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FILED

APR 28 1992

ALAN H. MARSEY, DEPUTY
Alan Harsby
BY ALAN MARSEY, DEPUTY

APPELLATE DEPARTMENT OF THE SUPERIOR COURT
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

G & K MANAGEMENT CO.,) Superior Ct. No. BV 19191
Plaintiff and Respondent,) Municipal Court of the
v.) Rio Hondo Judicial Dist.
ANGELA CORLEY,) No. 89G02499
Defendant and Appellant.) MEMORANDUM JUDGMENT

This cause having been submitted for decision, and fully considered, judgment is ordered as follows:

The judgment is reversed. Appellant to recover costs on appeal.

The appellant appeals from a judgment against her in an unlawful detainer proceeding awarding the plaintiff possession and money damages.

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1 The issues on appeal concern the interpretation of the rules
2 and regulations affecting section 8 housing.¹

3 The facts are relatively simple.² Ms. Corley, the defendant
4 and appellant, rented subsidized housing from the plaintiff and
5 respondent. Pursuant to the testimony of Ms. Bradley, the
6 resident manager of the apartment complex, appellant notified her
7 about June 26, 1989, that appellant's husband had moved out and
8 that her income would be reduced. This is a "change of family
9 income and composition" referred to in the Department of Housing
10 and Urban Development [HUD] regulations governing subsidized
11 housing.³ At the time appellant notified Bradley of the change,
12 Bradley informed the appellant that a written notice of the
13 change must be submitted. On the first of the month appellant
14 did not pay the rent that would have been due had there been no
15 change, e.g. \$461. On July 10, Bradley served appellant with a
16 10-day notice to pay rent or quit. The amount was not paid.
17 Also on July 10, Bradley had appellant sign a release so Bradley
18 could obtain Social Security Income Verification. She also gave
19 appellant, in writing, notice that appellant must provide her
20 with a written notice of the change. Appellant did not pay the

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23 ¹ This is the common reference for low income housing or
24 federally supported housing now codified in 42 U.S.C. sections
1437 et seq.

25 ² The facts are stated in the light most favorable to
26 support the judgment. (Crawford v. Southern Pac. Co. (1935) 3
Cal.2d 427.)

27 ³ For simplicity the court will refer to the HUD Regulations
28 as "the regulations." A "change of family income and
composition" will be referred to as "a change."

1 \$461 or move out. On July 26, she provided Bradley with
2 requested notarized information. Bradley also received
3 verification of income from the Social Security Administration on
4 July 26. On August 15, the unlawful detainer action was filed.

5 The question presented is whether any decrease in rent based
6 upon the change in income during the tenancy, is effective the
7 month after the change occurs or only after verification of the
8 change by the lessor. If the change is effective prior but
9 subject to verification, than the 10-day notice was defective as
10 it requested more than was due and violated HUD rules. If the
11 decrease in rent is not effective until after the lessor receives
12 verification, than the notice was proper and the decision of the
13 trial court is correct.

14 In deciding this matter we look to the statutes, the HUD
15 regulations and the "Occupancy Requirements of Subsidized
16 Multifamily Housing Programs" Handbook 4350.3 [hereinafter
17 "Handbook] issued by the Secretary of the Department of Housing
18 and Urban Development. The Handbook and regulations are binding
19 upon respondent unless contrary to the authorizing statutes.
20 (Thorpe v. Housing Authority of City of Durham (1969) 393 U.S.
21 268, 277.)

22 Both parties agree that the critical portion of the handbook
23 is section 5-12(b) which reads:

24 If the tenant's rent decreased because of interim
25 adjustment, the owner must make the decrease effective
26 the first day of the month commencing after the date of
27 the action which caused the decrease.

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served on the appellant during the recertification process, and
 not in accord with section 5-11(e)(1) there was no basis for the
 unlawful detainer action.

We concur.



 Judge



 Presiding Judge



 Judge