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**12 Fla. L. Weekly Supp. 1176a**

**Landlord-tenant -- Public housing -- Eviction -- Premature complaint -- Eviction complaint filed before time for tenant to request formal grievance hearing had expired is premature -- Complaint dismissed without prejudice**

HIALEAH HOUSING AUTHORITY, Plaintiff, v. ALICIA CONLEY, and All Others in Possession, Defendants. County Court, 11th Judicial Circuit in and for Miami-Dade County, Civil Division. Case No. 05-1372 CC 21. September 26, 2005. Ana Maria Pando, Judge. Counsel: Alicia Maria Robles, Hialeah, for Plaintiff. Kevin M. Fields, Legal Services of Greater Miami, Inc., Miami, for Defendant Alicia Conley.

*ORDER GRANTING DEFENDANT'S MOTION TO DISMISS*

THIS CAUSE came to be heard before the Court, on August 18, 2005, upon Defendant's Motion to Dismiss, and the Court, after reviewing the file, hearing argument of the parties, and being otherwise fully advised on the premises, makes the following findings of fact and conclusions of law:

1. Defendant, Alicia Conley, occupies residential real property owned by Plaintiff, Hialeah Housing Authority, in Miami-Dade County, Florida, under a public housing lease.
2. On March 18, 2005, Plaintiff issued a "Termination/Non-Renewal of Lease 30 Day Notice" (hereinafter "30-Day Notice of Termination") to Defendant which demanded that Defendant vacate her unit on April 17, 2005, due to an alleged non-compliance with the terms of the lease agreement.
3. Defendant attended an informal conference regarding Plaintiff's intent to terminate her participation in the Public Housing Program on April 27, 2005.
4. Plaintiff filed the instant Complaint for Tenant Eviction on May 3, 2005.
5. The hearing officer at the informal conference mailed a letter to Defendant dated May 4, 2005 (hereinafter "Informal Conference Letter"), upholding the decision to terminate her participation the Public Housing Program.
6. The Informal Conference Letter stated Defendant had ten (10) days from the date of the letter to appeal the decision of the informal conference and request a formal grievance hearing.
7. Plaintiff's Complaint for Eviction was filed before Defendant's time to request a formal grievance hearing had expired in violation of 24 CFR 966.4(1)(3)(iv).
8. In relevant part, 24 C.F.R. 966.4(1)(3)(iv) states that:

When the PHA is required to afford the tenant the opportunity for a hearing under the PHA grievance procedure for a grievance concerning the lease termination, the tenancy shall not

terminate (even if any notice under State or local law has expired) until the time for the tenant to request a grievance hearing has expired. 24 CFR 966.4(1)(3)(iv).

9. Plaintiff filed the instant Complaint for Eviction on May 3, 2005, and Defendant's time to request a grievance hearing expired on May 14, 2005.

10. Plaintiff's Complaint for Eviction was filed before Defendant's time to request a formal grievance hearing had expired in violation of 24 CFR 966.4(1)(3)(iv).

It is ORDERED and ADJUDGED that:

a. Defendant's Motion to Dismiss is granted;

b. Plaintiff's Complaint for Eviction is dismissed without prejudice; and

c. The Court reserves jurisdiction in the above-styled cause with respect to an award of reasonable court costs to Defendant, the prevailing party in the above-styled cause, as provided for under Section 83.48 Florida Statutes.