



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

Tennessee Department of State, Opinions from the
Administrative Procedures Division

Law

11-12-2013

April Reese vs. Tennessee Housing Development Agency

Follow this and additional works at: http://trace.tennessee.edu/utk_lawopinions

 Part of the [Administrative Law Commons](#)

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

**TENNESSEE HOUSING
DEVELOPMENT AGENCY,**

Petitioner,

vs.

APRIL REESE,

Respondent.

Docket # 32.00-122481J

INITIAL ORDER

This contested administrative case was heard on November 6, 2013, in the Madison 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:

- a. This matter was set for hearing on November 6, 2013, and the Respondent was duly notified of the hearing date and location.
- b. 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.
- c. 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.
- d. 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. The agency’s presentation of its evidence resulted in the following Findings of Fact and Conclusions of Law:

The subject of the hearing was the proposed termination of the Respondent's rental assistance because, while receiving Housing Choice Voucher assistance from THDA, she failed to pay rent and owed her landlord back rent of \$1,089.00 plus attorney's fees. Upon full consideration of the record, it is determined that the Respondent's participation in the THDA Rental Assistance Program should be terminated. This determination is based on the following findings of facts and conclusions of law.

FINDINGS OF FACT

1. The Respondent, April Reese lived in an apartment in which her rent was subsidized by the THDA Section 8 Housing Choice Voucher program.
2. Respondent failed to pay her rent in a timely manner and incurred a debt to her landlord of \$1,089.00.
3. Respondent worked out a payment agreement with her landlord but the debt still remains unpaid.

CONCLUSIONS OF LAW

1. As the party asserting that certain allegations are true, the Tennessee Housing Development Agency has the burden of presenting evidence to prove, by a preponderance of the evidence, that the Respondent violated her obligations under the THDA program and that, as a result, her participation in the Housing Choice Voucher program should be terminated. *See, Winford v. Hawissee Apartment Complex*, 812 S.W. 2d 293, 295 (Tenn. App. 1991); Rule 1360-4-1-.02(3),(7), TENN. COMP. R. & REGS. The Tennessee Housing Development Agency has met that burden.

2. Section 8 of the Housing Act of 1937 was designed “[f]or the purpose of aiding low-income families in obtaining a decent place to live...” and authorizes rental assistance payments to eligible families who rent existing housing. U.S.C. § 1437f(a); *see also, Davis v. Mansfield Metropolitan Housing Authority*, 751 F. 2d 180, 183 (6th Cir. 1984). The Housing Act was

amended by Congress in 1974 to add the voucher program. 42 U.S.C. § 1437f(o). The Housing Choice Voucher program is administered by local public housing agencies, such as Tennessee Housing Development Agency. Once issued a voucher, a participating family obtains a suitable residence, and the rent is subsidized by the federal government. *See generally, Wojcik v. Lynn Housing Authority*, 845 N.E. 2d 1160, 1162, n. 2 (Mass. App. 2006) [brief overview of Section 8 voucher program].

3. Among other reasons, a public housing agency may terminate a family's Housing Choice Voucher if the "family violates any family obligations under the program". 24 C.F.R. §982.552(c)(1)(i). Included in the "family obligations under the program" is the requirement that rent be paid timely.

4. 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. [See Chapter 15, Family Obligations/Responsibilities, THDA Section 8 Rental Assistance Administrative Plan.] Violation of the obligations imposed by the Federal Regulations and the Rental Assistance Administrative Plan provides sufficient grounds for termination of THDA assistance. [See Chapter 11, Termination of Assistance, THDA Section 8 Rental Assistance Administrative Plan.]

5. Respondent entered into an agreement to pay back the past due rent, but then failed to make the required payments. Based on her unwillingness to live up to her obligations under her agreement with THDA, the Agency decided to terminate her participation in the program.

6. The non-payment of rent, and her failure to re-pay her landlord for the debt she owes, provides a sufficient basis for termination of her participation in the Rental Assistance Program.

7. THDA receives limited government funding for its Rental Assistance Program. As a result of that limited funding, when program participants, such as the Respondent, receive assistance while disregarding the rules of the program, 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 failing to pay her rent, which is a

serious lease violation, 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.

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.

Entered and effective this _____ day of _____, 2013.

Rob Wilson
Administrative Judge

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



J. Richard Collier, Director
Administrative Procedures Division