

IN THE JUSTICE OF THE PEACE COURT
 OF THE STATE OF DELAWARE IN AND FOR KENT COUNTY
 COURT NO. 16
 480 Bank Lane
 Dover, DE 19904

Dover Housing Authority,	:	
	:	
Plaintiff,	:	
	:	Case Number
v.	:	JP16-09-006676
	:	
Martha Snead,	:	
	:	
Defendant.	:	

Michael Rushe, Esq., on behalf of plaintiff.

Martha Snead, *pro se*.

ORDER

Dover Housing Authority (“DHA”), landlord, has filed this landlord-tenant action under 25 *Del. C.* § 5502 and Chapter 57, seeking possession of premises located at 411 S. Queen Street, Apartment 302, Dover, Delaware, for failure to pay rent and late charges in a timely manner. Tenant Martha Snead contests the action, stating DHA failed to provide her notice of a change in DHA policy regarding the point at which DHA would begin eviction process in the Justice of the Peace Court.

The Court convened in a three-judge panel pursuant to 25 *Del. C.* § 5717 and heard this case *de novo*. This order represents the court’s judgment after trial.

Facts

DHA offered evidence that Ms. Snead failed to pay rent for the month of September 2009 in a timely manner, and that it properly notified her of the failure via a 14-day letter. Ms. Snead acknowledged she failed to pay the rent and that she was properly notified of the failure. She defended her failure to pay, stating that she had had personal issues, and further, that the DHA failed to give her proper notice of a change in its policy regarding institution of civil proceedings to evict tenants.

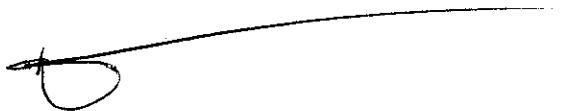
In response to her defense, DHA offered a lease addendum, stating an effective date of January 1, 2009, but signed by the defendant and witnessed on June 10, 2009. This lease addendum states in part, “Two (2) such late payments within a 12-month

period shall constitute a repeated late payment.” The lease itself states that the lease “may be terminated only for serious or *repeated* violations of material terms of the Lease, such as failure to make payments due under the lease...” (emphasis added). In essence, the DHA has limited its ability to file for possession unless the tenant has repeatedly failed to pay rent in a timely manner, and the addendum defines “repeated” as at least two late rent payments within a 12-month period.


DHA did not provide evidence of any other late payment made by the tenant since she was notified of this change in policy on June 10, 2009, or for that matter, of any other late payment at all.

The standard by which the Court decides whether the plaintiff has carried its burden of proof is by a preponderance of the evidence. In other words, the plaintiff must show proof that its allegations against the defendant are more likely true than not true. DHA has failed to carry its burden of proof in this case.

NOW, THEREFORE, IT IS ORDERED this 11th day of January, 2010, for the reasons described in this order, the Court finds that the plaintiff has failed to meet his burden of proof by a preponderance of the evidence. The Court, therefore, finds in favor of the defendant and against the plaintiff. This case having been heard *de novo*, there is no further right of appeal.



Debora Foor
Justice of the Peace



D. Ken Cox
Justice of the Peace



Cathleen M. Hutchison
Justice of the Peace