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SUPERIOR COURT OF NEW JERSEY
MERCER COUNTY
LAW DIVISION, SPECIAL CIVIL PART
DOCKET NO. LT-5312-24

WOOD STREET HOUSING
PARTNERSHIP, LLP
Plaintiff,

v.

JASMINE SAUNDERS
Defendant.

Decided: March 28, 2025

Anthony W. Vaughn, Jr., for plaintiff (Law Office of Anthony W. Vaughn, Jr.
LLC, attorney).

Tabitha Y. Clark, for defendant (Central Jersey Legal Services, Inc, attorneys)

ANKLOWITZ, J.S.C.

Tenant filed an application for post judgment relief on February 12, 2025, requesting that the judgment be vacated and case dismissed for lack of jurisdiction. The complaint filed on October 22, 2024 alleged nonpayment of rent. N.J.S.A 2A:18-61.1(a). Judgment for possession based on default was issued on February 4, 2025 and showed rent unpaid of \$11358.

For the following reasons, plaintiff's complaint is dismissed for failure to provide required notices under the Violence Against Women Act (VAWA). 34 U.S.C. § 12491.

Defendant argued that the court had no jurisdiction because there was no notice as required by VAWA. No domestic violence was alleged. The argument made by the Defendant was sheerly the lack of notice.

Plaintiff opposed defendant's application for three reasons. First, plaintiff argued that the VAWA provision in the complaint met the notice requirement. Second, plaintiff said that tenant was being sued for eviction for nonpayment and so domestic violence is not a defense. Third, plaintiff argued that defendant is not a victim of domestic violence and is, therefore, not entitled to protections under VAWA.

Administrative Directive 15-23 requires the 10 most relevant pages of the lease to be attached to the complaint. In this case, the 22 page lease was filed with the complaint and clearly said that this is a tax credit unit. Such language is consistent with being a Low Income Housing Tax Credit (LIHTC) tenancy administered by the Internal Revenue Service. 26 U.S.C. § 42. The LIHTC status was agreed upon by both parties.

VAWA requires that a form notice be developed by the Secretary of Housing and Urban Development. 34 U.S.C. § 12491(d)(1)(HUD-5380 "Notice

of Occupancy Rights under the Violence Against Women Act”). The latest version of that notice is available on the United States Department of Housing and Urban Development (HUD) website at the time of this writing as form HUD-5380.

A VAWA notice must be given to the tenant at the time a lease is entered. 34 U.S.C. § 12491(d)(2)(B); 24 C.F.R. § 5.2005(a)(2)(ii). A VAWA notice must also be given “with any notification of eviction.” 34 U.S.C. § 12491(d)(2)(C); 24 C.F.R. § 5.2005(a)(2)(iii).

“[A] landlord cannot be awarded possession where a valid notice of termination has not been served.” Rahman v. Lewis, 217 N.Y.S.3d 830, 836 (N.Y. Civ. Ct. 2024). Rahman followed precedent from California and Connecticut holding that failure to provide VAWA notices required dismissal. “The failure to serve a VAWA notice [on a] Section 8 recipient is a fatal defect.” Ibid; compare e.g. Raleigh Hous. Auth. v. Winston, 855 S.E.2d 209, 214 (N.C. 2021)(lack of clear notice of VAWA rights resulted in dismissal of the case).

Bifurcation would allow a co-tenant that perpetrates domestic violence to be evicted and the victim co-tenant to remain. A.S. v. Been, 228 F. Supp. 3d 315, 318 (S.D.N.Y. 2017). To assert “a VAWA defense...there must be a causal connection between incidents of domestic violence and a tenant's failure to

comply with the terms of the lease or the agreement for judgment.” Boston Hous. Auth. v. Y.A., 121 N.E.3d 1237, 1244 (Mass. 2019).

The lease attached to the complaint had a one page VAWA lease addendum indicating it was form HUD-91067. Form HUD-5380 is currently five pages.

Nothing in the lease or form HUD-91067 lease addendum, in this case advised tenant that bifurcation was an option. The current HUD-5380 includes that information. The VAWA rights contained in the lease was also deficient for not providing information about available resources and explaining defendant’s right to ask for a different unit, and relevant procedures if the income, or rental assistance coming from a co-tenant perpetrator of domestic violence had been necessary to maintain the unit. The notice provided was so deficient that the court is constrained to find that no VAWA notice was given at the time of filing the complaint.

Congress provided a limit to VAWA defenses. 34 U.S.C. § 12491(b)(3)(C)(ii); see e.g 24 C.F.R. § 5.2005(d)(2). Being or not being a victim of domestic violence does not statutorily relieve the tenant from paying rent required under the lease. “[E]ven if a tenant has established that he or she is a victim under the VAWA, a public housing authority may terminate assistance on other independent grounds.” Johnson v. Palumbo, 60 N.Y.S.3d 472, 478

(App. Div. 2017). As such, it is not the plaintiff's cause of action but rather the lack of a sufficient VAWA notice that is a violation.

The purpose of VAWA notices is to provide certain protections to victims of domestic violence. 34 U.S.C. § 12491(b); 24 C.F.R. § 5.2005(b). Congress decided that victims must know their rights under VAWA even if the cause for eviction is not based on domestic violence. To abide by what Congress decided, the notice must be given so that the recipient will have the timely opportunity to exercise their rights. McIntire v. Hous. Auth. of Snohomish Cnty., 731 F. Supp. 3d 1212, 1228 (W.D. Wash. 2024)("Without knowledge of their rights...a victim would be unable to exercise VAWA's protections."). Failure to give notice and then hoping that an occupant was not a victim of domestic violence risks putting victims in danger.

The court does not accept plaintiff's argument that the fact that defendant is not a victim of domestic violence relieves plaintiff from responsibility to give the VAWA notice. This is a VAWA covered tenancy, therefore, the VAWA notice is required.

There is nothing in the statute that says that notice need only be given if the cause of action is based on domestic violence. Again, this is a VAWA covered tenancy and, so, the notice is required. The fact that the nonpayment

cause of action is completely disconnected from any domestic violence does not relieve plaintiff from the VAWA notice requirement.

Except nonpayment of rent cases, the statutory causes of action for eviction require either a notice to quit or a pre-filing notice. N.J.S.A 2A:18-61.1(anti-eviction act causes of action); N.J.S.A 2A:18-61.2(anti-eviction act notice to quit); N.J.S.A 2A:18-53(a) and (c)(non-anti-eviction act pre-filing notice). At a minimum, the rule requires those be attached to the complaint. R. 6:3-4(d)(any notice to cease pursuant to N.J.S.A2A:18-61.1 must also be attached).

A notice to quit must include the VAWA notice because that is the notice of eviction referenced in VAWA. Rahman at 835(“the court dismissed a proceeding where the 90-day notice of termination failed to include VAWA notice and certification form”); DHI Cherry Glen Associates, L.P. v. Gutierrez, 259 Cal. Rptr. 3d 410, 416 (Cal. App. Dep’t. Super. Ct. 2019)(“As a notice of eviction, the 10-day notice to pay rent or quit served by a covered housing provider must include the VAWA notices.”).

The Special Civil Part favors resolving cases on the trial date. R. 6:5-2(d)(multiple appearances “shall be avoided”). Since landlord-tenant trial events include a settlement opportunity pursuant to Administrative Directive 15-23, the court finds that the trial event must be supported as a meaningful event.

To comply with either the rule or the directive, notices required by VAWA must be attached to the complaint.

Nonpayment cases in New Jersey do not require a notice to quit or pre-filing notice. N.J.S.A2A:18-61.1(a)(no notice to quit indicated for nonpayment); N.J.S.A 2A:18-53(b)(no pre-filing notice for nonpayment). Attaching VAWA notice to the complaint is sufficient in a nonpayment case to comply with VAWA's mandate to give notice "with any notification of eviction." 34 U.S.C. § 12491(d)(2)(C); 24 C.F.R. § 5.2005(a)(2)(iii).

Here, the complaint included the lease, but no VAWA notice. That requires dismissal because no lesser remedy would be proportionate to Congress' intent to avoid risking the dangers of domestic violence. Hous. Auth. of City of Newark v. Caldwell, 247 N.J. Super. 595, 598 (Law Div. 1991)(deficient notice to quit requires dismissal). "[T]he Housing Authority's noncompliance with controlling federal requirements governing termination of the tenancy deprived the trial court of jurisdiction... ." Hous. Auth. of City of Newark v. Raindrop, 287 N.J. Super. 222, 224-25 (App. Div. 1996); see also Winns v. Rosado, 440 NJ Super 98, 104 (Law Div. 2014)(failure to give notice in Section 8 tenancy required dismissal). The North Carolina "Supreme Court has held a landlord's non-compliance with regulations regarding the notice of termination in an eviction action in housing covered by a federally subsidized

housing program merits” judgment against the landlord. L.I.C. Associates I, Ltd. P'ship v. Brown, 904 S.E.2d 822, 828 (N.C. Ct. App. 2024).

The court considered whether landlord could serve the notice at the time of filing of the complaint, not attach it to the complaint, and still be in compliance with VAWA. While that would comply with VAWA, it would not comply with making the trial date a meaningful event. R. 6:5-2(d); Administrative Directive 15-23. The fact that there is no discovery in landlord tenant, R. 6:4-3(a), serves to emphasize the need to attach notices. R. 6:3-4(d). Dismissal on the basis of a deficiency in the complaint is ordinarily without prejudice. Hoffman v. Hampshire Labs, Inc 405 N.J. Super. 105, 116 (App. Div. 2010)(dismissal without prejudice for failure to state a claim).

Plaintiff can file a new complaint for the nonpayment cause of action, if it is still appropriate to do so, in accordance with the proper notice requirements.

The case is dismissed.