

2018 NOV -7 PM 12:01
 CLERK OF COURT

City of Charleston Housing Authority

Katrina Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		S
		S
		S

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge *Al Shau Lee* Judge Code 2118 Date 11/1/2018

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

 ATTORNEY(S) FOR THE PLAINTIFF(S)

 ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

RECEIVED

DEC 05 2018

SC Court of Appeals

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS)
NINTH JUDICIAL CIRCUIT)

City of Charleston Housing Authority,)

Docket No.: 2017-CP-10-02711)

Plaintiff,)

ORDER ON RECONSIDERATION)

v.)

RECEIVED

Katrina Brown,)

DEC 05 2018

Defendant.)

SC Court of Appeals

FILED
2018 NOV -7 PM 2:11
CLERK OF COURT

This matter comes before me on a Motion to Reconsider filed by Defendant Katrina Brown ("Defendant") on May 4, 2018. The motion was filed to reconsider the Order of this Court filed on April 24, 2018. In the motion, Defendant seeks a ruling on two arguments which were raised but were not expressly ruled upon in the Order.

First, Defendant argues that City of Charleston Housing Authority ("CHA") abused its discretion by pursuing the eviction of Defendant and her minor daughter "as though that action were the only alternative rather than exercising discretion to determine whether other options were available...." Defendant cites *E. Carolina Regional Housing Authority v. Lofton*, 369 N.C. 8, 789 S.E.2d 449 (2016) to support her argument.

Lofton recites the applicable federal statutes and case law including *Rucker*. *Rucker* emphasizes that housing officials have discretion before pursuing "no-fault" evictions. The U.S. Supreme Court in *Rucker* stated that the federal statute does not require a housing authority to evict under the circumstances provided here, but the local housing authority has been vested with the power, by Congress pursuant to the statute, to determine the circumstances under which it may exercise its authority because it is in the best position to do so. The U.S. Department of Housing and Urban Development supported the exercise of discretion by each public housing authority by incorporating provisions within its regulations. See 24 C.F.R. § 966.4(l)(5)(vii)(B).

CHA did exercise its discretion and proceeded with an eviction. CHA was aware of the applicable regulations. *Rucker* provides that the housing authority is vested with the discretion to evict tenants. Eviction here did not occur automatically with an alleged violation as it did in *E. Carolina Reg. Hous. Auth. v. Lofton*. The housing authority has to make the choice to proceed with an eviction based upon the circumstances of the violation and the provisions of the lease.

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Under the statute and the CHA lease, the housing authority has the power to evict the tenant as well as the household member. The U.S. Supreme Court in *Rucker* has interpreted the statute and authorized eviction of the tenant even in the absence of any offending behavior by the tenant or knowledge thereof. "Such 'no-fault' eviction is a common 'incident of tenant responsibility under normal landlord tenant law and practice.'" 535 U.S. at 134, 122 S. Ct. at 1235. [Citation omitted]. Strict liability maximizes deterrence and eases enforcement difficulties." *Id.* CHA exercised its discretion and authority under the federal statute and the lease to evict the tenant (Brown) or the household member (Cobb) or both.

Second, Defendant argues that Plaintiff's authority only extends to "activity which presents a current or ongoing threat to the health, safety, or right of peaceful enjoyment of other residents of the public housing complex or those living in the immediate vicinity." Defendant reads additional words into the statute and the lease. Based upon Defendant's interpretation the CHA would not be able to evict any tenant unless the conduct complained of was a present and ongoing threat. The clear language of the statute and the lease do not support Defendant's interpretation. Cobb admittedly engaged in activity that threatened the health, safety, or right of peaceful enjoyment of the residents of the housing complex and those living in the vicinity. His activities were a threat when they occurred. The activity was a violation of the lease provisions. Whether the threat is removed does not negate the violation. The arguments made by Defendant simply repeat her arguments that CHA did not exercise discretion in determining whether to evict. Those arguments have already been discussed.

Based upon the original Order and the discussion above, Defendant's Motion for Reconsideration is **DENIED**.

AND IT IS SO ORDERED.



ALISON RENEE LEE
Presiding Judge

Columbia, South Carolina
November 1, 2018

