

There is an unpublished case out of Tacoma (Division II) of the Washington Court of Appeals, released February 9, 2009, dismissing an eviction of a Section 8 tenant on 2 grounds. Remember, since this case is not published, it has no precedential value, but I would image that some agency has filed a request to have the case published.

The case history is a tenant moved into section 8 on 1 year lease. He was a problem from the start. Management issued him 10 day notices and finally a 20 day notice to terminate during the lease term. Several of the problems were for threats to other residents off the property.

He made a reasonable accommodation request to stay and that request was denied. The management eventually issued him a 3 day notice to quit for waste, nuisance or unlawful use--citing to his behavior as nuisance. He did not move out and the eviction was started.

The tenant lost at the show cause hearing, won a revision motion and had the case set for trial. At the trial, the court upheld the eviction. The tenant filed this appeal.

The appellate court threw out the eviction on 2 grounds: First, that the notice was not specific enough in citing to cause, as required by the section 8 lease agreement.

Second (and much more troubling), was the fact that the 3 day notice did not specifically specify the final date of the tenancy, as required under section 23 of the section 8 lease. The notice just stated that you have to vacate within 3 days of the date of service of this notice.

A broad reading of this second issue would require all notices served on section 8 residents to actually list the date of termination in the notice. Depending on the reading of this requirement, that could apply to all notices including a 3 day pay or vacate and a 10 day notice to comply or vacate. My reading would be that you would not have to include the date on these types of notices as they are not termination notices since they give the tenant the option to comply, and if the tenant does comply, the tenancy cannot be terminated.

In fact, in the case of a 10 day notice for behavioral issues, giving an actual date of termination would be impossible since there has to be another violation of the notice within 60 days of the date of the notice before there is non-compliance.

But, in the case of a 3 day notice for waste or nuisance, 3 day drug notice or 3 day for possession without permission, since there is no compliance option which would allow the tenant to stay, these would be construed as a termination notice.

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