

BEFGRE THE 122nd DISTRICT COURT
OF
GALVESTON COUNTY, TEXAS

1996 JUN 18 PM 12:06

COPY

00, 125
B
11 p.
1017403
(11pp)

Ora Johnson,

Plaintiff

v.

No. 95 CV 0456

Sandpiper Cove Apartments,
Ltd. d/b/a Sandpiper
Cove Apartments, and Cheryl
Green, Manager,

Defendants

RECEIVED
* AUG 19 1996
*
NATIONAL CLEARINGHOUSE
FOR LEGAL SERVICES

SETTLEMENT AGREEMENT

Pursuant to Rule 11, T.R.C.P., this agreement is by and between Ora Johnson, Plaintiff, and Sandpiper Cove Apartments, Ltd., d/b/a Sandpiper Cove Apartments, and Cheryl Green, Manager, Defendants.

I.

STATEMENT OF FACTS

The parties stipulate and agree to the following facts:

1.01. Plaintiff entered into a lease contract with Defendant, Sandpiper Cove Apartments, Ltd., approximately ten years ago that was renewed each year. Among other things, the HUD lease provided that Plaintiff's rent would be subsidized and that she could be evicted for violating house rules adopted by management.

1.02. In 1995, Sandpiper Cove Apartments (formerly Parkland Apartments) maintained a number of house rules that were enforced by the manager, Cheryl Green, and her staff.

1.03. On April 26, 1995, Plaintiff filed a lawsuit challenging the reasonableness of the rules concerning occupancy, guests, and the ban list. The lawsuit was amended on October 25, 1995 to include a challenge concerning the celebration & decoration rule.

1.04. RULE 31, concerning occupancy, states the following:

"31. If a Resident stays away from their unit for more than 14 consecutive days without prior consent from Management, the apartment will be considered abandoned and further action will be taken. Resident must understand that Management or maintenance staff will not be held responsible for the belongings left in the apartment."

1.05. The rule concerning guests states the following:

"Anyone who is not on your lease and stays in your apartment overnight more than 3 consecutive days will be considered an unauthorized tenant. This includes mothers, uncles, sisters, brothers, husbands and other relatives, friends and associates and any strangers you may happen to take in. Violations of this rule will result in immediate termination of lease and eviction. NO EXCEPTIONS."

1.06. The rule concerning individuals banned from Sandpiper Cove property states the following:

"The following persons are banned from Sandpiper Cove property. Allowing them access to your unit, conversing with them on the property grounds or encouraging to come on property is a violation of your lease and will be cause for immediate termination of lease and eviction. You need to make whatever arrangements necessary to keep these persons away from your house. Violations of this rule will not be tolerated for any reason. NO EXCEPTIONS! As the list of banned persons grow, you will be informed by notice by management. No persons banned are ever permitted to come back on premises. For future references, I suggest you post this list in a noticeable place and make sure any persons babysitting or visiting in your unit are aware of the people who are banned from property. You are responsible for whatever happens in your unit whether you are present when it occurs or not. (Note: names of individuals on the list omitted

herein) Those with stars have mothers on the property and are allowed to visit their mothers only. NO EXCEPTIONS."

1.07. RULE 21, concerning celebration and decoration, states the following:

"21. Holiday ornaments, sun catchers, plants, advertisements, signs, signals, notices or any other lettering or equipment may not be exhibited, painted, affixed or otherwise exposed on or at any window, door or any part of the outside (or inside [sic]) of the apartments. The exceptions to this rule are as follows:

The rule prohibiting displaying anything in windows or on doors will be suspended for the following holiday:

CHRISTMAS: Decorations may be used for a period of two (2) weeks prior to December 25th and for one (1) week following Christmas.

EASTER: Decorations may be displayed for one (1) week prior to the holiday and must be taken down immediately following it.

HALLOWEEN: Decorations may be displayed for one (1) week prior to the holiday and must be taken down immediately following it."

1.08. Defendants are permitted to adopt reasonable rules concerning the "safety, care and cleanliness of the building or the safety and comfort of the tenants" at the apartments. HUD Handbook 4350.3, Chg.-1, pgh.4-4.

1.09 Defendants are permitted to adopt reasonable rules regarding occupancy, guest visitation, banned individuals and celebration and decoration which concern the "safety, care and cleanliness of the building or the safety and comfort of the tenants" at the apartments. HUD Handbook 4350.3, Chg.-1, pgh.4-4.

II.

SETTLEMENT TERMS

In consideration of the mutual promises and agreements herein contained, including the recitals set forth hereinabove, the

parties agree as follows

J.K. Sun

2.01. On or before June ~~20~~¹¹, 1996, Defendants shall cease using or enforcing the occupancy, guest, ban list, and celebration & decoration rules, as written herein above, against any HUD tenant residing at Sandpiper Cove Apartments and will individually notify each HUD tenant in writing on or before June ~~20~~¹¹, 1996 that these rules, as written herein above, have been deleted from the house rules attached to their lease contracts. A copy of the notice letter that shall be sent out to the tenants on or before June ~~10~~¹¹, 1996, is attached as Exhibit No. 1.

Sun
J.K.
J.L.
Sun

III.

MISCELLANEOUS PROVISIONS

3.01. Defendants shall provide Plaintiff's counsel an affidavit on or before June ~~15~~¹⁸ 1996 stating the dates that Defendants completed the requirements of pgh. 2.01 of this agreement. Plaintiff's counsel shall then file a notice of nonsuit with prejudice within seven (7) business days of receiving the affidavit of completion. A copy of said Plaintiff's Notice of Nonsuit, which is to be filed by Plaintiff's Counsel, is attached as Exhibit No. 2 and incorporated herein for all purposes.

Sun
J.K.

3.02. Effect of Default. In addition to all other rights and remedies provided by law, the parties shall have the following rights upon default.

1. This settlement may be declared void by plaintiff by notifying Defendant's counsel in writing prior to the expiration of 5 days from June ~~15~~¹⁸ 1996, if Defendants have not complied with the conditions set forth hereinabove.

Sun
J.K.

2. Rendition of partial summary judgment. All the parties have signed the Agreed Partial Summary Judgment attached hereto as Exhibit No. 3, and further agree that Plaintiff shall be entitled to immediate rendition of the judgment, against the defendants, jointly and severally, by the 122nd District Court of Galveston County, Texas, if Defendants have not complied with the conditions set forth herein above.

3. Rendition of Nonsuit. Plaintiff's counsel has signed the Agreed Nonsuit with Prejudice, attached hereto as Exhibit No. 2,

and further agrees. that Defendants shall be entitled to an immediate entry of said Nonsuit if Defendants comply with all the conditions set forth hereinabove and Plaintiff's counsel fails to enter a Motion for Nonsuit with prejudice on behalf the plaintiff in accordance with the conditions set forth hereinabove.

Signed this 17 day of June, 1996.

APPROVED AS TO FORM AND SUBSTANCE:

Ora Johnson
Ora Johnson
Plaintiff

Cheryl R. Green
Cheryl Green
Defendant

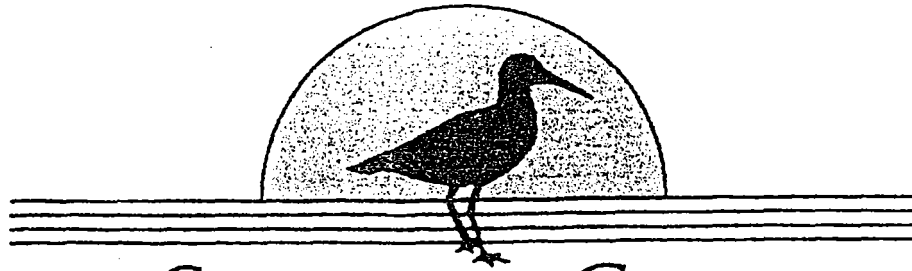
Sandpiper Cove Apartments, Ltd.
Sandpiper Cove Apartments, Ltd.
Defendant

APPROVED AS TO FORM ONLY:

Max Sukiennik
Max Sukiennik
Attorney for Plaintiff

Stephen C. McIntyre
Stephen C. McIntyre
Attorney for Plaintiff

Jeff G.W. Kemp
Jeff G.W. Kemp
Attorney for Defendants



SANDPIPER COVE

NOTICE OF CHANGE IN HOUSE RULES

Dear Residents:

We are in the process of rewriting the following Rules: *(House Rules 21 and 31, the three day guest rule and the ban list rule). Therefore, the former House Rules 21 and 31, the three day guest rule and the ban list rule are no longer in effect. A copy of the new House Rules will be posed in the office for your review. Copies of the new House Rules will be available for current residents to pick up a copy during regular office hours. If you have any questions or comments in regards to the proposed new rules, please put them into writing and send them to my attention by regular mail, or bring them to the office. At the end of the 30 days, you will be asked to sign a sheet stating that you have received a copy of the House Rules and agree to begin obeying these rules 30 days after receiving this notice.

Date

Manager

Note: The following contains the language of the rules which are *no* longer in effect.

House Rule 21:

Holiday Ornaments, sun catchers, plants, advertisements, signs, signals, notices or any other lettering or equipment may not be exhibited, painted, affixed or otherwise exposed on or at any window, door or any part of the outside or inside of the apartments.

The exceptions to this rule are as follows:

The rule prohibiting displaying anything in windows or on doors will be suspended for the following holiday:

CHRISTMAS: Decorations may be used for a period of two (2) weeks prior to December 25th and for one (1) week following Christmas.

EASTER: Decorations may be displayed for one (1) week prior to the holiday and must be taken down immediately following it.

HALLOWEEN: Decorations may be displayed for one (1) week prior to the holiday and must be taken down immediately following it.

House Rule 31:

If a Resident stays away from their unit for more than 14 consecutive days without prior consent from Management, the apartment will be considered abandoned and further action will be taken. Resident must understand that Management or maintenance staff will not be held responsible for the belongings left in the apartment.

Three Day Guest Rule:

Anyone who is not your lease and stays in your apartment overnight more than 3 consecutive days will be considered an unauthorized tenant. This includes mothers, uncles, sisters, mothers, husbands and other relatives, friends, and associates and any strangers you may happen to take in. Violations of this rule will result in immediate termination of lease and eviction. ~~NO~~ **EXCEPTIONS!!!!**

Ban List Rule:

The following persons are banned from Sandpiper Cove property. Allowing them access to your unit, conversing with them on the property grounds or encouraging to come on property is a violation of your lease and will be cause for immediate termination of lease and eviction. You need to make whatever arrangements necessary to keep these persons away from your house. Violations of this rule will not be tolerated for any reason. **NO EXCEPTIONS!!!** As the list of banned persons grow, you will be informed by notice by management. No persons banned are ever permitted to come back on premises. For future references, I suggest you post this list in a noticeable place and make sure any persons babysitting or visiting your unit are aware of the people who are banned from property. You are responsible for whatever happens in your unit whether you are present when it occurs or not.

BEFORE THE 122nd DISTRICT COURT
OF
GALVESTON COUNTY, TEXAS


Ora Johnson,	*	
	*	
Plaintiff	*	
v.	*	No. 95 CV 0456
	*	
Sandpiper Cove Apartments,	*	
Ltd. d/b/a Sandpiper	*	
Cove Apartments, and Cheryl	*	
Green, Manager,	*	
	*	
Defendants	*	

PLAINTIFF'S NOTICE OF NONSUIT

This *Plaintiff's Notice of Nonsuit* is brought by Ora Johnson, Plaintiff. In support, Plaintiff shows:

Plaintiff no longer desires to prosecute this suit against Defendants, and hereby dismisses the case with prejudice and Defendants have no pleadings on file seeking affirmative relief from Plaintiff.

Respectfully submitted,


STEPHEN C. MCINTYRE
Texas Bar No. 13685700
Gulf Coast Legal Foundation
2201 Market Street, First Floor
Galveston, Texas 77550
Attorney for Plaintiff

BEFORE THE 122nd DISTRICT COURT
OF
GALVESTON COUNTY, TEXAS

Ora Johnson,	*	
	*	
Plaintiff	*	
v.	*	No. 95 CV 0456
	*	
Sandpiper Cove Apartments,	*	
Ltd. d/b/a Sandpiper	*	
Cove Apartments, and Cheryl	*	
Green, Manager,	*	
	*	
Defendants	*	

AGREED PARTIAL SUMMARY JUDGMENT

The parties agree to the entry of this agreed Partial Summary Judgment.

OCCUPANCY RULE

IT IS DECLARED that RULE 31 (occupancy) states the following:

"31. If a Resident stays away from their unit for more than 14 consecutive days without prior consent from Management, the apartment will be considered abandoned and further action will be taken. Resident must understand that Management or maintenance staff will not be held responsible for the belongings left in the apartment."

GUEST RULE

IT IS DECLARED that the rule concerning guests states the following:

"Anyone who is not on your lease and stays in your apartment overnight more than 3 consecutive days will be considered an unauthorized tenant. This includes mothers,

uncles, sisters, brothers, husbands and other relatives, friends and associates and any strangers you may happen to take in. Violations of this rule will result in immediate termination of lease and eviction. NO EXCEPTIONS."

BAN LIST RULE

IT IS DECLARED that the rule concerning the ban list states the following:

"The following persons are banned from Sandpiper Cove property. Allowing them access to your unit, conversing with them on the property grounds or encouraging to come on property is a violation of your lease and will be cause for immediate termination of lease and eviction. You need to make whatever arrangements necessary to keep these persons away from your house. Violations of this rule will not be tolerated for any reason. NO EXCEPTIONS! As the list of banned persons grow, you will be informed by notice by management. No persons banned are ever permitted to come back on premises. For future references, I suggest you post this list in a noticeable place and make sure any persons babysitting or visiting in your unit are aware of the people who are banned from property. You are responsible for whatever happens in your unit whether you are present when it occurs or not. (Note: names of individuals on the list omitted herein) Those with stars have mothers on the property and are allowed to visit their mothers only. NO EXCEPTIONS.

CELEBRATION & DECORATION RULE

IT IS DECLARED that RULE 21 (celebration & decoration) states the following:

"21. Holiday ornaments, sun catchers, plants, advertisements, signs, signals, notices or any other lettering or equipment may not be exhibited, painted, affixed or otherwise exposed on or at any window, door or any part of the outside or inside of the apartments. The exceptions to this rule are as follows:

The rule prohibiting displaying anything in windows or on doors will be suspended for the following holiday:

CHRISTMAS: Decorations may be used for a period of two (2) weeks prior to December 25th and for one (1) week following Christmas.

EASTER: Decorations may be displayed for one (1) week prior to the holiday and must be taken down immediately following it.

HALLOWEEN: Decorations may be displayed for one (1) week prior to the holiday and must be taken down immediately following it."

IT IS FURTHER DECLARED that Defendants are permitted to adopt reasonable rules concerning the "safety, care and cleanliness of the building or the safety and comfort of the tenants" at the apartments, HUD Handbook 4350.3, Chg.-1,pgh.4-4.


IT IS FURTHER DECLARED that Defendants may adopt reasonable rules regarding occupancy, guest visitation, individuals banned from Sandpiper Cove property, and celebration and decoration.

IT IS ORDERED that Defendants are permanently enjoined from using or enforcing the occupancy, guest, ban list, and celebration & decoration rules, as written hereinabove, against any HUD tenant residing at Sandpiper Cove Apartments and IT IS ORDERED that each HUD tenant be notified in writing within ten (10) days of the entry of this judgment that these rules have been deleted from their lease contracts.

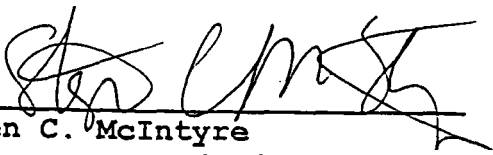
Signed this ____ day of _____, 1996.

Judge Presiding

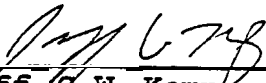
APPROVED AS TO FORM ONLY:



Max Sukiennik
Attorney for Plaintiff

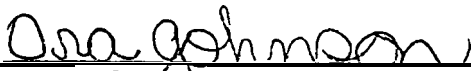


Stephen C. McIntyre
Attorney for Plaintiff

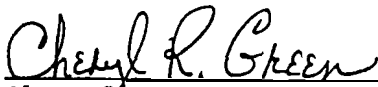


Jeff G.W. Kemp
Attorney for Defendants

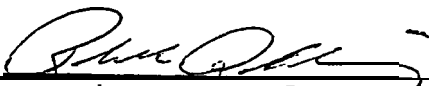
APPROVED AS TO FORM AND SUBSTANCE:



Ora Johnson
Plaintiff



Cheryl R. Green
Defendant



San&piper Cove Apartments, Ltd.
Defendant