

STATE OF MINNESOTA
COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT COURT
FIRST DIVISION, MINNEAPOLIS

Dover Hill Co.,
dba Dover Hill Apts.,

Case No. UD-1960705514

Plaintiff/Landlord,

vs.

DECISION AND ORDER

Paulette Morris,
Irwin Morris,

Defendants/Tenants.

The above-entitled matter came on for hearing before the Honorable Linda J. Gallant, Housing Court Referee, on July 22, 1996.

Terry G. Harrell, Agent, appeared for and on behalf of the Plaintiff. Plaintiff's address is 2400 Rhode Island Avenue North, Golden Valley, Minnesota 55427.

Defendant Paulette Morris appeared pro se. Defendant's address is 2478 Rhode Island Avenue North, Golden Valley, Minnesota 55427.

Based upon the evidence adduced, the arguments presented, and all the files, records, and proceedings, the Court makes the following:

FINDINGS OF FACT

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1. The Plaintiff owns and operates the rental property located at 2478 Rhode Island Avenue North, Golden Valley, Hennepin County, Minnesota.

2. Defendant rents the property pursuant to a Section 8, Minnesota Housing Finance Agency lease originally signed on October 15 and November 15, 1993. Exhibit 1. The lease has been regularly renewed. In November, 1995, the parties signed a Lease Addendum incorporating "Drug-Free Housing" rules into the lease. Exhibit 2.

3. On May 31, 1996, Plaintiff sent a lease termination notice to the Defendant proposing to terminate the lease as of June 30, 1996, based upon the Defendant's son, Craig, age 10, having been charged with second degree assault for an "assault directed at another current resident" on April 16, 1996. Exhibit 3.

4. On April 16, 1996, Golden Valley Police Officer Mark Persons went to 2510 Rhode Island Avenue North in response to a report of one boy threatening another with a knife. Officer Persons talked to the Defendant's son Craig, who had been named as the wrongdoer. Craig talked to the officer, demonstrated for him an action drawing the knife near his throat, and told the officer that "I'm dangerous." Craig led the officer to the location of the knife.

Defendant described the knife as a pocket knife; Officer Persons described it as having a four-inch blade with extra attachments. Craig's description of the incident is that he and the other boy were looking at the knife and its screwdriver attachment; that Craig was "psyching out" the other boy by moving the knife backwards and forwards between them; that for some reason, Craig held the knife to his face doing "pretend shaving"; that Craig did not threaten the other boy; that the other boy got mad at Craig when Craig wouldn't let him see the knife.

5. The lease may be terminated only for "material noncompliance" or "other good cause". Exhibit 1, p. 10, #25.b. The Lease Addendum defines any violation of the terms of the Addendum as good cause justifying eviction. Exhibit 2. The landlord bases its proposed eviction on the son's criminal activity near the premises.

6. There is no Petition in the Juvenile Court accusing the son of delinquency based on the events of April 16, 1996. A criminal conviction (or juvenile adjudication) is not necessary in order for the Plaintiff to prove "criminal activity."

7. On June 9, 1996, Craig wrote a letter to Plaintiff's staff, Mary Fixsen, offering Craig's version of the facts.

8. There was a prior incident involving Craig on October 9, 1994.

9. There was no evidence offered as to attempts, by management and/or community resources, to work with the Defendant and her son to facilitate resolution of any problems with Defendant's son.

From the foregoing Findings of Fact, the Court makes the following:

CONCLUSIONS OF LAW

1. Plaintiff has not proven by a preponderance of the evidence that the Defendant's son Craig engaged in an assault on April 16, 1996. Plaintiff has not proven by a preponderance of the evidence that Defendant's son Craig, in his actions of April 16, 1996, caused an assault on another resident.

Now, therefore,

IT IS HEREBY ORDERED:

1. Defendant is awarded possession of the premises.
2. Neither party shall be responsible for the other party's costs and disbursements.

3. The attached Memorandum is incorporated here and made a part of this Order.

LET JUDGMENT BE ENTERED ACCORDINGLY.

RECOMMENDED BY:

Dated: July 31, 1996

Referee Linda J. Gallant
Housing Court Referee

Dated: July 31, 1996

Judge of District Court

MEMORANDUM

This case is troubling to the Court. The evidence does demonstrate that Craig and the other boy were together on April 16, 1996; that Craig's actions were inappropriate in handling, showing to another, and making any "pretend" use of a knife. What the other boy did and said, to Craig, is based only on Craig's version. The child appears to be an appropriate candidate for some help, some services, many of which are available through the intervention programs of the school systems, the Police Department, and the many private social service agencies that exist in and around Golden Valley.

While the incident certainly was disturbing to the other boy's mother, the testimony presented is insufficient to attribute such blame and responsibility on the child to support eviction of the family and loss of Defendant's Section 8 assistance.

The Court fully expects that the Defendant will seek out help for her son so that he has no further adverse contact with the police, other children, or neighbors. In the event he does any future actions which show equally inappropriate actions involving handling, showing, or threatening with a knife, or other instrument that may be

used a weapon, then the Plaintiff's proof of such incident, taken with this event, and considering the parties' use of community resources, may demonstrate a pattern of behavior constituting "good cause" to evict. The evidence, at this point, is insufficient.

LJG