

Mark Estate

APR 29 1986

NATIONAL CLEARINGHOUSE
FOR LEGAL SERVICES

ENTERED

WARREN CIRCUIT COURT APR 3 1986

10609

PAT HOWELL GOAD, CLERK
WARREN CIRCUIT COURT

CIVIL ACTION NUMBER 86-X-003

FILED

REGENCY PARK APARTMENTS

APPELLANT APR 3 3 55 PM '86

VS. ORDER AFFIRMING DISTRICT COURT JUDGMENT

PAT HOWELL GOAD, CLERK
WARREN CIRCUIT COURT

DEBORAH GIDCUMB

APPELLEE

40,788

D

2 P.

1007907

This is in this Court on Appeal from Warren District Court, the Honorable Henry J. Potter sitting. In a trial before the Court, the District Court made Findings of Fact and Findings of Law and rendered Judgment in favor of the Appellee/Defendant. In those Findings, the District Court found that the defendant did fail to make her monthly apartment payments late, but that same were accepted by the plaintiff for the months of October, November and December. But the plaintiff refused to accept January and February of 1986 payments, and further that the defendant was responsible for the damage done to the refrigerator that resulted in a repair bill of \$114.21, which was repair was made by the maintenance man at the apartment building. The District Court further held as a matter of law that the plaintiff was estopped in coming to Court claiming non payment of rent, when in fact all rent had been paid in full through December, 1985 and had been accepted and that non payment

*App. 153
9.*

of the repair bill was not in the District Court's judgment, a material noncompliance of the lease, when it is known fact that she was a poor person drawing AFDC. The Judge added "When your income is little, it is hard to get \$114.00 in 15 days and that must be taken into consideration."

This Court has gone through the entire file and finds that the District Judge made proper Findings of Fact and applied the applicable law. This Court HEREBY SUSTAINS THE FINDINGS OF BOTH FACT AND LAW AS MADE BY THE DISTRICT COURT.

The Judgment of the District Court IS HEREBY AFFIRMED.

This 1 day of April, 1986.



J. DAVID FRANCIS, JUDGE
WARREN CIRCUIT COURT, DIV. II

COPIED 8/10/74
cc: ✓ Penny Travelsted
✓ Mark Esterle

on 4-3-86 hll

APR 29 1986

NATIONAL CLEARINGHOUSE
FOR LEGAL SERVICES

WARREN DISTRICT COURT
DIVISION II
CIVIL ACTION NO. 86-C-062

REGENCY PARK APARTMENTS

PLAINTIFF

40,788

VS.

A

DEBORAH GIDCUMB

DEFENDANT

2 P.

1007407

This case having come before the court for a hearing at 1:30 p.m. February 3, 1986. The Plaintiff being represented by Penny Travelstead, Attorney at Law, the Defendant being represented by Mark Esterle, Attorney at Law.

(38 P)

FINDINGS OF FACT

(1) The defendant did fail to make her monthly payments for some months but these payments were accepted along with October, November and December, 1985.

(2) The plaintiff refused to accept January and February, 1986.

(3) There was damage done to the defendants refrigerator, she had control over it, and she is responsible for that damage.

(4) The damage came to \$114.21 for repairs and the defendant did fail to make payments within 15 days after she received the bill.

(5) The defendant did offer to make a payment of \$78.00 before the first hearing was set. She now has all of the money.

FINDINGS OF LAW

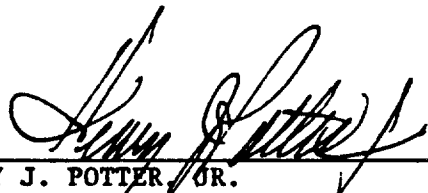
The plaintiff is estopped in coming to court claiming non payment of rent, when in fact all rent had been paid in full through December 85 and had been accepted.

The non payment of the repair bill is not in this courts judgment a material non-compliance of the lease when it is a known fact that she is poor person drawing A.F.D.C. When your income is little it is hard to get \$114.00 in 15 days and that must be taken into consideration.

JUDGMENT

The Court denies the relief sought and the Defendant may remain on the premises provided she complies with their rules and regulations.

This 5 day of February, 1986.



HENRY J. POTTER, JR.
JUDGE, WARREN DISTRICT COURT
DIVISION II

ENTERED 2-6-86
PAT HOWELL GOAD, CLERK
WARREN DISTRICT COURT DIV. II
BY E. Smith D.C.

A COPY ATTEST:
PAT HOWELL GOAD
CLERK WARREN DISTRICT COURT
BY E. Smith D.C.

2-6-86

*copies to
M. Estelle
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2-6-86
E. B.*