

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

PRELUDE BEHAVIORAL SERVICES

Plaintiff

VS

MEGAN MOEN

Defendant

06521 SCSC096128

ORDER

The Plaintiff appeared at the hearing through counsel Philip Reisetter and Christopher Warnock. The Defendant did not appear for the hearing. She was paged throughout the courthouse and failed to appear.

Iowa Code Section 648.1a states that "This chapter shall not apply to occupancy in housing owned by a nonprofit organization whose purpose is to provide transitional housing for persons released from drug or alcohol treatment facilities or provide housing for homeless persons. Absent an applicable provision in a lease, contract, or other agreement, a person who unlawfully remains on the premises of such housing may be subject to criminal trespass penalties pursuant to section 716.8."

The Plaintiff filed a brief on this topic arguing that Iowa Code 648 applies because a written lease exists between the parties in this case. The Court believes Chapter 648 is the proper remedy in this case because a lease exists. The legislative history supports this conclusion. The Iowa Legislation Summary, 2003 Civil Law Procedure and Court Administration from the 2003 Regular Session, 80th General Assembly states in part, "Senate File 359...The act exempts nonprofit transitional housing from Code Chapter 648...unless such an occupant is subject to a lease or rental agreement."

The evidence presented to the Court established a lease/rental agreement was entered into by the parties. A copy was filed as Attachment 1. Therefore, Chapter 648 was the proper avenue for this case.

The evidence presented supported the allegations of the petition. The Defendant was a holdover tenant. She has not vacated the premises. The Plaintiff had the Defendant personally served with the 3 day notice on August 21, 2019. The petition was filed after the 3 day period to quit expired. The Court therefore has jurisdiction of this case. The petition was then served on the Defendant by posting it, mailing it, and mailing it by certified mail after two attempts at personal service were

completed. The posting and mailings occurred on August 29, 2019. The Court gives four days for service and an additional 3 days for notice of the hearing. The Defendant had sufficient notice of today's hearing.

The Court finds the Plaintiff has proven its case and is entitled to the FED. A separate order for FED will be entered.

Clerk to notify.

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State of Iowa Courts

Case Number
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Type:

Case Title
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Other Order

So Ordered

A handwritten signature in blue ink that reads 'David M. Cox'.

David M. Cox, Magistrate
Sixth Judicial District of Iowa

Electronically signed on 2019-09-11 13:36:37