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2014

Complaint, Watkins v. Chicago Housing Authority,
Docket No. 2014-CH-01300 (Illinois Circuit
Court, Cook County 2014)

F. Willis Caruso

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IN THE CIRCUIT COURT OF COK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CHANCERY DIVISION

CHRISTINE WATKINS,
Petitioner,

V.

CHICAGO HOUSING
AUTHORITY,
Respondent.

No.

2014CH01300
CALENDAR/ROOM 13
TIME 00:00
Pet Certiorari

PETITION FOR JUDICIAL REVIEW BY WRIT OF CERTIORARI

NOW COMES the Plaintiff Christine Watkins by her attorneys F. Willis Caruso, Katie Anderson, Joi Lyons Supreme Court Rule 711 Legal Intern and of The John Marshall Law School Pro Bono Programs (“JMPB”) and hereby petitions for common law writ of Certiorari to review the decision issued by Respondent, Chicago Housing Authority, Inc. In support of his petition, Petitioner states as follows:

I. PRELIMINARY STATEMENT

The Plaintiff seeks to compel action that she claims was unlawfully withheld by CHA with respect to participation in the Housing Choice Voucher Program (“HCV”). First, she seeks judicial review of the proceeding which terminated her HCV benefits on the grounds that defendants violated plaintiffs rights under the procedural and substantive due process pursuant to the Fourteenth Amendment, and that the administrative law judge exceeded his discretion by failing to consider mandatory factors; second, she seeks an injunction requiring the CHA to restore her HCV benefits pending a fair resolution of the termination action against her.

FILED-2
2014 MAR -1 A 9:11
JORDY EROWN
CLERK OF THE CIRCUIT COURT
CHANCERY DEPARTMENT

II. PARTIES

1. Petitioner, Christine Watkins, is a resident of Cook County and has been a tenant participating in the HCV since 2006. Ms. Watkins is presently residing in a HCV property located at 537 East 43rd Street, Unit 3W, Chicago, IL 60653.
2. Respondent, Chicago Housing Authority (CHA) at all times relevant to the matters set forth herein is a municipal not-for-profit corporation, governed by a Board of Commissioners consisting of ten members, exercising the public powers of the State of Illinois as an agency thereof and having the statutory right to sue and capacity to be sued. Its principal office is located at 60 E. Van Buren St. Chicago, IL 60605.

III. STATEMENT OF FACTS

3. The Plaintiff has participated in the HCV program since 2006.
4. On or about August 7, 2013, the Plaintiff received a Notice of Intent to Terminate Housing Choice Voucher #9707356.
5. On August 21, 2013, the Plaintiff requested an informal hearing.
6. On October 1, 2013, the Plaintiff by and through her attorney requested the informal hearing again after the failure of any response to her first request of August 21, 2013.
7. On or about November 4, 2013, the Plaintiff received a notice of informal hearing dated for December 2013.
8. The Plaintiff's attorney contacted the designated CHA attorney assigned to the case to inquire about changing the date of the informal hearing.
9. The Plaintiff received a Notice of Informal Hearing rescheduled for January 21, 2014 on or about November 15, 2013.

10. On or about November 20, 2013, an amended Notice of Intent to Terminate was sent to the Plaintiff.
11. An informal hearing took place on January 21, 2014.
12. On or about February 14, 2014, the hearing officer's decision letter was received by the Plaintiff. *A copy of the decision letter is hereby attached as exhibit 1.*
13. On or about February 28, 2014, a notice informing the Plaintiff that her voucher would be terminated on March 31, 2014 and no future payments would be made on her behalf to her current landlord was received.

IV. PETITION FOR COMMON LAW WRIT OF CERTIORARI

14. Paragraphs 1 - 13 are incorporated by reference herein.
15. The decision of the Defendant must be reversed for one or more of the following reasons:
 - a. It is contrary to law;
 - b. It is an abuse of discretion;
 - c. The decision is against the manifest weight of the evidence.

V. MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

16. Plaintiff moves the court for a temporary restraining order and preliminary injunction staying termination of Plaintiff's HCV benefits. The reasons supporting this motion are set forth in the attached motion.

WHEREFORE, for one or more of the foregoing reasons, Plaintiff respectfully prays: (a) that this court issue a Writ of Certiorari in this cause requiring Defendant to file the record of all matters relating to this decision with the Court; (b) that the Court issue an emergency stay of

enforcement of the decision pending review in this cause; and (c) that the Court review the decision of the Defendant, that the final administrative decision be reversed, and for such other relief as this court deems just.

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Joi Lyons, 711 Student Intern
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HOUSING CHOICE VOUCHER PROGRAM

INFORMAL HEARING DECISION LETTER

If you need this document in a different language or LARGER FONT or if you need a reasonable accommodation (persons with disabilities), please call 312-935-2600 or TTY: 312-461-0079. Advance notice of seven days is required in order to arrange for interpreter services.

Date: February 14, 2014

Voucher #:t0009370

Ms. Christine Watkins
537 E. 43rd Street, #3W
Chicago, Illinois 60653

Dear Ms. Watkins:

Please be advised that the Chicago Housing Authority's Housing Choice Voucher (HCV) Program has decided to TERMINATE your assistance in light of testimony, documents and evidence presented at the Informal Hearing held on 1/21/14. This decision is final* and based on the following:

ATTENDEES:

- CHA: L. B., CHA Presenter
- CHA Witness(es): - C. E., Enforcement Coordinator, CVR & Associates
- Participant's Attorneys: Joi Lyons
Willis Cavaso
- Participant(s): Christine Watkins
Keara Davis
Ira Davis

CASE SUMMARY:

Ms. Christine Watkins is the HCV Program Participant assigned to Voucher #t0009370. The address of record for Ms. Watkins is 537 E. 43rd Street, #3W, Chicago, Illinois, which is identified as the subsidized unit under the HCV Program. She participates in the CHA Housing Choice Voucher Program. On September 1, 2006, Ms. Watkins entered the HCV Program.

An Amended Intent to Terminate - Participant Notice (ITT) for violations of certain family obligations and Housing and Urban Development (HUD) regulations, dated November 19, 2013, was mailed to Ms. Watkins at her address of record. On August 21, 2013, Ms. Watkins submitted an informal hearing requests letter to contest the allegations contained in the ITT.

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The hearing was scheduled for, and took place on, Tuesday, January 21, 2013, 9:00 a.m., at 60 E. Van Buren St., 9th Floor, Chicago, IL 60605.

The Amended ITT alleged the following:

The Criminal background report indicates household member, Kerara Davis, did not pass the standard for continued participation in the Housing Choice Voucher Program by being evicted from an unsubsidized unit. Kerara Davis was on your voucher at the time she was evicted from the unsubsidized unit. [It should be noted that Kerara Davis is also known as Keara Davis.]

These infractions put you in direct violation of the CHA Housing Choice Voucher Program Voucher Family Obligations.

The Voucher and its Family Obligations state:

The family (including each family member) must:

Use the assisted unit for residence by the family. The unit must be the family's only residence.

Promptly notify the PHA in writing if any family member no longer lives in the unit.

These CHCVP Family Obligations are categorized as prohibited behavior according to the housing choice voucher program family obligations.

The CHCVP Family Obligations under the terms of its voucher:

Obligations of the Family:

The family shall be obliged under the terms of its Voucher to:

4. Within 30 days, notify CHAC in writing if any family member no longer lives in the unit.

10. Use the dwelling unit solely for residence by the family and as the family's principal place of residence; and shall not assign the lease, or transfer the unit.

The Hearing Officer administered an oath to all parties testifying during the Informal Hearing to tell the truth.

DOCUMENTS, TESTIMONY AND EVIDENCE PRESENTED BY CHA:

CHA Exhibit Documents

The CHA introduced the following documentary evidence:

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- CHA Exhibit 1: CHA Notice of the Informal Hearing, Christine Watkins, dated November 15, 2013;
 - CHA Exhibit 2: CHA Intent to Terminate - Participant Notice (ITT), Christine Watkins, dated August 6, 2013;
 - CHA Exhibit 3: CHA Amended Intent to Terminate - Participant Notice (ITT), Christine Watkins, dated November 19, 2013;
 - CHA Exhibit 4: Informal Hearing Request, Christine Watkins, dated August 21, 2013;
 - CHA Exhibit 5: CHCVP Family Obligations Letter, Christine Watkins, signed May 13, 2008;
 - CHA Exhibit 6: Screening Report, dated July 26, 2013;
 - CHA Exhibit 7: Housing Assistance Payment (HAP) Contract, Christine Watkins, dated November 9, 2007;
 - CHA Exhibit 8: Chicago Apartment Lease, dated September 21, 2012;
 - CHA Exhibit 9: Application for Continued Occupancy, dated May 13, 2008;
 - CHA Group Exhibit 10: Complaint, Affidavit of Service, and Order of Possession, entered July 13, 2009, case no. 2009 M1 713745;
 - CHA Exhibit 11: YARDI Memo Review, Christine Watkins;
- All CHA exhibits were admitted into evidence.*

Testimony

On behalf of CHA A. C., CHA Presenter, opened her case by stating that Ms. Christine Watkins's Voucher should be terminated because Ms. Watkins violated her family obligations, specifically, Participant failed to promptly notify the CHA in writing that Keara Davis, her daughter, a family member, no longer lived in the unit.

Called on behalf of CHA, C. E. testified that she is an Enforcement Coordinator with CVR and Associates. CVR and Associates is a third-party vendor hired by the CHA to administer the Housing Choice Voucher Program. Her job duties include ensuring participants are in compliance with Program guidelines. CHA Program participant information and documents are maintained in FileNet and the YARDI Database.

Ms. Watkins was sent an Amended Intent to Terminate Letter dated November 19, 2013, which indicated that she failed to promptly notify the PHA in writing if any family member no longer lives in the unit. Also, the unit must be the family's only residence. [CHA Exhibit 3]

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On May 13, 2008, Ms. Watkins signed her Family Obligations form and that she was made aware that any violation of her family obligations may result in termination from the Program. Pursuant to Family Obligations, a participant must promptly notify the PHA in writing if any family member no longer lives in the unit. [CHA Exhibit 4]

On June 10, 2009, in the Circuit Court of Cook County, Illinois, a Complaint was filed by Tony Schiavone against Keara Davis and Ira Davis which indicated that tenant rent past due was in the amount of \$1,350.00 for the apartment located at 6707 S. Artesian, #1, Chicago, Illinois. However, Keara Davis was listed as a family member for Ms. Watkins’s subsidized unit. [CHA Group Exhibit 10]

On July 13, 2009, in the Circuit Court of Cook County, Illinois, an Order of Possession was entered against Keara Davis and Ira Davis for the apartment located at 6707 S. Artesian, #1, Chicago, Illinois. Again, Keara Davis was listed as a family member for Ms. Watkins’s subsidized unit. [CHA Group Exhibit 10]

Furthermore, C. E. testified that the Memo Review entry dated August 6, 2013, indicates that “I first asked Ms. Watkins did Ms. Keara Davis live anywhere else other than the subsidized unit. Ms. Watkins stated yes and then added that she was only gone 4 months. She then added that she was living with her father. However, she didn’t take her off because she knew that she was going to return to the unit.” [CHA Exhibit 11]

TESTIMONY, EVIDENCE AND DOCUMENTS PRESENTED BY THE HCVP PARTICIPANT:

Participant Exhibit Documents

Participant did not present exhibits to be admitted into evidence.

Testimony

Testifying of her own behalf, Christine Watkins stated that Keara Davis is her daughter.

Ms. Watkins stated that Keara Davis never moved from her subsidized unit.

Ms. Watkins stated that in 2009, Keara Davis “stayed a couple nights by her father’s residence.”

Ms. Watkins stated that in 2005 or 2006, she lost her Voucher due to a “tax mix-up” and that she “won her Voucher back.”

During cross-examination, Ms. Watkins stated that in 2005 or 2006, she lived in scattered site housing and that approximately, “two to three months,” Keara Davis “lived out of the house.”

Called to testify on behalf of Participant, Keara Davis, age 27, stated that she never lived at 6707 S. Artesian, #1, Chicago, Illinois.

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Ms. Davis stated that in 2009, she would visit Ira Davis, her father, at the residence located at 6707 S. Artesian, #1, Chicago, Illinois and that she would spend the night.

Ms. Davis stated that she signed the lease for the apartment located at 6707 S. Artesian, #1, Chicago, Illinois because "the building manager asked."

Ms. Davis stated that she was unaware of any eviction action filed against her in the Circuit Court of Cook County, Illinois until her family requested moving papers.

During cross-examination, Keara Davis testified that she signed the lease for her father's apartment located at 6707 S. Artesian, #1, Chicago, Illinois because he was not home and that her father wanted a lease for the apartment.

Ms. Davis stated that she could not recall the names listed on the apartment lease for the residence located at 6707 S. Artesian, #1, Chicago, Illinois.

Called to testify on behalf of Participant, Ira Davis stated that Keara Davis is his daughter.

Mr. Davis stated that in January 2009, he moved into the apartment located at 6707 S. Artesian, #1, Chicago, Illinois.

Mr. Davis stated that after giving the landlord a security deposit and moving into the apartment, he was not given a lease to sign.

Mr. Davis stated that even though, Keara Davis signed his lease, her name was not indicated on the lease and that his daughter never lived with him.

During cross-examination, Mr. Davis stated that he did not approve of his daughter signing his apartment lease.

Mr. Davis stated that in April 2009, he moved from the apartment located at 6707 S. Artesian, #1, Chicago, Illinois because the apartment was in disrepair.

FINDINGS OF FACT:

On September 1, 2006, Ms. Watkins entered the HCV Program. On August 21, 2013, Ms. Watkins requested an Informal Hearing to contest the allegations contained in the IIT. The Notice of Informal Hearing, dated November 15, 2013 was mailed to Ms. Watkins at the address of record. The hearing was scheduled for, and took place on, Tuesday, January 21, 2014, 2:30 p.m., at 60 E. Van Buren St., 9th Floor, Chicago, IL 60605.

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On January 21, 2014, at the Informal Hearing, Ms. Christine Watkins appeared and she was represented by Attorney Joi Lyons. CHA Presenter introduced Exhibits 1-11 in support of the IIT sent to the Ms. Watkins.

Ms. Watkins introduced no exhibits.

CVR and Associates is a third party vendor that contracts with the CHA to administer the Housing Choice Voucher Program; Familiarity with the books and records maintained by the CHA; and Documents being kept as a regular practice, in the normal and ordinary course of business, with the entries being logged at or near the time of the occurrence of the matters set forth therein.

Ms. Christine Watkins was the Head of Household for the subsidized unit and that she resided with her three children, ages 27 to 15.

On June 10, 2009, in the Circuit Court of Cook County, Illinois, a Complaint was filed by Tony Schiavone against Keara Davis and Ira Davis which indicated that tenant rent past due was in the amount of \$1,350.00 for the apartment located at 6707 S. Artesian, #1, Chicago, Illinois. However, Keara Davis was listed as a family member for Ms. Watkins’s subsidized unit.

On July 13, 2009, in the Circuit Court of Cook County, Illinois, an Order of Possession was entered against Keara Davis and Ira Davis for the apartment located at 6707 S. Artesian, #1, Chicago, Illinois. Again, Keara Davis was listed as a family member for Ms. Watkins’s subsidized unit.

ANALYSIS:

Overview

When determining whether to terminate assistance under the HCVP to a participant we must first consider the relevant authorities. The CHA is a municipal Corporation that administers the Housing Choice Voucher Program (HCVP). This program is funded by the U.S. Department of Housing and Urban Development (HUD). The HCVP and provides rental subsidies to eligible families seeking safe, decent, and affordable housing in the private market. In administering the HCVP, CHA relies on the rules, policies, procedures and regulations set forth in the Federal Code of Regulations (CFR) and in its administrative plan (CHA Admin. Plan) or for the allocation as well as termination of assistance for applicants and participants. [24 CFR 982 and 983, et al., and the CHA Admin. Plan, for the HCVP].

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Compliance with family obligations:

A family's continued participation in this CHA housing choice voucher program requires compliance with HUD and CHA Family Obligations. Upon acceptance into the program, the CHA must ensure that the family fully understands how the program operates as well as his particular family obligations. This is accomplished through a mandatory oral briefing, which the family attends. [24 CFR 982. 301(a)] the briefing information is also provided to the family in the form of written materials - an "information packet" for the future reference. [24 CFR 982. 301(b)] These materials list the responsibilities the family is required to fulfill, as well as, prohibited actions. The family obligations are also listed on the voucher itself. [CHA Admin. Plan, Ch. 5, p.4] Families that do not abide by these Obligations will be terminated from the Program. [CHA Admin. Plan, Ch. 5, p.5]

Upon successful completion of the briefing, the family is issued a CHA Housing Choice Voucher. The issuance of a voucher to Christine Watkins constitutes sufficient evidence that she successfully completed the CHA Housing Choice Voucher Program briefing process. By completing such process, he was effectively notified of her obligation to comply with the HCVP Family Obligations, and that any violation of such family obligations could result in her family's termination from the Program.

The obligations of a participant family under the CHA Housing Choice Voucher Program include the following:

Obligations of the Family:

The family shall be obliged under the terms of its Voucher to:

- 4. *Within 30 days, notify CHAC in writing if any family member no longer lives in the unit.*
- 10. *Use the dwelling unit solely for residence by the family and as the family's principal place of residence; and shall not assign the lease, or transfer the unit.*

The family must use the assisted unit for residence by the family. The unit must be the family's only residence. [24 CFR 982.551(h)(1)]

The family must promptly notify the PHA if any family member no longer resides in the unit. [24 CFR 982.551(h)(3)]

CHA Policy

Exhibit 12-1: Statement of Family Obligations:

- 8. *Use the assisted unit solely for residence by the family that is listed on the HAP Contract and Lease. The unit must be the family's only residence. [CHA Admin. Plan Ch. 12, p.19]*

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12. Promptly notify the CHA in writing if any family member no longer lives in the unit. [CHA Admin. Plan Ch. 12, p.19]

The “preponderance of the evidence” standard is used to determine if assistance should be terminated.

The CHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence. [CHA Admin. Plan, Ch. 12, p. 8]

CHA argues that Ms. Watkins violated her Family Obligations because she failed to promptly notify the CHA in writing that Keara Davis, family member, no longer lived in the unit.

CHA argues that on June 10, 2009, in the Circuit Court of Cook County, Illinois, a Complaint was filed by Tony Schiavone against Keara Davis and Ira Davis which indicated that tenant rent past due was in the amount of \$1,350.00 for the apartment located at 6707 S. Artesian, #1, Chicago, Illinois. However, Keara Davis was listed as a family member for Ms. Watkins’s subsidized unit.

CHA argues that on July 13, 2009, in the Circuit Court of Cook County, Illinois, an Order of Possession was entered against Keara Davis and Ira Davis for the apartment located at 6707 S. Artesian, #1, Chicago, Illinois. Again, Keara Davis was listed as a family member for Ms. Watkins’s subsidized unit.

Participant argues that Keara Davis never moved from her subsidized unit.

Participant argues that in 2009, Keara Davis “stayed a couple nights” at her father’s residence.

It is undisputed that on June 10, 2009, in the Circuit Court of Cook County, Illinois, a Complaint was filed by Tony Schiavone against Keara Davis and Ira Davis which indicated that tenant rent past due was in the amount of \$1,350.00 for the apartment located at 6707 S. Artesian, #1, Chicago, Illinois. In addition, on July 13, 2009, in the Circuit Court of Cook County, Illinois, an Order of Possession was entered against Keara Davis and Ira Davis for the apartment. In 2009, Keara Davis was listed as a family member for Ms. Watkins’s subsidized unit.

Also, after reviewing the Participant’s Memo Review there is no mention of any conversations or documents submitted which indicated that Keara Davis moved from the unit. Pursuant to CHA policy, participants are required to promptly notify the CHA a family member no longer lives in the unit. In addition, participants must notify the CHA that a family member moved from the unit in order to avoid overpayment of the housing subsidy. The CHA overpayment of a subsidy may cause HUD to impose sanctions against the CHA and that overpaid subsidies could be monies paid to another family in need of housing.

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During the hearing, Participant, Keara Davis and Ira Davis testified that Keara Davis never moved from the subsidized unit. I find their testimony regarding Keara Davis' residence is non-credible. Also, I find Keara Davis' claim that in 2009, she signed an apartment lease for the residence located at 6707 S. Artesian, #1, Chicago, Illinois, even though, she did not live in the unit is non-credible. Therefore, I find the CHA proved by a preponderance of the evidence; that Christine Watkins, did fail to promptly notify the CHA in writing that a family member no longer lived the unit in violation of her Family Obligations. I find the CHA proved by a preponderance of the evidence; that Christine Watkins, failed to use the unit as the family's only residence in violation of her Family Obligations.

Notwithstanding the foregoing, in determining whether to terminate assistance because of action, or failure to act, by members of the family, all relevant circumstances can be considered. [Consideration of Circumstances, 24 CFR 982.552(c)(2)(i)]

Consideration of Circumstances

The CHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated. [CHA Admin. Plan, Section 12-II.D., Ch. 12, p. 9]

CHA Policy Ch. 12, II.D.

The CHA will consider one or more of the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents;*
- The extent of participation or culpability of individual family members..;*
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future;*

Participant, Christine Watkins's, failure to promptly notify the CHA in writing that a family member no longer lives in the subsidized unit and use the unit as the family's only residence is serious and in violation of CHA policy and her Family Obligations. During the hearing, Participant provided non-credible testimony regarding her daughter's residency. I find Participant's behavior to be a willful and intentional disregard of HCV Program rules and procedures. Ms. Watkins has a history of failing to follow Program rules and proper procedures which includes non-payment of tenant portion rent and prior loss of her Voucher due to a "tax mix-up." Therefore, I find there is an unlikelihood of favorable conduct in the future.

Ms. Christine Watkins understood her Family Obligations as they relate to the Housing Choice Voucher Program. [CHA Exhibit 5]

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CONCLUSION:

Based upon all evidence, documentation, and testimony presented at the hearing; and considering all relevant family circumstances; I find the CHA proved by a preponderance of the evidence; that Christine Watkins, did fail to promptly notify the CHA in writing that a family member no longer lived in the unit in violation of her Family Obligations. I find the CHA proved by a preponderance of the evidence; that Christine Watkins, failed to use the unit as the family’s only residence in violation of her Family Obligations. [24 CFR 982.551(h)(1), 24 CFR 982.551(h)(3)]

The decision to terminate Christine Watkins from the CHA Housing Choice Voucher Program is thereby upheld.

Respectfully Submitted,

Joseph Chico, Esq.
Hearing Officer, CHA

cc: File

** If your assistance has been terminated and you believe that the decision outlined above is contrary to CHA policies and procedures or HUD rules and regulations, your only recourse is to file a petition known as a Writ of Certiorari with the Circuit Court of Cook County within the next six months from the date of this decision.*

CHA HOUSING CHOICE VOUCHER PROGRAM OFFICE LOCATIONS

- [] Central Office
60 E. Van Buren Street, Chicago, IL 60605
- [] South Office
1749 E. 75th Street, Chicago, IL 60649

- [] Southwest Office
10 W. 35th Street, Chicago, IL 60616
- [] West Office
2750 W. Roosevelt Road, Chicago, IL 60608

CHA Customer Call Center / TTY
312-935-2600 / 312-461-0079

Web
www.thecha.org/hcv

IN THE CIRCUIT COURT OF COK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CHANCERY DIVISION

Christine Watkins,
Plaintiff,

No.


V.

CHICAGO HOUSING
AUTHORITY,
Defendant

NOTICE OF FILING AND PROOF OF SERVICE

TO: Chicago Housing Authority, Inc., 60 East Van Buren St., Chicago, IL 60605

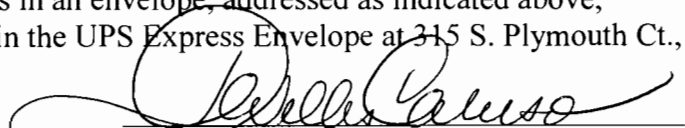
PLEASE TAKE NOTICE that I have on March 7, 2014, cause to be filed in the Office of the Clerk of the Cook County Circuit Court, the attached MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION.


F. WILLIS CARUSO
Attorney for Plaintiff

F. WILLIS CARUSO
Pro Bono Program Director
The John Marshall Law School
315 S. Plymouth Ct.
Chicago, IL 60604
(312)427-2737 ext. 842
Atty. No. 6302297

CERTIFICATE OF ATTORNEY

The undersigned, F. WILLIS CARUSO, being first duly sworn, deposes and states that caused to be served each person named on this Notice of Filing, a copy of this Notice and copies of the above listed documents by enclosing copies in an envelope, addressed as indicated above, postage pre-paid, and depositing the same in the UPS Express Envelope at 315 S. Plymouth Ct., Chicago, IL 60604 on ^{March 7, 2014} before 4:00 PM.


F. Willis Caruso

IN THE CIRCUIT COURT OF COK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CHANCERY DIVISION

CHRISTINE WATKINS,)	
Plaintiff)	No.
)	
)	
V.)	
)	
CHICAGO HOUSING)	
AUTHORITY,)	
Defendant)	
)	
)	

**MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY
INJUNCTION**

NOW COMES the Plaintiff Christine Watkins by her attorneys Katie Anderson, Joi Lyons Supreme Court Rule 711 Legal Intern and F. Willis Caruso of The John Marshall Law School Pro Bono Programs (“JMPB”) and moves the Court to enter an order for temporary restraining order and preliminary injunction maintaining the status quo of Section Eight Housing Choice Voucher during this period of this petition review and staying any administrative by the defendant Chicago Housing Authority which purports to terminate the plaintiff’s housing choice voucher thereby disrupting the status quo during this judicial review and states as follows:

1. A temporary restraining order issued with notice is, in its practical results, no different than a preliminary injunction. Accordingly, a temporary restraining order with notice and preliminary injunction with notice are the same type of relief. *Kable Printing Co. v. Mount Morris Bookbinders Union Local 65- B*, 349 N.E. 2d 36, 40 (1976).

2. The party seeking the temporary restraining order need only show that there is a fair question of the existence of the protectable right and that the court should preserve the status quo until the case can be decided on the merits to prevent immediate harm. *Murges v. Bowman*, 627 N.E. 2d 330, 357 (1st Dist. 1993). Before a court issues a temporary restraining order, the court must find that there is a likelihood that the movant will succeed on the merits of the case. *Id.* To be awarded a temporary restraining order, the plaintiff must show that they will suffer irreparable harm if relief is not granted. *Smith Oil Corp v. Viking Chemical Co.*, 468 N.E. 2d 797, 803 (2d Dist. 1984). Movant must show that it has an inadequate remedy at law. *Kanter & Eisenberg v. Madison Associates*, 508 N.E. 2d 1053, 1056 (1987).
3. The purpose of a preliminary injunction is to maintain the status quo until the case is disposed of on the merits. *Passon v. TCR, Inc.*, 608 N.E.2d 1346, 1350 (Ill. App. 2d Dist. 1993). For a preliminary injunction to issue, a plaintiff must establish that: (1) he possesses a certain and clearly ascertained right which needs protection (2) he will suffer irreparable injury without the protection of the injunction (3) there is no adequate remedy at law for the injury; and (4) plaintiff is likely to be successful on the merits. *S & F Corp. v. Am. Express Co.*, 377 N.E.2d 73, 76 (Ill. App. 1st Dist. 1978).
4. To obtain a preliminary injunction, the movant must raise a “fair question” that each of these elements is satisfied. *Roxana Community Unit Sch. Dist. No. 1 v. WRB Refining, LP*, 973 N.E.2d 1073, 1079-80 (Ill. App. 4th Dist. 2012), reh'g denied (Aug. 27, 2012). Ms. Watkins satisfies all of the elements required by Illinois civil procedure. Ms. Watkins has a right to her housing choice voucher, established by *Goldberg v. Kelly* where the court held that the termination of public benefits pending resolution will deprive them of

the very means to live while awaiting the decision, which in the present case, without the courts protection, Ms. Watkins will lose unjustly. Goldberg v. Kelly established Ms. Watkins could become homeless while awaiting judicial review of CHA decision that her voucher should be terminated. Ms. Watkins has no other legal recourse than to petition this court for an injunction staying the administrative decision of CHA. Once the evidence is presented, it will be evident that the decision that Ms. Watkins's voucher should be terminated is improper.

5. Christine Watkins is a participant in the Housing and Urban Development Housing Choice Voucher program ("Section 8") administered by Chicago Housing Authority ("CHA"). AFF WATKINS ¶ 2)
6. CHA's hearing officer made a determination that Ms. Watkins's Section 8 voucher should be terminated after an informal administrative hearing that took place on January 21, 2014. (Exhibit 1)
7. The hearing officer mailed his decision in February 2014 and a letter notifying Ms. Watkins that her benefits would be terminated as of March 31, 2014 was sent to her shortly there after.
8. Ms. Watkins, by and through her attorney's filed for writ of certiorari on March 7, 2014 to petition the circuit court for review of the administrative decision of CHA.
9. Ms. Watkins is single mother who is a low income resident. She cannot afford to cover the rental payments on her own and has no other options to assist her in doing so. (AFF. WATKINS ¶ 22)

10. Unless CHA is stayed from enforcing the decision to terminate the benefits and is required to maintain the status quo and continue to pay the rental payments, Ms. Watkins will suffer irreparable harm.
11. If Ms. Watkins is made homeless, Ms. Watkins cannot be made whole if this court finds CHA's decision wrong. (AFF. WATKINS¶ 24).
12. The CHA hearing officer's determination that Ms. Watkins's benefits should be terminated was based on the premise that she did not notify them of her daughter, Kearra Davis moving out of her unit in 2009.
13. The Evidence will prove otherwise. Ms. Watkins was not aware of her daughter residing at any other residence than her own. (AFF. WATKINS¶ 15).
14. CHA based this decision on an eviction action being filed in June 2009 against her daughter, Kearra Davis and her father Ira Davis. This was an ex parte eviction which neither of them received notice.
15. Kearra Davis, and Ira Davis both testified that Kearra never lived in the apartment with her father but she visited the apartment from time to time.
16. Since, Ms. Watkins was not aware about the eviction action or any actions that her daughter took to be considered moved out of the apartment, per CHA's policy, she should not be punished and that should be taken into consideration.
17. The hearing officer did not state that he found Ms. Watkins's testimony non credible.
18. Therefore, Ms. Watkins should not have been terminated from the program.

PRAYER FOR RELIEF

The plaintiff Christine Watkins requests the court to enter a temporary restraining order and preliminary injunction requiring the CHA to maintain the status quo at the time of the