

IN THE JUSTICE OF THE PEACE COURT OF
THE STATE OF DELAWARE, IN AND FOR SUSSEX COUNTY
COURT NO. 17

COURT ADDRESS:
23730 SHORTLY ROAD
GEORGETOWN DE 19947

CIVIL ACTION NO: JP19-08-001821

CARVEL GARDENS ANNEX VS LAKISHA MCKNIGHT

SYSTEM ID: FA2172
JUNE E WOODWARD
C/O CARVEL GARDENS
PO BOX 635
LAUREL DE 19956

NOTICE OF COURT ACTION

The Court has entered a judgment or order in the following form:
Three Judge Panel

HEARD : December 15, 2008
DECIDED: December 19, 2008

APPEARANCES: June Woodward, Property Manager Carvel Gardens Annex
Michael Morton, Attorney for Carvel Gardens Annex
Lakisha McKnight, Defendant - *pro se*

SITTING JUDGES: Honorable Edward G. Davis
Honorable James G. Horn
Honorable Larry Sipple

Now To Wit, this 19th Day of December, 2008, the court having considered the facts and applied the appropriate law finds a good faith dispute exists under 25 Del. Code sec. 5716.

HISTORY

The relevant history in this case began on July 19, 2008 when the defendant was arrested for possession of illicit drugs.

The plaintiff in this matter, Stephens Management, decided that a drug charge which occurred approximately one mile from the residence of the defendant, constituted a ground for termination of the lease. Mrs. Woodward, the complaining manager, sent a letter on July 22, 2008, terminating the defendant's lease. In the July 22nd letter, the sole reason for termination was the charging document obtained from Laurel police based on a substantial amount of illicit drugs found
6CF14J (Rev. 9/15/04)

on the person of an occupant in the vehicle being driven by the defendant. It is Ms. Woodward's contention that one mile from a public housing project constitutes drug related criminal activity "in, on or near the premises" as provided by section 14 of the lease and sec 23 of the Rules and Regulation of the public housing project. Their contention is not a correct interpretation of the statute.

The legislative intent of Congress which gave rise to the HUD regulation was to stop drug activity of any type in public housing projects. "In, on or near" would only be meaningful where the drug activity was discovered by management in a rental unit on the common area of the complex or on the public street that is adjacent to the public housing project. The court finds that the immediate termination of the defendant is an inappropriate act by Stephens Management Corp. The manager should have known that the July 22nd letter of termination was not valid. Based on the testimony of the Laurel police officer, the information the Laurel police provided Stephens Management made clear the drug offense was a result of drug found on a person who was an occupant in the tenant's automobile approximately one mile from the public housing project.

It may well be that Lakisha McKnight will be convicted of drug distribution but on July 22, 2008, the information available to Stephens Management did not support a violation of section 14 of the lease or section 23 of the Rules and Regulations. If or when Ms. McKnight is convicted of drug distribution, Stephens Management can terminate the lease, but on July 22nd, it was an attempt to terminate a tenant without lawful basis in fact. Such conduct is tantamount to unlawful ouster.

Stephens Management filed this action on September 4, 2008. The complaint included "damages" of \$142.00 which were based on 3 inspection dates: August 11th, August 21st and August 22nd. At trial, the plaintiff through Stephens Management, offered no testimony in support of the damages claimed or why there would be three inspections in a 10 day period.

In addition to the damages claim by plaintiff in the September filing, plaintiff sought on November 10th to increase the defendant's rent. This was based upon a job the defendant obtained four days prior to being arrested on the drug charges even though the plaintiff had already terminated the lease on July 22nd.

Unfortunately, the defendant has not acted in her own best interest. Upon receiving the termination letter on July 22nd, the defendant quit paying the rent, failed to pay for the non material claim for minor damages and did not appear under her notice letter to reevaluate her rent obligation after employment. However, the tenant has resided at the public housing project for 8 ½ years without incident which gave credence to her claim that she felt defeated and would not prevail in keeping her unit.

The court finds the defendant's behavior to be reasonable. It is not the duty of an unsophisticated tenant to know the landlord/tenant law or HUD regulations.

It is the responsibility of a management company to know the landlord/tenant law and HUD regulations and it is equally the responsibility of Stephens Management to articulate by written notice with sufficient particularity the basis of a termination of that unsophisticated tenant's lease in a manner that can be understood by a person who does not know the landlord/tenant law or HUD regulations. The letter of July 22nd speaks with authority to this defendant that she has breached her lease in a material breach that will end her occupancy. What would any unknowing person believe? In this instant case, the court finds the conduct of manager Woodward to be aggressive beyond the degree required by duty.

Based on the above, the court has decided to look upon this matter as a good faith dispute. Accordingly, the plaintiff is to establish the proper rent due based on the actual income of the defendant. Thereafter, the tenant has 10 days to pay all rents due including any damages or late fees.

In the event all monies are paid, the tenant will retain possession of her lease. In the event the defendant fails to pay all monies due, plaintiff will be entitled to possession based on failure to pay rent.

The court requires the plaintiff to submit its accounting with the court before the tenant's 10 day period for compliance begins.

IT IS SO ORDERED this 19th day of December, 2004



Justice of the Peace Court Official

For Three Judge Panel

NOTICE OF APPEAL RIGHTS



Any party has 15 days starting the day after the judgment is signed by the judge to appeal the judgment of the Justice of the Peace Court to the Court of Common Pleas of the above county. If the judgment involves an action for summary possession in a landlord/tenant case, then either party has 5 business days, starting the day after the judgment is signed by the judge, to appeal the judgment to a three judge panel at the Justice of the Peace Court where the judgment was ordered. You must complete all of the appeal requirements within those periods. To prevent dismissal, the appeal must name all of the parties as they were originally named in the Justice of the Peace Court action. (This applies even if the action was dismissed in the Justice of the Peace Court against one or more of the parties.) Additional information on appeal procedures is found in the attached sheet entitled "Justice of the Peace Courts Civil Post-Judgment Procedures". (J.P. Civ. Form No. 14A) If no appeal is filed, parties may remove all exhibits from the Court no sooner than 16 days and no later than 30 days, from the date of this judgment. If not removed, the Court may dispose of the exhibits without further notice to the parties.

Final Date of Appeal of a Civil Case to the Court of Common Pleas is 15 days from the judgment.

Final Date for Appeal of a Landlord/Tenant case to a 3 Judge Panel is 5 days from the judgment.