

20 Fla. L. Weekly Supp. 437b

Online Reference: FLWSUPP 2004SP

Landlord-tenant -- Eviction -- Public housing -- Noncompliance with lease -- Unauthorized occupants, noise, and parking on grass -- Dismissal is required where landlord failed to give tenant written notice specifying grounds for termination of tenancy, as required by federal law applicable to residential lease entered into under "Project-Based Voucher Program"

SP CROSSROADS LP, Plaintiff, vs. SIOHOVAN PAGE, Defendant. County Court, 9th Judicial Circuit in and for Orange County, Civil Division. Case No. 2012-CC-012790-O, Division 72. November 11, 2012. Honorable Wilfredo Martinez, Judge. Counsel: Caroline E. Ware, Community Legal Services of Mid-FL, Orlando, for Defendant.

ORDER GRANTING DEFENDANT'S

MOTION TO DISMISS

This matter having come before the Court on October 30, 2012, on Defendant's Motion to Dismiss and after hearing argument from counsel and review of the file this Court finds:

1. Defendant, SIOHVAN PAGE, occupies residential real property in Orange County, Florida, under a residential lease pursuant to the "Project-Based Voucher" program. As such, the tenancy is governed by the Florida Residential Landlord Tenant Act, Chapter 83, Fla. Stat., The United States Housing Act of 1937, 42 U.S.C. § 1437(f) et seq., and federal regulations promulgated by the United States Department of Housing and Urban Development found at 24 C.F.R. Part 983 et. seq.
2. The Plaintiff filed a Complaint for tenant eviction against Defendant based upon a July 3, 2012, Notice to Cure Noncompliance as well as a Non-Curable August 15, 2012, Notice of Termination.
3. Plaintiff's July 3, 2012, Notice to Cure Noncompliance states as follows: "The Office was notified that there are Unauthorized Occupants living in your apartment we also received a complaint in regards to noise coming out of your apartment due to traffic going in and out. we also saw you coming from being parked on the grass right in front of your door."
4. Federal regulations which govern the Project-Based Voucher program tenancies require the owner to "give the tenant a written notice that specifies the grounds for termination of tenancy". 24 C.F.R. 982.310(e)(1).
5. This notice upon which the Plaintiff relies is vague and lacks enough specificity and factual detail to meet the requirements of 24 C.F.R. 982.310(e) or the requirements of Section 83.56(2) of the Florida Statutes. Without being provided more information regarding the alleged violations, Defendant cannot adequately prepare a defense to the eviction. [Oakridge Apartment Complex, Inc. vs. Rhonda Perry](#), 13 Fla. L. Weekly Supp. 839c (Alachua Cty 2006); [Tacolcy Garden Walk, Inc. vs. Katherine Navarro](#), 17 Fla. L. Weekly Supp. 36b (Miami Dade Cty 2009); [Hialeah Housing Authority vs. Andrea Lawren](#), 12 Fla. L. Weekly Supp. 1177a (Miami Dade Cty 2005).
6. The service of a proper termination notice is a condition precedent to the filing of an eviction action.
7. A statutory cause of action cannot be commenced until Plaintiff has complied with all conditions precedent.

8. When less than all the requisite elements of a cause of action exist when the complaint is filed, the complaint must be dismissed.

9. Defendant's Motion to Dismiss is GRANTED without prejudice, but without leave to amend.

10. The Court reserves jurisdiction to award attorneys fees and costs.

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