

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
MAY 19 10 07
CLERK OF COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FRANCES JUAROVISECH)
)
Plaintiff)

CASE NO. C83-4961)
)
JUDGE SAM H. BELL)

-v-

ORDER

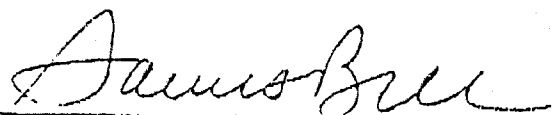
PORTAGE METROPOLITAN)
HOUSING AUTHORITY, and)
FREDERICK C. SPATARO, JR.)
)
Defendant)

Pursuant to the judgment entry of December 30, 1983, the parties to the above-entitled action agreed that this action shall be considered settled and dismissed with prejudice upon the submission of the decision of the hearing officer. It was further agreed that costs shall be paid by the plaintiff.

For purposes of the record, the court hereby accepts and adopts the findings of the hearing officer entered this date.

Accordingly, the docket shall be marked settled and this action is hereby dismissed with prejudice at plaintiff's costs.

IT IS SO ORDERED.



SAM H. BELL
U. S. DISTRICT JUDGE

FILED
MAY 21 1984
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FRANCES JUAROVISECH)

Plaintiff)

-v-)

PORTAGE METROPOLITAN)

HOUSING AUTHORITY, and)

FREDERICK C. SPATARO, JR.)

Defendant)

CASE NO. C83-4961

JUDGE SAM H. BELL

F I N D I N G S

With the approval of United States District Judge Sam H. Bell, the parties to the above-entitled action agreed by journal entry of December 30, 1983, to a resolution of this matter. The parties agreed that a de novo hearing would be held before a hearing officer chosen by the parties to determine the issue of whether the Portage Metropolitan Housing Authority has good cause to terminate Frances Juarovisech's participation in the Section 8 Existing Housing Program based on the allegation that an illegal occupant resides in her dwelling. Upon the entering of the hearing officers's findings, the parties further agreed that this action shall be dismissed with prejudice as to all parties. Pursuant to this agreement, on January 4, 1984, a de novo hearing was held, and after considering all of the evidence presented at that time, the hearing officer hereby enters its findings as follows.

It is undisputed that Frances Juarovisech's continued eligibility for participation in the Section 8 Existing Housing Program depends upon whether an illegal occupant, a Mr. Robert Demastus, resided in her dwelling. It is also undisputed that at no time has Juarovisech ever listed Mr. Demastus on any application with the Portage Metropolitan Housing Authority as an occupant in her dwelling. This failure to list Demastus would be a violation of Juarovisech's Section 8 Existing Contract with the Housing Program if Demastus was in fact an occupant of her dwelling. Therefore, the sole issue to be determined is whether Demastus has been an occupant in the Juarovisech dwelling.

Although there are no specific guidelines established by the Housing Program which would define an illegal occupant, some of the inherent elements of occupancy of a dwelling would include taking meals, receiving mail, storing personal goods and clothing, and sleeping at the subject dwelling. However, after considering all of the evidence presented, the hearing officer finds that such evidence does not demonstrate that Robert Demastus was an occupant in the Juarovisech's dwelling.

It is clear that Demastus on several occasions slept at the Juarovisech residence, but not on a regular or routine basis. When Demastus slept at the Juarovisech dwelling, he did so only as an invited guest. The evidence was undisputed that Demastus took his meals elsewhere, and regularly slept at the homes of various members of his family. In addition, the evidence does not establish that Demastus regularly received mail or kept his personal effects at the Juarovisech dwelling.

Accordingly, the hearing officer finds that Frances Juarovisech has not violated her Section 8 Existing Contract with the Housing Program, because no illegal occupant has resided in her dwelling.

R. A. Cunningham

Robert A. Cunningham
Hearing Officer

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FRANCES JUAROVISECH)	CIVIL ACTION NO.
Plaintiff)	C 83-4961
vs)	JUDGE BELL
PORTAGE METROPOLITAN)	<u>JUDGMENT ENTRY</u>
HOUSING AUTHORITY; and)	
Frederick C. Spataro, Jr.)	
Defendants)	

This matter came on for hearing December 16, 1983 upon the Plaintiff's motion for a preliminary injunction. All parties were present and represented by counsel.

Upon agreement of the parties and for good cause shown, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. That the Plaintiff, Frances Juarovisech, shall be granted a de novo hearing on the issue of whether the defendants have good cause to terminate the plaintiff's participation in the Section 8 Existing Housing Program based on the allegation that an illegal occupant resides in the unit.
2. That said hearing will take place on Wednesday, January 4, 1984 at 1:00 p.m. or as soon thereafter as the parties may agree on the 4th Floor of the United States District Court, Northern District of Ohio, Akron, Ohio in a room designated by the Court.
3. That Robert Cunningham, Law Clerk to Judge Bell, shall act as the hearing officer unless the parties agree otherwise.
4. That said hearing will be held under the authority of the United States District Court, Northern District of Ohio and Federal subpoena powers shall be available to the parties. Any subpoenas issued shall be served by the parties.
5. That a recording of said hearing shall be made by a tape recorder furnished by defendant, Portage Metropolitan Housing Authority.
6. That the decision of the hearing officer shall be based solely and exclusively on the evidence provided at the hearing and upon applicable laws and regulations.

7. That all testimony taken at the hearing shall be given under oath.

8. That the hearing officer shall receive any evidence presented by the parties which has probative value and shall not be constrained by the Federal Rules of Evidence.

9. That the decision of the hearing officer shall be in writing, signed and dated. Said decision shall state the legal and evidentiary grounds that form the basis for the conclusions reached.

10. That in the instant action the decision of the hearing officer shall be final and binding on all parties with no appellate review.

11. That upon submission of the decision to the parties and the court by the hearing officer, the instant action shall be dismissed with prejudice as to all parties. Costs to be shared by all parties.

12. That in the event the Landlord, TransOhio, does not agree to withhold the initiation of any eviction proceeding against plaintiff pending resolution of the instant action, the parties may bring this matter to the attention of this court for immediate resolution.

IT IS SO ORDERED

Dated: _____

Approved by:

KATHLEEN O. TARARSKY
34 South High Street
Akron, Ohio 44308
(216) 535-4191

JUDGE SAM H. BELL

and

PETER M. ISKIN
1223 West Sixth Street
Cleveland, Ohio 44113
(216) 687-1900

Attorneys for Plaintiff

FRANCES JUAROVISECH

ANTONIOS C. SCAVDIS
261 West Spruce Street
P.O. Box 978
Ravenna, Ohio 44266
(216) 297-5778

Attorney for Defendant

FREDENICK C. SPATARO