



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

Tennessee Department of State, Opinions from the
Administrative Procedures Division

Law

5-3-2012

SAMANTHA GUNDLACH, Respondent.

Follow this and additional works at: 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

BEFORE THE TENNESSEE HOUSING DEVELOPMENT AGENCY

IN THE MATTER OF:]	
]	DOCKET # 32.00-116177J
SAMANTHA GUNDLACH,]	
Respondent.]	

INITIAL ORDER OF DEFAULT AND DISMISSAL

This contested administrative case was heard on May 3, 2012, in the Erin Field Office of the Tennessee Housing Development Agency (“THDA” or “the Agency”). On that date, the Administrative Judge, counsel for the Agency, and the Agency’s witnesses appeared, and were prepared to proceed with the hearing. The Respondent did not appear for the hearing, either in person or through legal counsel.

Based upon the Respondent’s failure to appear for the hearing, the Agency’s attorney moved for a finding that the Respondent was in default, and for dismissal of the Respondent’s appeal of the Agency’s decision to terminate her participation in the Housing Choice Voucher Program. Upon consideration of the Agency’s motion, the evidence presented in support of that motion, and the entire record in this matter, it was determined that the Agency’s motion should be granted, as supported by the following Findings and Conclusions:

1. This matter was set for hearing on May 3, 2012, and the Respondent was duly notified of the hearing date and location.

2. The Respondent failed to appear for her appeal hearing, and did not contact either the Agency or the Administrative Procedures Division in advance of the hearing time to request a continuance.

3. Rule 1360-4-1-.15(1)(a) of the “Uniform Rules of Procedure for Hearing Contested Cases before State Administrative Agencies” provides:

The **failure of a party to attend** or participate in a prehearing conference, **hearing** or other stage of contested case proceedings after due notice thereof **is cause for holding such party in default** pursuant to T.C.A. §4-5-309.

4. Based on her failure to appear for the hearing after proper notice, the Respondent was held in default, and the agency proceeded to present proof in support of the allegations contained in its Notice of Hearing.

5. From that evidence, it was found that the Respondent owed the Agency \$882.00 for overpayment of benefits that she had received. On May 3, 2011, she entered into a “Repayment Agreement” with the Agency, and was allowed to remain in the program as long as she made monthly payments according to the terms of the agreement. The Respondent made an initial down-payment toward her balance, and made sporadic monthly payments. After repeated warnings about delinquent payments, the Respondent still failed to comply with the repayment schedule. Her repayment account remains delinquent as of May 3, 2012.

6. The terms of the Respondent’s “Repayment Agreement” provide that failure of a participant to make timely payments is a sufficient basis to terminate enrollment in the Housing Choice Voucher Program. Additionally, under the terms of the program itself, failure to make rent payments in a timely manner constitutes grounds for termination of the Respondent’s participation in the program. [*See*, 24 CFR 982.551.]


7. It is therefore concluded that the Agency’s decision to terminate the Respondent’s participation in the Housing Choice Voucher Program was appropriate and supported by the law.

Accordingly, it is HEREBY ORDERED that the Agency’s decision to terminate the Respondent’s participation in the Housing Choice Voucher Program is upheld, and the Respondent’s appeal of the Agency’s decision is DISMISSED.

This Initial Order entered and effective this 14 day of May, 2012

Rob Wilson
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 14
day of May, 2012

A handwritten signature in black ink that reads "Thomas G. Stovall". The signature is written in a cursive style with a large, looped initial "T".

Thomas G. Stovall, Director
Administrative Procedures Division