

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
FIRST DIVISION

CENTRAL COMMUNITY HOUSING TRUST,

No. UD1901102531

NOV 28 1990 PLAINTIFF,

-vs-

DONNA ANDERSON, REX2
HENNEPIN COUNTY DISTRICT COURT
COURT DEPUTY DEFENDANT.

DECISION AND ORDER

The above-entitled matter came on for trial before the undersigned Referee on November 20, 1990. Gene Johnson, property manager, appeared for Plaintiff; and Defendant, Donna Anderson, appeared pro se.

Now, based upon all proceedings, files and records herein, the Court makes the following:

FINDINGS

1. Defendant leases from Plaintiff premises located at 624 South 9th Street, Apt. 204, Minneapolis, Minnesota, pursuant to a lease agreement dated September 7, 1989, and an "assisted lease" dated on its face, June 19, 1989. Defendant receives benefits under the Federal Section 8, Existing Housing Program.
2. Plaintiff claims Defendant is in violation of the parties' lease agreements in failing to keep it in a clean and sanitary condition, failing to cooperate with and facilitate a building-wide insect extermination, and an inability to "live independently".

Residential Unlawful Detainer Defense
App. 18.D

Copy mailed to p24 & dept. 11-28-90 - RLD

3. Defendant was not able to prepare her apartment for spraying scheduled for August 2, 1990. She was also unprepared for sprayings scheduled for August 22 and October 10, 1990.
4. Defendant had been receiving "chore services" via Hennepin County due to disability until July 27, 1990, her 60th birthday. Until that time, her social worker had been James Kaczmark. After her birthday, Defendant's eligibility for chore services was age-based, and responsibility was transferred to a different division within Hennepin County.
5. Defendant's disabilities include back problems and tendonitis. Defendant asserts that her inability to prepare her apartment for spraying was due to an inability to obtain chore services.
6. Defendant and Hennepin County staff failed to arrange for provision of chore services in order to prepare for the spraying. See, e.g., Def. Exhs. 1 and 2.
7. There was no evidence that Defendant's unit was infested or that even one insect was found.
8. No testimony was introduced as to the need for spraying Defendant's unit.
9. There was contradictory testimony concerning "debris" in the unit with no photographic evidence to assist in a determination.
10. No assistance was offered by Plaintiff for spraying preparation.

CONCLUSIONS

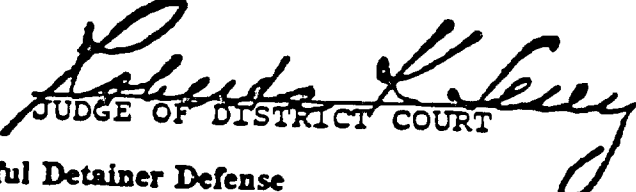
1. Plaintiff has not met its burden of proof that Defendant has breached the parties' agreements due to "debris" in the unit.
2. Based upon the record before it, the Court cannot reach the conclusion that Defendant's failure to prepare her apartment for extermination spraying was a "material breach" of the lease or constitutes "other good cause" for termination.
3. Even assuming, arguendo, that it was established Defendant had breached the lease, such breach would be found causally related to her disability and require at least some modest, affirmative steps by Plaintiff to accommodate her needs under the Rehabilitation Act of 1973, 29 U.S.C.A. 794 (1988). See, e.g., Schuett Investment Co. v. Donna Anderson, 386 N.W.2d 249 (Minn. App. 1986), a case involving this same defendant and a similar factual background.

NOW, THEREFORE, IT IS ORDERED, that judgment be entered for Defendant.

Dated: November 28, 1990. RECOMMENDED BY:


WESLEY C. IIJIMA
REFEREE

BY THE COURT:


JUDGE OF DISTRICT COURT

Residential Unlawful Detainer Defense
App. 18.D