

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

JUN 1 1992  
MPLS. LEGAL AID SOCIETY  
DISTRICT COURT  
FOURTH JUDICIAL DISTRICT  
FIRST DIVISION, MINNEAPOLIS  
UNLAWFUL DETAINER

Normandale Partners, dba the Highlands,

Plaintiff,

ORDER

vs.

Case No. 1920519523

Carol Humbert,

Defendant.

This matter came before this Court on May 29, 1992. Plaintiff appeared ~~by agent Nancy Campbell~~ Lawrence R. McDonough, Esq., appeared for Defendant. Defendant moved for summary judgment or dismissal on the grounds that Defendant paid May 1992 rent, but Plaintiff returned it, and Plaintiff failed to give proper notice before filing this action.

Having heard the argument of the parties and being duly advised of the documentation in the file, the Court makes the following findings of fact, conclusions of law, and order:

#### FINDINGS OF FACT

1. Defendant rents from Plaintiff the premises located at 5254 West 98th Street, Bloomington, MN 55437.
2. The premises is a federally subsidized Section 8 Rental Assistance/Rent Supplement housing project.

11.F.4

3. Effective August 1, 1991, the parties executed a Minnesota Housing Finance Agency (MHFA) Section 8 Rental Assistance/Rent Supplement Lease Agreement (Defendant's Exhibit 1) and Occupancy Agreement (Defendant's Exhibit 2), under which Defendant would pay monthly rent of \$67.00.

4. Plaintiff alleges nonpayment for one-half month of May 1992, in the amount of \$33.50.

5. On May 2, 1992, Defendant tendered to Plaintiff a check for May rent in the amount of \$67.00. (Defendant's Exhibit 3).

6. Plaintiff accepted and endorsed the check (Defendant's Exhibit 3), and gave Defendant a receipt for it. (Defendant's Exhibit 4).

7. On May 13, 1992, Plaintiff sent a letter to Defendant and returned Defendant's check to her. The letter stated that since Plaintiff wished to take possession of the premises on May 15, 1992, only one-half month's rent was due. (Defendant's Exhibit 5).

~~8. Defendant is ready to tender May 1992 rent.~~

9. In addition to alleging nonpayment of rent, which Defendant tendered and Plaintiff returned, Plaintiff alleges only holding over after notice.

10. If Plaintiff proposes to terminate the lease agreement, Plaintiff must give Defendant written notice of the proposed termination. The notice must (1) specify the date the lease will be terminated, (2) state the grounds for termination with enough detail for defendant to prepare a defense, (3) advise Defendant that Defendant has ten days within which to discuss the proposed termination of tenancy with Plaintiff, and if Defendant requests a meeting, Plaintiff agrees to discuss the proposed termination with Defendant, and

(4) advise Defendant of her right to defend the action in court. Lease Agreement, ¶ 25(c) Defendant's Exhibit 1); HUD Handbook No. 4350.3, ¶¶ 4-20.

11. If an eviction is initiated, Plaintiff may rely only upon those grounds cited in the termination notice. *Id.*

12. Plaintiff issued a termination notice, dated April 27, 1992. The notice failed to state the grounds for termination with enough detail for Defendant to prepare a defense. While the notice stated the definition of "material noncompliance" stated in paragraph 25(b) of the lease, it did not discuss Defendant's conduct, or how Defendant's conduct constituted material noncompliance with the lease. (Defendant's Exhibit 6).

13. The notice stated that Defendant had until May 6, 1992 to present any objections. The notice gave Defendant nine days, and not ten days, to present objections, and did not allow Defendant to discuss the proposed termination of the tenancy with Plaintiff.

14. The notice stated that failure to comply with the notice would require filing an unlawful detainer action, but did not advise Defendant of her right to defend the action in court.

### CONCLUSIONS OF LAW

1. Plaintiff claims nonpayment of rent. However, Defendant paid her rent, and Plaintiff returned it to her eleven days later.

2. Plaintiff also claims holding over after notice to quit.

3. Plaintiff must comply with the eviction requirements of the government subsidized housing program and lease. *Housing and Redevelopment Authority of Waconia v.*

*Chandler*, 403 N.W.2d 708, 711 (Minn. Ct. App. 1987); *Hoglund-Hall v. Kleinschmidt*, 381 N.W.2d 889, 894 (Minn. Ct. App. 1986).

4. Plaintiff's notice did not comply with paragraph 25(c) of the lease and HUD Handbook No. 4350.3, ¶ 4-20.

5. Defendant is not liable for Plaintiff's court costs.

**ORDER**

**IT IS HEREBY ORDERED**, that

1. ~~Defendant shall pay Plaintiff \$33.50 today.~~ *Plaintiff's claim at Complaint paragraph 1a is dismissed.*
2. Plaintiff's claim of holding over after notice is dismissed.
3. Plaintiff's claim for court costs is dismissed.
4. Judgment shall be entered for Defendant.

**RECOMMENDED BY:**

Dated: June 2, 1992

*Wesley C. Sjima*  
Referee of District Court

**BY THE COURT:**

Dated: \_\_\_\_\_

*Roberta K. Lacey*  
Judge of District Court