

U.S.C.A. – 7th Circuit
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UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

08-3140

U.S.C.A. – 7th Circuit
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Petition for Enforcement of
Administrative Order,
No. HUDALJ 07-044-FH

THE SECRETARY, UNITED STATES)
DEPARTMENT OF HOUSING AND)
URBAN DEVELOPMENT, ON)
BEHALF OF ROZIEL REYES,)
)
Petitioner,)
)
v.)
)
MICHAEL BASSALI,)
)
Respondent.)

**APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE
UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Introduction

Petitioner, the Secretary of the United States Department of Housing and Urban Development (“HUD” or “the agency”), pursuant to the Fair Housing Act (“the Act”), as amended, 42 U.S.C. §§ 3601 *et seq.*, respectfully applies to this Court for enforcement of the agency’s Initial Decision and Consent Order (“the Order”), an administrative order issued on November 13, 2007, which became final on December 13, 2007. 42 U.S.C. § 3612(h)(1). Initial Decision and Consent Order, *HUD v. Bassali*, HUD ALJ No. 07-044-FH; FHEO No. 05-04-1459-8 (Exhibit A). Because the respondent did not seek judicial review of the Order within the time allowed by the Act, the order is “conclusive in connection with any petition for enforcement” 42 U.S.C. § 3612(l).^{1/} The statute directs,

^{1/} The Initial Decision and Consent Order provides at section IX, “The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty (30) day Secretarial review period and a waiver of any right to challenge the validity of this Consent Order at any time.” Ex. A at 7-8.

therefore, that on the filing of a petition for enforcement, “[t]he clerk of the court of appeals . . . shall forthwith enter a decree enforcing the order” 42 U.S.C. § 3612(n).

This enforcement application is filed pursuant to 42 U.S.C. § 3612(j)(1), which provides: “The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred . . . for the enforcement of the order of the administrative law judge . . . by filing in such court a written petition praying that such order be enforced” Pursuant to Fed. R. App. P. 15(b),

- (1) An application to enforce an agency order must be filed with the clerk of a court of appeals authorized to enforce the order.
.....
- (2) Within 20 days after the application for enforcement is filed, the respondent must serve on the applicant an answer to the application and file it with the clerk. If the respondent fails to answer in time, the court will enter judgment for the relief requested.
- (3) The application must contain a concise statement of the proceedings in which the order was entered, the facts upon which venue is based, and the relief requested.

This court has jurisdiction over the application pursuant to 42 U.S.C. § 3612(j)(1) and 28 U.S.C. § 2342(6). Venue is proper under 42 U.S.C. § 3612(j)(1) because the unlawful housing practice took place in the Northern District of Illinois.

Administrative Proceedings

Roziel Reyes, the complainant, initiated these proceedings on September 30, 2004 by filing a complaint with HUD, alleging that Michael Bassali, the respondent, violated the Fair Housing Act (Act), 42 U.S.C. §§ 3601 *et seq.*, by denying her housing in an apartment building based on familial status (her three minor children). Ex. A at 1.

On July 9, 2007, HUD determined that there was reasonable cause to believe that discriminatory acts had occurred. It issued a Charge of Discrimination (“the Charge”) against Bassali, alleging violations of both 42 U.S.C. § 3604(a), the refusal to rent to a person because of familial status, and 42 U.S.C. § 3604(c), the making of a statement with respect to a dwelling that indicates discrimination based on familial status. Charge of Discrimination, *HUD v. Bassali*, FHEO No. 05-04-1459-8 (Exhibit B). Bassali failed to file an answer to the Charge, which was due on or before August 8, 2007. Ex. A at 2. As a result, on August 13, 2007, HUD filed a motion for entry of a default decision. *Id.* On September 18, 2007, the administrative law judge entered a default judgment in this matter. *Id.*

On November 9, 2007, respondent Bassali and the other parties signed the Order, in which Bassali agreed, *inter alia*, to pay fifteen thousand (\$15,000) dollars in compensatory damages to complainant Reyes, and a civil penalty of two thousand (\$2,000) dollars to HUD. Ex. A at 3. Pursuant to the Order, Bassali was to make the first payment, \$7,500, within 45 days of the entry of the Consent Order, and the second payment, the remaining \$7,500, within 90 days of the entry of the Consent Order. *Id.* at 3-4. Bassali also agreed to attend fair housing training within six months and to provide a certificate of completion to HUD within thirty days of attendance. *Id.* at 5. On November 13, 2007, the ALJ issued the Order which had been signed previously by all the parties. Ex. A at 8.^{2f}

On December 22, 2007, Bassali paid the two thousand dollar civil penalty. Letter from Courtney Minor, Regional Counsel, HUD Office of Regional Counsel, Region V, to Grace Chung

^{2f} Under the Fair Housing Act, the decision of the ALJ was subject to review and revision by the Secretary of HUD within 30 days. 42 U.S.C. § 3612(h)(1). Because the Secretary took no action, the ALJ decision became final after the 30 days for review expired. *Id.*

Becker, Acting Assistant Attorney General for Civil Rights Division, Department of Justice (Jan. 9, 2008) (Exhibit C). However, Bassali failed to make either of the required compensatory damage payments to Reyes, the first of which was due by December 28, 2007, and the second of which was due by February 11, 2008. Ex. A at 3-4. He also failed to provide a certificate of completion of fair housing training within the required time frame.

Facts Upon Which Venue is Based

The facts as set out in the Consent Order are as follows:

Roziel Reyes, her partner, Aquiles Catalan, and her three minor children began looking for an apartment when her landlord told her she would have to move due to plans to remodel her unit. Ex. A at 1. On September 18, 2004, Reyes contacted Bassali through a rental advertisement she saw posted on the internet and scheduled an appointment to view the unit, which was located in Evanston, Illinois. *Id.* When Reyes saw how large the unit was, Reyes and her friend, Emma Vasquez, with whom she viewed the apartment, decided that Vasquez would share the unit with Reyes and her family. Ex. A at 1-2. On September 20, 2004, Reyes and Vasquez again viewed the property, and this time Reyes signed a lease and paid a security deposit. *Id.* at 2.

Three days later, on September 23, 2004, Bassali contacted Reyes and stated that he would no longer be able to rent the apartment to Reyes due to safety concerns about her children. *Id.* Reyes met with Bassali later that day. *Id.* Bassali stated that he would not rent to her because of concerns about the plumbing, the stairwell, possible lead-based paint and mold. *Id.* Bassali subsequently returned Reyes' security deposit and terminated her lease. *Id.*

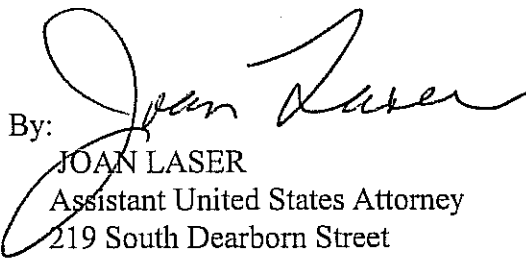
As a result of the termination of the lease, Reyes was forced to take another apartment at a higher cost. *Id.* The loss of the opportunity to rent the apartment caused Reyes and her family emotional distress and resulted in stress and anxiety in Reyes' immediate and extended family. *Id.*

Conclusion

Pursuant to 42 U.S.C. §§ 3612(j)(1), (l) and (n), the Secretary respectfully requests this court to direct the Clerk to enter an order enforcing the final administrative Order in HUD ALJ No. 07-044-FH.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By: 
JOAN LASER
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-1857

STATE OF ILLINOIS)
)
COUNTY OF COOK) SS

AFFIDAVIT OF SERVICE BY U.S. MAIL

HERMEIN BASKIN, being first duly sworn on oath deposes and says that she is employed in the Office of the United States Attorney for the Northern District of Illinois; that on the 20th day of August 2008, she MAILED a copy of

**APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE
UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

to the individual named below.

Ms. Roziel Reyes
1619 West Foster Avenue
Chicago, Illinois 60640

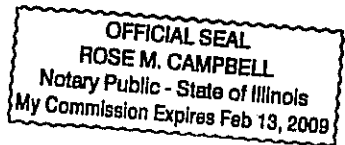
Hermein Baskin

SUBSCRIBED AND SWORN TO before me

this 20th day of August 2008

Rose M. Campbell

NOTARY PUBLIC





U. S. Department of Justice

United States Attorney
Northern District of Illinois

Joan Laser
Assistant United States Attorney

Dirksen Federal Courthouse
219 South Dearborn Street, Fifth Floor
Chicago, Illinois 60604

Direct Line: (312) 353-1857
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August 20, 2008

08-3140

By Hand Delivery

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Clerk of the Court
United States Court of Appeals
for the Seventh Circuit
219 South Dearborn Street
Chicago, Illinois 60604

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Re: Application for Enforcement of HUD Order, HUD ALJ No. 07-044-FH

Dear Mr. Angello,

Enclosed for filing pursuant to 42 U.S.C. § 3612(j)(1) and Fed. R. App. P. 15(b), are an original and four copies of the Secretary's Application for Enforcement of an Order of the United States Department of Housing and Urban Development. The original and three copies are for the Court. An additional copy is provided for service by the Clerk of the Court upon the respondent in accordance with 42 U.S.C. § 3612(j)(2) and Fed. R. App. P. 15(c). The respondent may be served at the following address:

Michael Bassali
6030 North Sheridan Road
Unit 1105
Chicago, Illinois 60660

As indicated on the certificate of service attached to the Secretary's Application, I have already served the complainant, Roziel Reyes, pursuant to Fed. R. App. P. 15(c).

We have also enclosed for filing the record in the agency proceeding, as required by 42 U.S.C. § 3612(j)(2).

Angello
August 20, 2008
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If you have any questions concerning this Application, please call me at (312)353-1857.
Thank you for your assistance.

Very truly yours,

PATRICK J. FITZGERALD
United States Attorney

By:


JOAN LASER

Assistant United States Attorney

cc: Barbara Sliwa