *Houston Hous. Auth. v. House*, 2011 WL 3628851 (Tex. App. Aug. 18, 2011) (damage to public housing unit from accidental fire and failure to secure utilities not serious violations); *Fairview Co. v. Idowu*, 559 N.Y.S.2d 925 (Civ. Ct. 1990).

<sup>36</sup> See *North Shore Plaza Assocs. v. Guida*, 459 N.Y.S.2d 685, 687 (N.Y.Civ.Ct.1983); *Millennium Hills Hous. Dev. Fund Corp. v. Patterson*, 2009 N.Y. Slip Op. 52088(U) (Dist. Ct. 2009) (refusing to evict for housekeeping which was cured, minor damage to outside of building and termination of electrical service for a few days), *aff'd*, 927 N.Y.S.2d 617 (App. Term. 2011); *Teamster Retiree Hous. of Minneapolis, Inc. v. Goldstein*, No. UD-1960919514 (Minn. Dist. Ct. Oct. 21, 1996) (noting that disputes could and should be resolved by greater cooperation, communication or mediation, but tenant should not be evicted for minor damage that tenant caused and agreed to fix).

<sup>37</sup> *Houston Hous. Auth. v. House*, 2011 WL 3628851 (Tex. App. Aug. 18, 2011) (no serious lease violation found where tenant had accidental fire in her apartment); *Tucker v. Chicago Hous. Auth.*, Dkt. No. 14CH000009 (2015) (administrative hearing decision disallowing PHA from charging tenant for fire damages absent evidence of tenant negligence).

particularly where the parents had no reason to anticipate or prevent the conduct.<sup>38</sup> *Greene Ave. Associates v. Cardwell* held that a subsidized tenant’s submission of inaccurate information about income and household composition—though plainly contrary to lease—was not sufficiently material to warrant eviction where she did so without the intent “to gain some advantage dishonestly.”<sup>39</sup>

**3. A “repeated” violation of the lease requires a pattern of infractions suggesting a probability of future repetition.**

Even when lease violations may not arise to the level of seriousness, HUD nevertheless authorizes eviction for “repeated” violations. Multiple courts have interpreted this provision to require “a pattern of repeated minor violations of the lease, not isolated incidents.”<sup>40</sup> And courts have rejected efforts to treat individual components of a singular act or omission as constituting multiple violations so as to evict for repeated violations. For instance, the court in *Waimanalo Village v. Young* rejected a landlord’s effort to characterize the tenant’s failure to replace “twenty to forty marked and indented tiles” as repeated lease violations.<sup>41</sup>

The core rationale of the “repeated” lease violation prong is that the violation could happen again, and through the multiple past incidents the tenant

---

<sup>38</sup> *Investors Diversified Prop. Mgmt., Inc. v. Brown*, 1988 WL 102781 (Tenn. Ct. App. Oct. 7, 1988); see also *N. Shore Plaza Assocs. v. Guida*, 459 N.Y.S.2d 685, 687 (Civ. Ct. 1983) (pre-*Rucker* decision holding that similar assault and fight involving eight-year-old were not “substantial” lease violations).

<sup>39</sup> *Greene Ave. Assocs. v. Cardwell*, 743 N.Y.S.2d 842, 858 (Civ. Ct. 2002).

<sup>40</sup> *Waimanalo Vill. Residents' Corp. v. Young*, 956 P.2d 1285, 1300 (Ct. App. 1998), quoting *Mid-Northern Management, Inc. v. Heinzeroth*, 234 Ill.App.3d 240, 174 Ill.Dec. 784, 599 N.E.2d 568 (1992).

<sup>41</sup> *Waimanalo Vill. Residents' Corp. v. Young*, 956 P.2d at 1300.



has shown an unwillingness or inability to comply with the relevant obligation. In *Mid-Northern Management v. Heizenroth*, for instance, the court found that a series of acts by a tenant’s seven-year-old child (e.g., watching TV loudly, squirting a water pistol) did not amount to “repeated” violations because they were isolated incidents that occurred in short succession before the tenant received notice of the conduct and a chance to correct it.<sup>42</sup>

**C. Parking a nonoperable vehicle in violation of project rules does not constitute a serious or repeated violation of a material lease term.**

Turning to the lease violation at hand, the Watertown Housing Authority’s parking rules are ancillary to the use and occupancy of the housing, and the violation—parking an inoperable vehicle—neither endangers persons or property nor damages the financial well-being of the project. Though the violation endured for several months, the tenant parked only a single inoperable vehicle one time, and the tenant did not return the same vehicle to the lot after it was removed. Since the car was inoperable due to a defective head gasket that the tenant could not afford to repair, the tenant’s conduct was not willful or injurious to others. Furthermore, the housing authority had a clear alternative to eviction for addressing the violation—towing the vehicle, as provided for in the project rules.

---

<sup>42</sup> *Mid-Northern Mgmt., Inc. v. Heinzeroth*, 234 Ill. App. at 247.

## CONCLUSION

Amicus respectfully requests that this Court reverse the Circuit Court's determination that Plaintiff-Appellee Watertown Housing Authority (WHA) had the necessary good cause to evict Defendant-Appellant Harriet Kester-Paletti and dismiss WHA's claim for eviction. WHA's parking rule was not a material lease provision, and the violation in this case was minor and not part of a pattern of repeated violations. Such findings would not have supported termination of the tenancy, and hence the eviction action should have been dismissed.

Respectfully submitted this 29<sup>th</sup> day of March, 2024

Electronically Signed By

/s/ Erica K. López \_\_\_\_\_

PEOPLE'S LAW CENTER

Erica K. López

State Bar No. 1083680

P.O. Box 7413

Madison, WI 53707

[erica@peoples-law-center.org](mailto:erica@peoples-law-center.org)

NATIONAL HOUSING LAW PROJECT

Marie Claire Tran-Leung

Wisconsin State Bar No. 2000003539 (admitted *pro hac vice*)

Sarah Brandon

Wisconsin State Bar No. 2000003528 (admitted *pro hac vice*)

1663 Mission St., Suite 460

San Francisco, CA. 94103

Phone: (415) 546-7000

[mtranleung@nhlp.org](mailto:mtranleung@nhlp.org)

[sbrandon@nhlp.org](mailto:sbrandon@nhlp.org)

**CERTIFICATION BY ATTORNEY**

I hereby certify that this brief conforms to the rules contained in Wis. Stat. §§ 809.19(8)(b), (bm), and (c) for a brief. The length of this brief is 2998 words.

Respectfully submitted this 29<sup>th</sup> day of March, 2024

Electronically signed by:

/s/ Marie Claire Tran-Leung

NATIONAL HOUSING LAW PROJECT

Marie Claire Tran-Leung

Wisconsin State Bar No. 2000003539 ((admitted *pro hac vice*))

1663 Mission St., Suite 460

San Francisco, CA. 94103

Phone: (415) 546-7000

[mctranleung@nhlp.org](mailto:mctranleung@nhlp.org)