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THE TRIAL COURT
COMMONWEALTH OF MASSACHUSETTS

Hampden, ss

Hampden Division

No. SP1676-S87

Housing Court Department

ATTILIO CARDAROPOLI,
PLAINTIFF

VS.

DEIDRE CLINTON,
DEFENDANT

MEMORANDUM AND ORDER FOR
DISMISSAL

After hearing on January 29, 1987, and as the parties were informed orally on that date, the motion to dismiss is allowed because the termination notice falls short of the standard for Section 8 tenancies.

This is a Section 8 Existing Housing tenancy. The controlling regulation, 24 C.F.R. SECT.882.215 (c)(3) requires that tenancies be terminated in accordance with procedures consistent with "state or local law."

The meaning of this regulatory requirement with reference to state law (California) almost identical to that of Massachusetts has recently been exhaustively analyzed by the Federal District Court for the Northern Division of California. Gallman et. al. vs. Pierce et al., No. C-84-0006-CAL (Opinion and Order for Summary Judgment 6/16/86) In Gallman, the Federal Court concluded that the issue is what state law requires as to the contents of a termination notice when one of the parties is prohibited from terminating the tenancy except for cause.

In Massachusetts, the state law requirements are clearly set forth in the official lease governing the state rental assistance program analogous to the Section 8 program (the "chapter 707" rental assistance program). That lease contains in substance the same requirements applicable to the state public housing program. Termination notices must set forth the specific reasons for termination consistent with 24 C.F.R. SECT. 882.215 (c), the facts upon which they are based, and the

source of those facts. See 760 C.M.R. 2.03 (6) (c) b. The date of termination must be at least thirty day after the tenant received the notice. Id. SECT. (f).

I find the reasoning of the Gallman Court persuasive and rule that the above standard is incorporated into the Section 8 Existing Housing Program in Massachusetts by the language of 24 C.F. R. SECT. 882.215 (c).

As the notice in this case simply states a cause "disturbing the quiet (sic) enjoyment of others" it falls short of the above standard and the tenancy has never been validly terminated.

It should also be noted that this Court has recently ruled that a notice stating, "keeping property in unsanitary condition; damage to property" is "too vague" to satisfy SECT. 882.215 (c). Roach vs. Creswell, No. SP 0911 - S86 (Peck, J. 11/13/86). The notice in this case is virtually identical to the one disallowed in Roach.

Case dismissed.

So entered.

FEBRUARY 9, 1987

William H. Abrashkin

WILLIAM H. ABRASHKIN, PRESIDING JUSTICE

kdr