



University of Tennessee, Knoxville  
**Trace: Tennessee Research and Creative  
Exchange**

---

Tennessee Department of State, Opinions from the  
Administrative Procedures Division

Law

---

12-13-2012

TENNESSEE HOUSING DEVELOPMENT  
AGENCY, Petitioner v. MICHAEL HELM,  
Respondent

Follow this and additional works at: [http://trace.tennessee.edu/utk\\_lawopinions](http://trace.tennessee.edu/utk_lawopinions)

---

This Initial Order by the Administrative Judges of the Administrative Procedures Division, Tennessee Department of State, is a public document made available by the College of Law Library, and the Tennessee Department of State, Administrative Procedures Division. For more information about this public document, please contact [administrative.procedures@tn.gov](mailto:administrative.procedures@tn.gov)

**BEFORE THE TENNESSEE  
HOUSING DEVELOPMENT AGENCY**

**IN THE MATTER OF:**

**TENNESSEE HOUSING  
DEVELOPMENT AGENCY,**

*Petitioner*

**v.**

**MICHAEL HELM,**

*Respondent*

**DOCKET NO: 32.00-118090J**

**INITIAL ORDER**

This contested administrative case was heard in Nashville, Tennessee on December 13, 2012, before Rob Wilson, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Tennessee Housing Development Agency (“THDA” or “the Agency”). Mr. Bruce Balcom, General Counsel for THDA, represented the Petitioner. Respondent, Michael Helm, was represented in a non-legal capacity by his mother, Waynette Helm.<sup>1</sup>

The subject of the proceeding was the proposed termination of the Respondent’s rental assistance for his alleged failure to notify THDA that he was vacating his subsidized unit. Upon full consideration of the record, it is determined that Respondent’s participation in the THDA Housing Choice Voucher Program should not be terminated, and that Mr. Helm’s participation in the voucher program as well as the THDA Mortgage Program should be fully restored. This determination is based upon the following findings of facts and conclusions of law.

---

<sup>1</sup> Ms. Helm presented valid power-of-attorney documentation giving her permission to assist or completely handle any of her son’s day-to-day affairs.

## FINDINGS OF FACT

1. The Respondent participates in the THDA Housing Choice Voucher Program. As a condition of participation, the Respondent is required to notify THDA if he plans to vacate the unit.
2. THDA rental assistance specialist Andre Kelly performed a unit inspection at Respondent's residence on June 6, 2012. Mr. Kelly testified that it appeared that the unit had been vacated, although he admitted that he didn't question any neighbors. He also admitted that he did not check to see if there were dishes in the dishwasher.
3. Respondent's rent and utilities were current as of the June 6<sup>th</sup> inspection. Respondent had never been late with a rent payment.
4. Respondent's mother testified that Respondent suffers from panic attacks and that he is on disability. She stated that her son did not vacate the subsidized unit, but that he was temporarily staying nearby with his sister due to the fact that he had been the victim of a robbery at the unit and he feared for his safety. Respondent's mother introduced as an exhibit the police report from the robbery at the unit [Exhibit #8], as well as documentation to prove that the rent and the utilities in the unit were current [Exhibit #2].
5. Following an informal review, and a subsequent informal hearing, THDA sent the Respondent a letter notifying him of its decision to terminate his participation in the program. The Respondent appealed the agency's decision, resulting in the instant hearing.

## CONCLUSIONS OF LAW & ANALYSIS

1. **Reporting Absences to THDA 24 CFR 982.551(h)(3). Families must report long term absences (when the absence will exceed 14 consecutive days) from the unit in writing.** Participants must also give THDA written notice when a family member leaves the household. This must be done within 14 calendar days of the change and certify whether the member is temporarily absent or permanently absent. The family must supply any information or certification requested by THDA related to the absence from the unit. 24 CFR 982.312(d)(1). If the head of household has to leave the assisted unit for more than 14 consecutive days, the unit will not be considered to be their sole place of residence, and their assistance will be terminated. **The manager of the appropriate field office may grant an exception to this policy if the participant contacts THDA before the absence exceeds 14 days with reasonable cause to be absent from the assisted unit. [Emphasis added]**

2. After hearing the testimony and reviewing the evidence in this matter it becomes clear that Respondent did not violate any THDA rules, and that he also fulfilled all of the requirements of the Housing Choice Voucher Program. His rent and utilities were always timely paid, he kept all appointments for inspection and recertification as required, and he never actually “vacated” his unit, except when he had to leave for his own personal safety, and that would certainly be considered a valid exception to the fourteen day notice requirement. Additionally, Mr. Helm has a disability for which he can request a

reasonable accommodation. Such reasonable accommodation could consist of something as simple as having one of Respondent's family members present during THDA related activities such as inspections and recertifications, and also sending a copy of all notices to Respondent, as well as Respondent's mother, who already acts as his power of attorney. It is clear from the testimony at the hearing that Respondent has support from his extended family, and that they have his best interests in mind. It is also clear that if a representative from THDA had talked to Respondent's mother, or made an inquiry with the neighbors, or had even checked to discover that the rent and utilities had been paid in advance, this proposed termination hearing could have been avoided. Termination of Mr. Helm's rental assistance is not appropriate in this matter.

---

For the foregoing reasons, the decision of the Tennessee Housing Development Agency to terminate Mr. Helm's Housing Voucher is REVERSED.

This Order entered and effective this 9 day of January, 2013

---

Rob Wilson  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this 9 day of January, 2013

A handwritten signature in black ink that reads "Thomas G. Stovall". The signature is written in a cursive style with a large, sweeping initial 'T'.

---

Thomas G. Stovall, Director  
Administrative Procedures Division