



STATE OF DELAWARE
JUSTICE OF THE PEACE COURT NO. 13
1010 CONCORD AVENUE
CONCORD PROFESSIONAL CENTER
WILMINGTON, DELAWARE 19802

TELEPHONE: (302) 577-2550

SYSTEM ID: @3324
WILMINGTON HOUSING AUTHORITY
400 N WALNUT ST
WILMINGTON DE 19801

VS.

Civil Action No: JP13-14-002745

SYSTEM ID: @2658268
ANTHONY HEATH
2700 NORTH MARKET STREET
APT 414
WILMINGTON, DE 19802

ORDER OF JUDGMENT
ON TRIAL DE NOVO

This is a *de novo* appeal to a three-judge panel from a decision dated May 8, 2014. The panel held trial on the matter on June 18, 2014. Plaintiff Wilmington Housing Authority (WHA) is represented by Joseph J. Farnan, Esq. Defendant Anthony Heath (Heath) is self-represented. The three-judge panel is composed of Chief Magistrate Davis, Deputy Chief Magistrate Lee and Judge Young. This is the Court's decision after trial.

WHA brings this action seeking possession based on a rules violation related to alleged criminal acts by Defendant that threaten the health, safety or right to peaceful enjoyment of other residents. Defendant Heath generally disputes the alleged criminal acts.

The Panel heard testimonial evidence from Jawanna Patton, property manager for Crestview Apartments, where the Defendant resides and the Defendant Anthony Heath. Plaintiff further introduced documentary evidence as follows: the complaint with attachments; the lease between the parties; the Admissions and Continued Occupancy Policy; the housing assistance termination notice dated December 9, 2013; the lease termination notice dated January 2, 2014; DVD recording of incidents on November 29, 2013 and January 22, 2014. Defendant presented a written statement from an unnamed tenant.

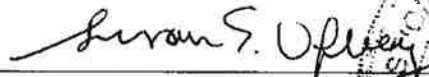
Defendant is a resident in a WHA property located at Crestview Apartments, 2700 N. Market Street in Wilmington. Jawanna Patton, property manager testified concerning two separate incidents wherein Defendant's conduct constituted a serious material violation of the lease agreement. The first incident occurred on November 29, 2013, where it was alleged that the Defendant initiated an argument with another resident. The argument turned physical when Heath choked the other resident. This incident was reported to the manager verbally and by written incident report. The incident was also reported to Wilmington Police. Patton further testified concerning a similar incident that occurred January 22, 2014 when the Defendant allegedly pushed a female resident into a table during an altercation. Both incidents were recorded by surveillance cameras.

In his defense, Heath argues the video of the November 29th incident is not clear and does not show him choking another resident. As to the second incident, Heath contends the female resident grabbed him by his jacket and pulled him into the community room. She tore his jacket, he smacked her hand and she fell onto the table. Heath's submission of a written note signed "a tenant" describing the incident, was accepted, but ultimately given little weight.

After viewing the video footage of the November 29th incident, the Court is convinced Defendant's conduct was offensive and alarming to other residents. The video shows Heath entering the community room, where he starts to taunt one of the male residents. He then walks over to where the resident is seated and begins to choke him. Due to the commotion, a female resident sitting in the area, gets out of her chair and stands at a distance until situation quiets down. Next, we see another male resident get out of his chair and walk over to help the victim. Seconds later, we see the victim leaving the community room, while Heath continues his taunting. On the basis of this incident alone, Plaintiff has proven the Defendant breached the lease agreement by committing a criminal act that threatened the health, safety and peaceful enjoyment of other tenants. Therefore, the Panel need not address the January 22nd incident.

For reasons stated, the Court finds that Plaintiff has met the preponderance of evidence standard and is entitled to a judgment for possession. Accordingly, judgment is awarded in favor of Plaintiff Wilmington Housing Authority and against Defendant Anthony Heath for possession and \$41.50 court costs.

IT IS SO ORDERED this 25th day of July, 2014



(for) ALAN G. DAVIS
Chief Magistrate



(for) BONITA N. LEE
Deputy Chief Magistrate



(for) WILLIAM YOUNG
Justice of the Peace

