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Gary Dickson vs. Tennessee Housing Development Agency

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**BEFORE THE TENNESSEE
HOUSING DEVELOPMENT AGENCY**

IN THE MATTER OF:

**TENNESSEE HOUSING
DEVELOPMENT AGENCY,**

Petitioner

v.

GARY DICKSON,

Respondent

DOCKET NO: 32.00-124672J

INITIAL ORDER

This contested administrative case was heard in Jackson, Tennessee on May 28, 2014, before Rob Wilson, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Tennessee Housing Development Agency (“THDA” or “the Agency”). Mr. Bruce Balcom, General Counsel for THDA, represented the Petitioner. The Respondent appeared *pro se*.

The subject of the proceeding was the proposed termination of the Respondent’s rental assistance for his alleged failure to provide THDA with “true and complete information” concerning his family’s income. Upon full consideration of the record, it is determined that the Respondent’s participation in the THDA Rental Assistance Program should not be terminated at this time, but Respondent is ordered to pay a debt resulting from the overpayment of assistance in the amount of \$4,023.00, over a period of 60 months. This determination is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Respondent received rental assistance from THDA’s Housing Choice Voucher Program; the amount is dependent upon several factors, including the amount of

the recipient's family income. As a condition for receiving THDA rental assistance, the Respondent was required by law to disclose all sources and amounts of his family's income, and to report any changes in the amount of income within fourteen (14) days of the effective date of those changes.

2. THDA stated that Respondent failed to supply true and complete information regarding his finances and personal declaration forms. Mr. Dickson stated that the failure to supply the requested information was not intentional, and added that there was some miscommunication due to a change in staff at the THDA Office. Mr. Dickson stated that he was always willing to provide the requested information but was not sure how to go about doing so.

3. THDA submitted a late filed exhibit on June 11, 2014, and based on the amount of unreported family income, THDA's computations determined that the Respondent's family had received an overpayment of THDA rental assistance in the amount of \$4,023.00.¹ Since THDA concluded that the overpayment resulted from the Respondent's failure to provide "true and complete information" concerning his income, and his failure to provide timely notification of changes in his income, THDA notified him that it intended to terminate his participation in the program.

4. The Respondent appealed the agency's decision, resulting in the instant hearing. During the hearing, the Respondent acknowledged that there had been some confusion regarding the information he was supposed to provide to THDA, but his credible testimony established that the errors were unintentional.

CONCLUSIONS OF LAW & ANALYSIS

1. The Code of Federal Regulations [24 CFR 982.551(b)] states, in relevant part, that participants in the Section 8, Tenant Based Assistance, Housing Choice Voucher

¹ THDA's original computation resulted in an overpayment of \$4,293.00. A subsequent re-computation reduced that amount to \$4,023.00.

Program ² “must supply any information that the PHA [Public Housing Authority] determines is necessary in the administration of the program.”

2. “Any information supplied by the family must be true and complete.” 24 CFR 982.551(b)(4).

3. 24 CFR 982.552(b) II, Termination of Assistance, states, in relevant part:

Rental assistance may be terminated for any program violation to include any of the following reasons (note: family in this context means any member of the household):

* * *

3. The family refuses to reimburse the program in full for overpayment of subsidy for unreported income or change in family status.

4. The provisions of 24 CFR 982.551, *et seq.*, are incorporated in the THDA Section 8 Rental Assistance Administrative Plan, as required by Rule 0770-1-5-.10, TENN. COMP. R. & REGS., and govern the THDA Rental Assistance Program. The Administrative Plan provides that overpayments of rental assistance resulting from failure to report income must be repaid by the program participant. Failure to repay such a debt is grounds for termination from the program. [See, THDA Section 8 Rental Assistance Administrative Plan] It also provides that, when the overpayment is more than \$3,000.00, termination of participation in the rental assistance program is mandatory. However, in the instant matter, since the overpayment amount in excess of \$3,000.00 was not cited by THDA as a reason for termination in the hearing notice, Respondent’s participation in the program will not be terminated provided he enters into and timely executes a repayment agreement to pay back the amount of the overpayment. Any subsequent payment delinquencies will be grounds for termination from the program.

Accordingly, it is hereby ordered that the Respondent’s participation in the THDA Rental Assistance program is NOT TERMINATED at this time, but the existing

² The THDA Rental Assistance Program qualifies as such a program.

overpayment amount of \$4,023.00 must be paid timely in monthly increments over a period of 60 months.

This Initial Order is entered and effective this _____ day of _____ 2014.

Rob Wilson, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this _____ day of _____ 2014.



J. Richard Collier, Director
Administrative Procedures Division