

APPENDIX VII

ROGERSVILLE HOUSING AUTHORITY GRIEVANCE POLICY AND PROCEDURES

INTRODUCTION

The informal hearing requirements defined in HUD regulations are applicable to tenants who disagree with an action, decision, or inaction of the Rogersville Housing Authority. This grievance policy describes the procedures to be used when tenants disagree with a Rogersville Housing Authority decision. It is the policy of the Rogersville Housing Authority to ensure that all tenants have the benefit of all protections due to them under the law.

APPLICABILITY

This Grievance Policy and Procedures applies to all individual grievances between the tenant and the Rogersville Housing Authority with the exception of:

- A. Disputes between tenants that do not involve the Rogersville Housing Authority.
- B. Initiating or negotiating policy changes between tenants or a group of tenants and the Rogersville Housing Authority's Board of Commissioners.
- C. Any activity (violent or non violent) not just criminal activity, that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or Rogersville Housing Authority employees.
- D. Any drug-related criminal activity on or off the Rogersville Housing Authority premises.
- E. Any criminal activity that resulted in a felony conviction of a household member.

DEFINITIONS

- A. GRIEVANCE: Any dispute which a tenant may have with respect to Rogersville Housing Authority action or failure to act in accordance with the individual tenant's lease, or Rogersville Housing Authority regulations which adversely affect the individual tenants rights, duties, welfare, or status.
- B. COMPLAINANT: Any tenant whose grievance is presented to the Rogersville Housing Authority administrative office in accordance with the requirements set forth in this procedure and as part of the informal hearing process.
- C. HEARING OFFICER (S): A person/persons selected to hear grievances and render a decision with respect thereto.
- D. TENANT: The adult person or persons (other than a live-in aide):
 - 1. Who resides in the unit, and who executed the lease with the Rogersville Housing Authority as lessee of the dwelling unit, or, if no such person now resides in the unit,
 - 2. Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.

- F. ELEMENT OF DUE PROCESS: An eviction action or a termination of tenancy in a State or Local court in which following procedural safeguards are required:
1. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
 2. Right of the tenant to be represented by counsel;
 3. Opportunity for the tenant to refute the evidence presented by the Rogersville Housing Authority including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have;
 4. A decision on the merits.

TENANT'S PROCEDURE FOR OBTAINING AN INFORMAL HEARING

Grievances or appeals concerning the obligations of the tenant and the Rogersville Housing Authority under the provisions of the lease shall be processed and resolved in accordance with the Grievance Policy and Procedure of the Rogersville Housing Authority, which is in effect at the time such grievance or appeal arises. An Informal Hearing is required as the initial step to resolve any disputes between the Rogersville Housing Authority and a tenant.

Criteria for Informal Hearing Appeals are, but not limited to; Reasonable Accommodations denials; Lease Terminations; Evictions; Denials of a Pet; removal of a pet; etc.

Tenant's of the Rogersville Housing Authority who desire an informal hearing must submit a written request to the Rogersville Housing Authority's office located at 902 Locust Street in Rogersville, TN, either by U. S. First Class Mail or hand delivered to the Rogersville Housing Authority office within five (5) working days from the date of the notification (Lease Cancellation letter) of proposed adverse action. The written request must specify:

- A. The reason (s) for the grievance or content of the Rogersville Housing Authority's proposed action; and
- B. The action or relief sought.
- C. Grievances must be signed by the tenant.

The Tenant requesting an Informal Hearing will be notified within five (5) working days of the date and time of the informal hearing. The tenant is given the opportunity to reschedule the Informal Hearing for only the following reasons:

- A. Medical reasons that are certified by a physician in writing.
- B. Death of family member supported by a Death Certificate or published obituary.

Any tenant who does not reschedule by the designated date or does not appear at the scheduled time loses their right to an Informal Hearing and may not raise the issues at any other proceeding, except in an appropriate judicial proceeding.

The Informal Hearing is conducted by the Rogersville Housing Authority Executive Director, with employees of the housing authority, the tenant and their representatives and/or witnesses.

All parties are given the opportunity to present information, documents, and statements pertaining to the complaint. The tenant may also be given an opportunity to present additional information within an agreed upon time frame.

The Rogersville Housing Authority employees and Executive Director will review the information presented and render a decision.

Within five (5) working days, a summary and results of this Informal Hearing will be sent by Certified Mail to the tenant. The summary will include: names of participants, the date of the meeting, the nature of the proposed disposition, and the specific reasons for the disposition. The summary will also specify the steps by which a formal hearing can be obtained in writing within the designated time frame.

TENANTS DISSATISFACTION WITH INFORMAL HEARING

If the tenant is not satisfied with the results of the informal hearing he/she may submit a written request for a formal hearing within **five (5)** working days of the summary of the informal hearing.

FORMAL GRIEVANCE HEARING

The following procedures apply to the request for a Formal Grievance Hearing under this grievance procedure:

REQUEST FOR FORMAL HEARING: The tenant's written request for a formal hearing must specify:

- The reasons for the grievance; and
- The action or relief sought by the tenant; and

FAILURE TO REQUEST A FORMAL HEARING:

If the tenant fails to request a formal hearing within five (5) working days from the date of the written Summary of the informal hearing, the Rogersville Housing Authority's decision rendered at the informal hearing becomes final. This action in no way constitutes a waiver of the tenant's right to contest the Rogersville Housing Authority's decision in an appropriate judicial proceeding.

SELECTION OF HEARING OFFICER'S:

A Grievance Hearing shall be conducted by an impartial person or persons appointed by the Rogersville Housing Authority. The Housing Authority shall nominate a slate of impartial persons to sit as hearing officers. Such persons will include responsible persons in the community; however others such as Rogersville Housing Authority Board members, staff members, residents and professional arbitrators may be used.

Hearing Officers will be informed that they will be expected to disqualify themselves from hearing grievances that involve personal friends, other residents of developments in which they work or reside, or grievances in which they have some personal interest.

A list of all hearing officers will be kept at the Rogersville Housing Authority office and can be made available for public inspection at any time.

SCHEDULING HEARINGS

When a tenant submits a timely request for a Formal Grievance Hearing, the Rogersville Housing Authority will contact the Hearing Officers to schedule the hearing within the following five (5) working days. The tenant will be notified of the date and time for the hearing. Notice to the tenant shall be personally delivered or sent by certified mail, return receipt requested. The written notice will specify the date and time of the formal hearing.

PROCEDURES GOVERNING THE FORMAL HEARING

All grievances must be informally presented as a prerequisite to a formal hearing. The tenant shall be afforded a fair hearing, which shall include:

- A. The hearing shall be held before the Hearing Officers.
- B. The parties may be represented by legal counsel or another person chosen as a representative.
- C. Prior to the hearing, the housing authority will provide the tenant with a copy of all documents, records, and regulations of the Rogersville Housing Authority that may be relevant to the hearing, unless otherwise prohibited by law. In the event the Rogersville Housing Authority does not provide the tenant with a copy of all relevant documents prior to the hearing, the Housing Authority may not rely on other documents not provided to the tenant at the hearing as set forth in the federal guidelines.
- D. Prior to the hearing, the Housing Authority shall also have the opportunity to examine and to copy at the expense of the authority, all documents, records and statements that the tenant plans to submit during the hearing to refute the housing authority's inaction or proposed action. Any documents not so made available to the housing authority may not be relied upon at the hearing.
- E. The tenant shall have the right to present evidence and arguments in support of the complaint, to controvert evidence presented by the Housing Authority, and to confront and cross examine all witnesses upon whose testimony or information the Rogersville Housing Authority relies;
- F. The tenant has the right to a decision based solely and exclusively upon the facts presented at the hearing.
- G. The Hearing Officer shall require the Rogersville Housing Authority, the tenant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.
- H. The Presiding Officer shall initially take appropriate steps to define the issues. Thereafter, relevant information, including testimony of witnesses, written material, and any other supporting documentation shall be received regarding such issues. Both the tenant and the Housing Authority shall be entitled to question each other's witnesses. The hearing officers may question the tenant and any witnesses and may take notice of matters of common knowledge, applicable laws, regulations and RHA rules and policies.

Any evidence to be considered by the hearing officers must be presented at the time of the hearing. There are four categories of evidence:

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the Housing Authority or the tenant. Writings include all forms of recorded communications or representation, including letters, e-mails, words, pictures, sounds, videotapes or combinations therefore.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officers, such as a model, a chart or other diagram.

Real Evidence: a tangible item relating directly to the case.

The hearing shall be video recorded and maintained by the RHA until any applicable appeals have been decided. The Housing Authority will consider that an audio tape recording of the proceedings is a transcript.

Hearings shall be limited to one-half (1/2) hour, fifteen (15) minutes per side, unless the presiding officer extends the time for good cause.

DECISION WITHOUT A FORMAL HEARING:

If the Hearing Officers determine that the issue has been previously decided in another proceeding (informal hearing) a decision may be rendered without proceeding with the formal hearing.

FAILURE TO APPEAR

If the tenant fails to appear at the scheduled hearing, except for verifiable good cause, the tenant is in automatic default and the decision of the Hearing Officers in his/her absence shall be final. Such a determination in no way waives the tenant's right to appropriate judicial proceedings in another forum.

If the tenant does not appear at the scheduled time of the hearing, the Hearing Officers will wait up to 15 minutes. If the tenant does not arrive within the scheduled time, they will be considered to have failed to appear.

"Good Cause" is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

ACCOMMODATIONS OF PERSONS WITH DISABILITIES

The Rogersville Housing Authority must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the tenant is visually impaired, any notice to the tenant is required under this procedure to be in an accessible format.

DECISIONS OF THE HEARING OFFICER'S

The decision of the Hearing Officer's shall be based solely and exclusively upon the facts and evidence presented at the hearing and upon applicable County and Federal regulations and requirements.

The Hearing Officer's shall give the Rogersville Housing Authority and the tenant a written decision, including the reasons for the decision, within **five (5)** working days following the hearing. The Rogersville Housing Authority will place one copy in the tenant file and a copy will be forwarded to the tenant by U. S. Mail and will be certified with a return receipt or hand delivered to the tenant.

A decision by the Hearing Officer's in favor of the Rogersville Housing Authority, or which denies the relief sought by the tenant, in whole or in part, shall not constitute a waiver of or affect in any manner whatsoever, the tenants' rights to trial by judicial proceedings which may thereafter be brought in the matter.

The decision of the Hearing Officer's shall be final. The decision of the hearing officer's shall be binding on the Rogersville Housing Authority which shall take all actions necessary to carry out the decision,