

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HOUSING AUTHORITY OF THE CITY)
OF PITTSBURGH)
)
 Appellant,)
) Civil Action No. 01-745
 vs.) Bankruptcy No. 98-27010-MBM
)
YVONNE TURNER,)
)
 Appellee.)

MEMORANDUM

I

In this civil action, appellant, the Housing Authority of the City of Pittsburgh (HACP), appeals from an order entered by the Honorable M. Bruce McCullough of the United States Bankruptcy Court for the Western District of Pennsylvania dated March 22, 2001. For the reasons set forth below, the appeal will be denied.

II

The events leading to this appeal may be summarized as follows:

Appellee, Yvonne Turner (Turner), filed for relief under Chapter 13 of the United States Bankruptcy Code on September 4, 1998. On June 20, 2000, the case was converted to one under Chapter 7 of the United States Bankruptcy Code. Turner's Chapter 342 Meeting of Creditors in the Chapter 7 case was held on August 2, 2000.

Turner had lived in Housing Authority housing with her four children until February 28, 1994, when she was evicted for nonpayment of rent. On March 31, 2000, Turner reapplied for public housing through HACP. On May 30, 2000, HACP denied Turner's application on the basis of outstanding debts owed to HACP, as well as debts owed to the Allegheny County Housing Authority and to two private landlords. On July 27, 2000, Turner applied for Section 8 housing through HACP. Turner's debts had not yet been discharged, therefore HACP withdrew her application from consideration.

On October 24, 2000, Turner filed a Motion for Contempt with the Bankruptcy Court for the Western District of Pennsylvania, requesting, inter alia, reinstatement of her housing benefits retroactive to March 31, 2000. On March 22, 2001, the Honorable M. Bruce McCullough held that HACP's policy violated United States Bankruptcy Code §§ 525(a) and 362, and ordered HACP to accept Turner's application for public housing and Section 8 housing assistance retroactive to March 31, 2000.

~~-----This appeal followed.-----~~

III

This Court has jurisdiction over appeals from final judgments, orders, and decrees from the Bankruptcy Court pursuant to 28 U.S.C. § 158(a) and Fed.R.Bankr.P. 8001. In reviewing a bankruptcy court's determinations, the Court reviews its legal

conclusions de novo, its factual findings for clear error, and its exercise of discretion for abuse thereof. In re Trans World Airlines, Inc., 145 F.3d 124, 131 (3d Cir.1998); see also In re Bankr. Appeal of Allegheny Health, Educ. and Research Found., 252 B.R. 309, 320-21 (W.D.Pa.1999). The bankruptcy court's ruling regarding the interpretation of § 525(a) and the scope of the automatic stay under § 362(a) consisted solely of conclusions of law, which this court will review de novo.

IV

HACP argues that the bankruptcy court erred in holding that it violated 11 U.S.C. §§ 525(a) and 362(a) by refusing Turner's applications for readmission into Section 8 and public housing programs on account of her pre-petition debts, because HACP refused Turner's applications based on a nondiscriminatory, federally authorized tenant selection policy.¹

Resolution of this case turns on the court's reading of the plain language of § 525(a), under which it is unnecessary to reach the issue of whether HACP's actions were discriminatory.

¹ HACP further argues that it could not have discriminated against Turner because the previous lease between HACP and Turner had been terminated prior to Turner filing a bankruptcy petition. However, this argument is without merit, as the alleged discrimination perpetrated by HACP was in withdrawing Turner's March 31 and July 27, 2000 applications for public or Section 8 housing on the basis of her failure to pay pre-petition debts, which occurred at least 18 months after Turner had filed for bankruptcy on September 4, 1998.

Section 525(a) states that except as provided in certain laws not applicable here:

a governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under this title, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

11 U.S.C. § 525(a).

The essential elements of § 525 that are relevant to the case at bar are as follows:

a governmental unit may not deny ... or refuse to renew ... a [governmental] grant to ... a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act ... solely because such bankrupt or debtor ... has not paid a debt that is dischargeable in the case under this title.

11 U.S.C. § 525(a). Turner has established each of the elements required in order to avail herself of the protection afforded by § 525(a).

First, courts have treated public housing authorities as "governmental units" for purposes of § 525. See, e.g., In re Kimale Collins, 199 B.R. 561 (Bankr.W.D.Pa.1996); In re Szymecki, 87 B.R. 14 (Bankr.W.D.Pa.1988). Second, § 525(a) protects licenses, permits, charters, franchises and "other similar grants" thereto. The cases that have applied § 525(a) in the public housing context have concluded that public housing is a governmental grant. In re Bacon, 212 B.R. 66, 70 (Bankr.E.D.Pa. 1997). Third, Turner is currently in bankruptcy, as she filed her Chapter 13 petition in September 4, 1998, and then converted to Chapter 7 bankruptcy on June 20, 2000. Fourth, HACP withdrew Turner's application for Section 8 or public housing from consideration because she had not paid a pre-petition debt. Finally, that debt is dischargeable in her Chapter 7 proceedings. "A debt arising during the pendency of a case gives rise to a dischargeable debt upon conversion of the case to another chapter unless the debt is deemed nondischargeable under § 523 of the Code." Hines v. Gordon (In re Hines), 198 B.R. 769, 771 (9th Cir.BAP.1996), overruled on other grounds, 147 F.3d 1185 (9th Cir.1998). Under the circumstances, HACP's decision to withdraw Turner's applications for Section 8 and public housing violated the plain language of § 525(a) of the bankruptcy code.

An order follows.

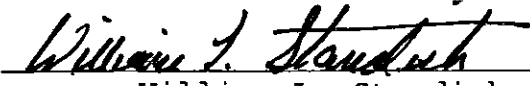
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ORDER

AND NOW, this 14th day of February 2002, in accordance
with the foregoing memorandum, it is hereby ORDERED as follows:

1. The order of the Honorable M. Bruce McCullough of
the United States Bankruptcy Court for the Western District of
Pennsylvania dated March 22, 2001 is affirmed, and the appeal of
the Housing Authority of the City of Pittsburgh is dismissed.
2. The Clerk shall mark this case closed



William L. Standish
United States District Judge