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Bridgett Clark vs. THDA

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BEFORE THE TENNESSEE HOUSING DEVELOPMENT AGENCY

IN THE MATTER OF:

**TENNESSEE HOUSING
DEVELOPMENT AGENCY,**

Petitioner

v.

BRIDGETT CLARK,

Respondent

DOCKET NO: 32.00-124400J

INITIAL ORDER

This contested administrative case was heard in Madison, Tennessee, on March 14, 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 hearing was convened to consider the proposed termination of the Respondent’s rental assistance because her income was sufficient to reduce her Housing Assistance Payments (“HAP”) to zero for six continuous months. 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 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 number of family members living in the subsidized household and the combined household income. When she applied to enter the program, the Respondent’s income was below the threshold level, allowing THDA to approve her for participation in the Housing Choice Voucher Program.

2. In February, 2013, the Respondent was hired for a PRN position as a Data Entry Clerk, working 40 hours (more or less) per week at a rate of \$13.50 per hour. That PRN position

became a full-time job in May, 2013. During the hearing, the Respondent submitted paycheck stubs indicating that she had earned about \$500.00 per week, for a total of \$21,120.36 through October 25, 2013.¹

3. The Respondent's income from April 1, 2013 through September 30, 2013 was too high for THDA to make Housing Assistance Payments on her behalf. That placed her in a "Zero-HAP" status. Because she had been in a "Zero-HAP" status for 180 days, the THDA notified the Respondent that her participation in the program would be terminated, as required by the laws governing the Housing Choice Voucher Program.

4. The Respondent appealed THDA's action, and this hearing was convened to consider her appeal.

CONCLUSIONS OF LAW & ANALYSIS

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's participation in the Housing Choice Voucher program may 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].

¹ See Hearing Exhibit #1.

3. Among other reasons, a public housing agency is required to terminate a participant's Housing Choice Voucher if the "family has not received a rental subsidy for 180 days because the family income increased to a level that a housing assistance payment was no longer allowed." (24 C.F.R. §982.455). Allowing the participant to remain on the program, while not receiving a rental subsidy is referred to as "Zero-HAP" status.

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. Because THDA determined that the Respondent was in a "Zero-HAP" status for more than 180 days in 2013, THDA was required to terminate her participation in the Housing Choice Voucher Program.

5. THDA receives limited government funding for its Housing Choice Voucher Program. As a result of that limited funding, when program participants, such as the Respondent, continue to receive assistance after their eligibility for the program ends, others in the community must be denied assistance to which they might otherwise be eligible. THDA policies, as reflected in the Administrative Plan, required THDA to remove the Respondent from the program because she was in a "Zero-HAP" status for more than 180 days in 2013.

Accordingly, it is hereby ORDERED that the Respondent's participation in the THDA Rental Assistance program is TERMINATED, because she was in a "Zero-HAP" status for more than 180 days in 2013.

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

J. Randall LaFevor, Administrative Judge

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

A handwritten signature in cursive script that reads "J. Richard Collier".

J. Richard Collier, Director
Administrative Procedures Division