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Danetta Bond vs. THDA

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BEFORE THE TENNESSEE HOUSING DEVELOPMENT AGENCY

IN THE MATTER OF:

DANETTA BOND

DOCKET NO: 32.00-123511J

ORDER

This contested administrative case was heard at the Jackson Field Office of the Tennessee Housing Development Agency, on December 13, 2013, before Rob Wilson, Administrative Judge, assigned by the Secretary of State and sitting for the Tennessee Housing Development Agency. Bruce Balcom, Esq., represented the Tennessee Housing Development Agency (“THDA” or “the Agency”). The Respondent, Danetta Bond, proceeded on her own behalf.

The issue in this matter concerned THDA’s request to terminate the rental assistance provided through the Agency to Ms. Bond. After consideration of the evidence and the arguments of the parties, it is determined that the request should be denied, and Ms. Bond’s assistance should continue. This decision is based upon the following.

FINDINGS OF FACT

1. Danetta Bond is a participant in the THDA Housing Choice Voucher Program.
2. On or around August 9, 2013, Ms. Bond experienced some financial difficulties which resulted in her utilities being disconnected for non-payment.
3. Ms. Bond testified that her utilities were temporarily disconnected in August, but also testified that they were turned back on the same day after she made a payment to the City of Brownsville Utilities Department.

4. On October 24, 2013, the Tennessee Housing Development Agency sent Ms. Bond a letter advising her that “THDA is proposing that your assistance under the Housing Choice Voucher Program be terminated. That correspondence told Ms. Bond that the termination was based upon the following program violation.

The assisted tenant failed to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant. (24CFR982.404) (HQS Violation of Family Obligation).

It does not appear that anyone from THDA sent Ms. Bond a written notice demanding that she remedy any breach of a housing quality standard.

5. Ms. Bond filed a timely appeal.

CONCLUSIONS OF LAW

1. The Tennessee Housing Development Agency (THDA) Rental Assistance Program qualifies as a Public Housing Authority (PHA) under section 8, Tenant Based Assistance: Housing Choice Voucher Program, as found in the Code of Federal Regulations, 24 CFR 982.

2. The PHA may terminate rental assistance for several stated reasons, including violation of “any family obligations under the program.” 24 CFR 982.552.

3. 24 CFR §982.552 (c)(1)(i) describes the obligations of a family participating in the voucher program, including a “HQS [housing quality standard] breach caused by family. The family is responsible for an HQS breach caused by the family as described in section 982.404(b).

4. 24 CFR §982.551 (c) . The referenced regulation notes that,

“The family is responsible for a breach of the HQS that is caused by any of the following: The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant...”

5. The regulations continue by explaining what must occur if there is a breach of a housing quality standard.

If an HQS caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any PHA-approved extension.)

In summary, a family violated this specific obligation if it fails to correct a housing quality standard breach that has been caused by the failure to pay for utilities. In the instant matter, Ms. Bond’s uncontested testimony establishes that she corrected the defect within 24 hours.

6. The Tennessee Housing Development Agency must rely on the grounds for termination as set forth in the federal regulations. A public housing agency cannot expand or modify the grounds contained in the regulation. Hill v. Richardson, 740 F. Supp. 1393, 1397-99 (S.D. Ind. 1990); In Re Sweeney, 215 B.R. 97, 103 (Bankr. E.D. Penn. 1997).

ANALYSIS

There was no testimony presented that there was any specific housing quality standard breached because Ms. Bond’s utilities had been disconnected for less than 24 hours. The THDA rental specialist did not inspect the Bond home after learning that the utilities had been disconnected. Ms. Bond testified that the utilities were reconnected the same day they were turned off. There was no testimony from the owner of the residence that there were any damages caused by the temporary utility disconnection, and no testimony to establish that the utilities were disconnected for more than 24 hours. The Tennessee Housing Development Agency has

not met its burden to show that Danetta Bond violated her family obligation to be “responsible for a breach of the HQS that is caused by the failure to pay for utilities.”

The PHA has some discretion in its decision to terminate rental assistance, and any termination must be reviewed in a context of the purpose of the program – to provide affordable housing for low income families. Individuals who commit crimes or destroy property or fraudulently avoid payment of fair rent do not deserve to participate in the voucher program. However, grounds for termination of Section 8 participation are limited to the violations of the family obligations specifically set forth in the federal regulations. Families are responsible for repairing breaches of housing quality standards that are caused by the family... including any breach that might be caused by failure to have utilities. However, a temporary disconnection of utilities that was remedied within 24 hours is not a violation of the family obligation as defined by the federal regulations. Danetta Bond has not violated any family obligation.

For the foregoing reasons, the decision of the Tennessee Housing Development Agency to terminate Ms. Bond’s Housing Voucher is REVERSED.

This Order entered and effective this _____ day of _____, 2014.

Rob Wilson
Administrative Judge