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Shawana Johnson vs. THDA

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**BEFORE THE TENNESSEE
HOUSING DEVELOPMENT AGENCY**

IN THE MATTER OF:

**TENNESSEE HOUSING
DEVELOPMENT AGENCY,**

Petitioner

v.

SHAWANA JOHNSON,

Respondent

DOCKET NO: 32.00-123891J

INITIAL ORDER

This contested administrative case was heard in Madison, Tennessee, on February 7, 2014, before J. Randall LaFevor, 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. The Respondent appeared *pro se*.

The subject of the hearing was the proposed termination of the Respondent’s rental assistance due to her alleged failure to accurately report information related to her income to THDA. Upon full consideration of the record, it is determined that Respondent’s participation in the THDA Rental Assistance Program should be terminated. This determination is based upon the following findings of facts and conclusions of law.

FINDINGS OF FACT

1. The Respondent receives rental assistance from THDA; the amount of that assistance is dependent upon several factors, including the total household income. As a condition for receiving THDA rental assistance, the Respondent was required by law to provide the Agency with accurate information concerning all income received by household members. These obligations were explained to the Respondent when she began participation in the THDA subsidized housing program.

2. THDA relies on the household income information provided by program participants on their Personal Declaration forms to determine the amount of the subsidy paid on their behalf. That information must be updated when changes occur, so that THDA can accurately compute the amount of a participant's rental assistance.

3. While a participant in the rental assistance program, the Respondent began a job that paid her \$20,765.00. The Respondent did not report that income to THDA.

4. When THDA learned of the unreported income, new computations were completed to determine how much assistance THDA should have paid versus how much it actually paid. [See Hearing Exhibit #1, *Recoupment Worksheet*.] THDA's computations verified that it had overpaid the Respondent's subsidy in the total amount of \$4,330.00.

5. THDA notified the Respondent that it intended to terminate her participation in the program because she had failed to report additional income, resulting in an overpayment of her rental subsidy. Following an informal hearing on October 9, 2013, the Agency notified the Respondent that her assistance was being terminated, and she appealed that decision, leading to the contested administrative hearing on February 7, 2014.

6. During the February 7, 2014 hearing, the Respondent did not contest the facts as described by THDA, or the amount of the overpayment that she received. She said that she had called the THDA office, and left messages related to her income, but that testimony was not corroborated by any other evidence. Her testimony was not credible.

CONCLUSIONS OF LAW & ANALYSIS

1. The Code of Federal Regulations [24 CFR 982.551(b)] states, in relevant part, that participants in the Section 8, Tenant Based Assistance, Housing Choice Voucher Program ¹ "must supply any information that the PHA [Public Housing Authority] ² determines is necessary in the administration of the program."

¹ The THDA Rental Assistance Program qualifies as such a program.

² The PHA in this case is the THDA.

2. “Any information supplied by the family must be true and complete.” 24 CFR 982.551(b)(4). All information provided must be updated as required by the program.

3. The provisions of 24 CFR 982.551, *et seq.*, are incorporated in the THDA Section 8 Rental Assistance Administrative Plan, as required by Rule 0770-1-5-.10, TENN. COMP. R. & REGS., and govern the THDA Rental Assistance Program.

4. The Respondent failed to accurately report her household’s income to THDA, as required by Federal and State Regulations. Had she properly reported her household income, THDA would have provided assistance at a lower rate than it did. By reporting erroneous information to THDA, she clearly violated the terms of her THDA program participation agreement as well as the Rental Assistance Administrative Plan, and she received a greater subsidy than she should have. Violation of the obligations imposed by the Federal Regulations and the Rental Assistance Administrative Plan provides sufficient grounds for termination of THDA assistance. [*See* THDA Section 8 Rental Assistance Administrative Plan.] Additionally, the terms of the Plan provide that incurring a debt of over \$3,000.00 requires termination of program participation.

5. THDA receives limited government funding for its Rental Assistance Program. As a result of that limited funding, when a program participant, such as the Respondent, receives more assistance than she is entitled to receive, others in the community must be denied assistance to which they might otherwise be eligible. THDA policies, as reflected in the Administrative Plan, dictate that sanctions must be imposed on program participants who abuse the program, and prevent others from receiving its benefits. By underreporting her household income, and consequently receiving a subsidy greater than she should have under the law, the Respondent has demonstrated her unwillingness to abide by THDA regulations and its Rental Assistance Program requirements. In light of all the facts of this case, termination of the Respondent’s participation in the program is an appropriate sanction. Additionally, she should be required to repay the overpayment that she received, in the amount of \$4,330.00.

Accordingly, it is hereby ORDERED that the Respondent's participation in the THDA Rental Assistance program is TERMINATED, due to her failure and refusal to comply with the requirements of that program.

It is further ORDERED that she shall reimburse THDA for its assistance overpayment in the amount of \$4,330.00.

This Initial Order is entered and effective this _____ day of February 2014.

J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this _____ day of _____ 2014.



J. Richard Collier, Director
Administrative Procedures Division