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August 2015

## Ashley Terrell vs. THDA

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**Department of State**  
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August 25, 2015

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Ashley Terrell  
616 – 5<sup>th</sup> Avenue North  
Lewisburg, TN 37091

RE: In the Matter of: Ashley Terrell

Docket No. 32.00-131450J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division  
Tennessee Department of State

/aem  
Enclosure

**BEFORE THE TENNESSEE HOUSING DEVELOPMENT AGENCY**

**IN THE MATTER OF:**

**ASHLEY TERRELL**

**DOCKET NO. 32.00-131450J**

**NOTICE**

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **September 9, 2015**.

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION  
WILLIAM R. SNODGRASS TOWER  
312 ROSA PARKS AVENUE, 8<sup>th</sup> FLOOR  
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472**. PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

**BEFORE THE TENNESSEE  
HOUSING DEVELOPMENT AGENCY**

**IN THE MATTER OF:**

**TENNESSEE HOUSING  
DEVELOPMENT AGENCY,**  
*Petitioner*

**v.**

**ASHLEY TERRELL,**  
*Respondent*

**DOCKET NO: 32.00-131450J**

**INITIAL ORDER**

This contested administrative case was heard in Lewisburg, Tennessee on August 24, 2015, 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. Ashley Terrell, the Respondent, appeared *pro se*.

The subject of the proceeding was the proposed termination of the Respondent’s rental assistance for her alleged failure to appear for multiple appointments to undergo annual inspection of her rental unit, as required to maintain her THDA eligibility. 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 received rental assistance from THDA. A basic requirement of the rental assistance program is that participants undergoing recertification in the program cooperate with an annual inspection of the rented premises to ensure THDA that their program participants are living in proper housing.
2. On February 9, 2015, the Agency notified the Respondent that it would perform an inspection of her premises on February 24, between 11:00 AM and 2:00 PM. The notice

included the following language: “If you are not present at the specified inspection time or fail to have someone over the age of 18 present for the inspection, you risk termination of your assistance according to the THDA’s Administrative Plan.” The Respondent was not present when the inspector arrived at the designated time.

3. On February 25, 2015, the Agency notified the Respondent that it had rescheduled her inspection for March 3, between 11:00 AM and 2:00 PM. Again, the Respondent was not present when the inspector arrived. THDA regulations and policies provide for termination procedures to begin when a participant misses two appointments.

4. Based on her failure to be present when two consecutive inspections were scheduled, THDA advised the Respondent that it intended to terminate her participation in the program. Following an informal hearing, THDA upheld the termination of the Respondent’s participation in the THDA Rental Assistance Program. The Respondent appealed the agency’s decision, resulting in the instant hearing.<sup>1</sup>

5. At the August 24, 2015, hearing, the Respondent acknowledged that she had missed the two scheduled inspections. She explained that she had missed the first appointment due to a required court appearance. However, she said that she missed the second appointment because she was out of town; she did not notify THDA of her planned absence; she made no arrangements for anyone to advise her of important correspondence received at her home; and, she offered no documentary proof at the hearing of the reason for her absence. From her testimony, it was not even clear that she was still out of town on the date of the inspection.

### **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<sup>2</sup>

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<sup>1</sup> A third inspection was scheduled in order to continue assistance during the appeal process. She missed that appointment as well.

<sup>2</sup> The THDA Rental Assistance Program qualifies as such a program.

“must supply any information that the PHA [Public Housing Authority]<sup>3</sup> determines is necessary in the administration of the program.”

2. As a condition for receiving THDA rental assistance, the Respondent was required by law “to supply such certification, release, information or documentation as THDA or HUD determines to be necessary. . .” *See*, 24 CFR Subpart L, 982.551; THDA Section 8 Rental Assistance Administrative Plan, *Missed Appointments*. THDA had scheduled two separate appointments to inspect the Respondent’s premises to ensure that her home met the standards established for THDA housing. The Respondent was not present for either inspection.

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. The Administrative Plan provides that “If the tenant misses two (2) appointment/inspections at any time during the recertification process, his/her assistance will be terminated,” and that “The client may not have more than two (2) missed appointments during any recertification activity.” A missed appointment may be excused, if the family submits documentation verifying that the appointment was not kept due to a medical emergency or the death of a family member living in the subsidized premises. [*See* Chapter 7, THDA Section 8 Rental Assistance Administrative Plan.] The Respondent submitted no documentation of such an event. Therefore, the excuse offered during her hearing was unacceptable.

4. THDA receives limited government funding for its Rental Assistance Program. As a result of that limited funding, if a program participant, such as the Respondent, is allowed to stay on the program when she fails to follow the rules, 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 keep her scheduled inspections, thereby failing to provide information required for her continued participation in the program, the Respondent has demonstrated her unwillingness to abide by THDA regulations and

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<sup>3</sup> In the case, THDA is the Public Housing Authority.

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.

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

This Initial Order entered and effective this 25<sup>TH</sup> day of AUG. 2015.



J. Randall LaFevor, Administrative Judge

25<sup>TH</sup> Filed in the Administrative Procedures Division, Office of the Secretary of State, this day of AUGUST 2015.



J. Richard Collier, Director  
Administrative Procedures Division

**APPENDIX A TO INITIAL ORDER**  
**NOTICE OF APPEAL PROCEDURES**

**Review of Initial Order**

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8<sup>th</sup> Floor, William R. Snodgrass Tower, 312 Eighth Avenue N., Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

**Review of Final Order**

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

**YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER**

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.