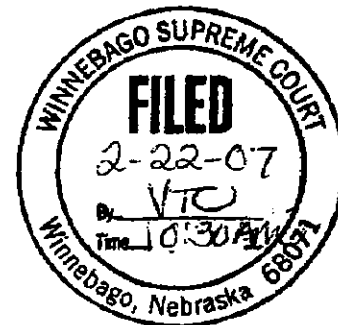


In the
Winnebago Supreme Court
of the
Winnebago Tribe of Nebraska



HOUSING AUTHORITY OF THE
VILLAGE OF WINNEBAGO,

Plaintiff/Respondent

v.

CRYSTAL WHITE,

Defendant/Appellant

Nos. SC-06-004

OPINION AND ORDER

Per Curiam (Before Chief Justice Robert Clinton and Associate Justices Mary Jo Brooks Hunter and James Botsford)

This matter is before the Court on the appeal of Defendant/Appellant, Crystal White ("White"), from an Order of Judgment entered on June 22, 2006 by the Tribal Court in a forcible entry and detainer action brought by Plaintiff/Respondent, the Housing Authority of the Village of Winnebago ("Housing Authority"). For the reasons stated in this Opinion and Order, this Court reverses the Order of Judgment and directs the entry of judgment for the Defendant/Appellant in this Matter.

Facts

The Housing Authority was incorporated by the Village of Winnebago in 1963 pursuant to Nebraska Housing Authorities Law, Neb. Rev. Stat. §§ 71-1503, 71-1509, and 71-1518 to 71-1554 (Reissuc 1996). Housing Authority of the Village of Winnebago Resolution No. 1 (Nov. 11, 1963). It constitutes a political subdivision of the Village charged with providing federally-subsidized housing to eligible low and moderate income persons. It accomplishes its objectives through both lease arrangements and, as in this case, Mutual Help and Occupancy Agreements that contemplate occupant purchase of the home on installment payments. Under applicable federal regulations the amount of the required monthly payment and the federal subsidy is periodically recalculated based on the occupant's income. The housing units owned or managed by the Housing Authority are all within the Winnebago Reservation. The Housing Authority is governed by a Board of Commissioners appointed by the Village of Winnebago Board of Trustees and its daily operations are managed by an Executive Director and other staff. The Housing Authority was formed two decades before the retrocession of jurisdiction over the

Winnebago Reservation to the Winnebago Tribe ("Tribe"). Since that retrocession and after enactment of the Native American Housing Assistance and Self-Determination Act of 1996, the Tribe has directly received housing funds under that Act and has incorporated a separate tribal housing entity, the Winnebago Housing & Development Commission, Inc. ("WHDC") to administer those funds pursuant to Winnebago Tribal Council Resolution Nos. 98-26 and 98-39. Rather than fully replacing the existing housing authority with a tribal body, the Tribe almost simultaneously entered into a Memorandum of Understanding between WHDC and the Housing Authority under which the Housing Authority retained its existing units but received federal tribal housing subsidy funds channeled to it through the Tribe and WHDC. Thus, while formally created under state law before the Tribe resumed primary governance of its Reservation, the Housing Authority pursuant to this agreement implements tribal housing policy and expends tribal funds in providing federally subsidized housing to tribal members living on the reservation like White. For these reasons and because, as here, the occupants of the units provided by the Housing Authority are tribal members, this Court has jurisdiction over this action.

The Complaint in this forcible entry and detainer action was filed by the Housing Authority in the Winnebago Tribal Court on May 22, 2006 and alleged that the Defendant/Appellant, a member of the Winnebago Tribe, had entered into a Mutual Help and Occupancy Agreement with the Winnebago Housing Authority for Unit No. 221. The agreement was allegedly for a new home under construction at the time it was allegedly signed in 1991 and contemplated the installment purchase of the home under the terms of the Mutual Help and Occupancy Agreement. The Housing Authority claimed that an audit by forensic accountants indicated that White had failed to make all the necessary payments in a timely fashion. According to the admissions made at oral argument in this case, this forensic audit was apparently occasioned after faulty record keeping and embezzlement was identified involving at least one key employee of the Housing Authority, resulting in a felony conviction unrelated to this case other than in the manner in which it may affect the Housing Authority records regarding White's payments.

As a result of that accounting, the Housing Authority issued a Notice of Termination to White on August 17, 2005. The Notice of Termination claimed an arrearage in payments of \$ 6351.00 without any supporting details and advised her to contact the Housing Authority to work out arrangements for curing this alleged breach of the agreement. Plaintiff's Exhibit B. When those efforts apparently failed, on May 22, 2006 the Housing Authority filed its Complaint in this forcible entry and detainer action seeking both eviction of White from housing unit 221 and damages for the claimed arrearage in payments.

This matter came on for hearing before the Tribal Court on June 20, 2006. At that hearing White appeared *pro se* and the Housing Authority was represented by counsel. During the hearing, the Housing Authority presented two documents to the Court in addition to the Notice of Termination as the primary basis of its claim. First, counsel for the Housing Authority offered into evidence as Plaintiff's Exhibit A a document entitled

Mutual Help and Occupancy Agreement. Whether through negligence or mistake of counsel for the Housing Authority or of the Housing Authority itself, the version of the document offered and received into evidence was unsigned by White and apparently constituted a blank form agreement that also lacked certain details. While the Housing Authority appended to its appellate brief before this Court a version of that form signed by White and with the terms of the agreement filled in where certain blanks appear in the form, this Court cannot receive new evidence, including the proffered executed agreement, and must decide this case on the basis of the record made by the Housing Authority and its counsel in the Tribal Court. Second, the Housing Authority offered as Exhibit C a Customer Balance Detail that purported to show individualized customer debts and payments. Exhibit C, however, begins with an entry dated 12/31/2004 that purports to show an unpaid balance of \$ 5,141.00 without providing any supporting details as to prior payments or obligations. At oral argument before this Court, the Housing Authority claimed this amount was developed by forensic accountants through an audit after the embezzlement and other record keeping problems were discovered in the Housing Authority. Nevertheless, despite the admitted record keeping problems at the Housing Authority prior to this date, at trial the forensic accountants who prepared the figure did not testify, no testimony was received detailing the methodology by which the forensic accountants reconstructed the amounts owed, and the Housing Authority did not explain in any fashion how they arrived at the figure shown on the first entry on Exhibit C other than to indicate its source. Furthermore, the nature of the listing in Exhibit C makes it impossible to ascertain the date of delinquency, which could have dated back well over a decade given the length of occupancy of the unit in question by White. No effort was made by the Housing Authority or the Tribal Court to pierce that aggregate figure and detail the claimed dates of debt and nonpayment prior to December 31, 2004.

On the basis of this evidence, the Tribal Court entered an Order for Judgment on June 22, 2006. That Order required White to vacate Unit 221 no later than July 5, 2006 and awarded the Housing Authority judgment in the amount of \$ 5,424.00. No award of attorneys fees was made. On June 22, 2006, White filed *pro se* a timely Notice of Appeal. Upon the posting of a required bond, the Tribal Court stayed its Order for Judgment pending this appeal. White therefore has remained in Unit 221 pending the outcome of this appeal despite repeated and unsuccessful efforts by the Housing Authority to secure a lifting of the stay. While White was unrepresented by counsel through most of these proceedings and appeared *pro se*, she was quite ably represented by Sherri Eveleth and Kathy Busch of Legal Aid of Nebraska in this appeal after the filing of the Notice of Appeal. The Court expresses its appreciation to both Ms. Eveleth and Ms Busch for their effective representation of their client and their illuminating submissions to this Court on her behalf.

Discussion

While the Appellant raises a number of issues on appeal, this Court finds it only necessary to discuss two of them since they fully dispose of this appeal: (1) the issue of time bar created by the statute of limitations and laches and (2) the question of whether the judgment is fully supported by the evidence or, to put the matter another way, whether the trial court's factual findings were clearly erroneous given the record made at trial by the Housing Authority.

1. **The Statute of Limitations and Laches Bar Most of the Housing Authority's Claim**

A. Statute of Limitations

The Winnebago Tribal Code expressly contemplates the rapid litigation of disputes like the present one. According to the Complaint filed by the Housing Authority, this action was filed as a forcible entry and detainer action seeking both eviction of White from Unit 221 and money damages for the arrearage in rent. Winnebago Tribal Code § 2-1102(3) expressly provides a statute of limitations for "an action for forcible entry and detention or forcible entry only of real property" of "three years" from the date the cause of action accrues. While Winnebago Tribal Code § 2-1104(1) provides a longer seven year statute of limitations for "civil actions other than for the recovery of real property" involving "an action upon any contract, agreement or promise in writing," this Court find this longer statute of limitation inapplicable despite arguments to the contrary offered by the Housing Authority. First, that longer statute expressly only applies to civil actions "other than for the recovery of real property" and by the express terms of the Complaint filed by the Housing Authority, the pending action seeks the recovery of real property. Second, while the Housing Authority urges that the three year statute of limitations be applied to the eviction portion of its claim and the longer seven year statute to its claim for contractual damages,¹ bifurcation of the claim in this fashion violates the provisions of the Winnebago Tribal Code. Section 2-1301 of the Code expressly creates the cause of action filed by the Housing Authority. It provides in relevant part that the "tribal court shall have jurisdiction to try all actions for forcible entry and detention or detention only, of real property, and all claims for the collection of rent or damages to the premises may be included in the same action, but other claims may

¹ Under the express provisions of Winnebago Tribal Code § 2-1101, "[t]here shall be no statute of limitations applicable against civil actions brought by the tribe on its own behalf except to the extent that a statute of limitations is expressly stated to be applicable to the tribe by this code or some tribal statute." The Housing Authority also argues that since it is furthering tribal policies, this section should apply. While there is some weight to the argument, this Court expressly rejects this position since the Housing Authority was created by and constitutes a political arm of the Village and not the Tribe even though it operates under a Memorandum of Understanding through which it receives tribal funds to further its important policy objectives of providing federally and tribally subsidized housing to low and moderate income residents of the Winnebago Reservation. Given the unique retrocession history of the Winnebago Reservation and creation of the Housing Authority before primary governance of the Reservation was resumed by the Tribe, this case is therefore brought by a political arm of the Village and not the Tribe. Despite arguments to the contrary by the Housing Authority, Section 2-1101 therefore is inapplicable.

not be included in the same action." The Code therefore treats any action for damages based on rent or damaged to real property as an integral part of a forcible entry and detention action. That explains why section 2-1104(1) references "civil actions other than for the recovery of real property." Since the Housing Authority chose to bring a forcible entry and detention action, the applicable statute of limitations in this action was three years for both the eviction claim and for any claims of damages resulting from failure to make required payments on the property or damages to the property.

In this case, the Tribal Court unquestionably and improperly looked back more than three years both in finding a default in the required monthly payments and in awarding damages. The Complaint in this action was filed on May 22, 2006. Thus, the only events cognizable in this action involved arrearages in monthly payments dating back no later than May 22, 2003. Exhibit C reflects a current subsidized monthly rent of \$ 90 on Unit 221. Yet the figure of claimed arrearage on December 31, 2005 was \$ 541.00. Even if White had paid no rent until that date, this figure would constitute over 57 months worth of rent and therefore carry any arrearage back far beyond the three year statute of limitations. Thus, even if this Court were to assume that White paid no rent prior to December 31, 2004 (and there is no evidence in the record from which that fact could be established), the rent claimed would date back beyond September 30, 1999, well beyond the statute of limitations. Since Exhibit C provided the Court absolutely no basis for concluding that all of the rent arrearage accrued during the statute of limitations and further provides no record at all of rent due or payments made before December 31, 2004, no calculations at all can be made as to whether the rent claimed to be due as of that date was barred by the statute of limitations. The record made by the Housing Authority therefore is simply inadequate to establish that \$ 5,141.00 or the \$ 5,424.00 claimed by the Housing Authority was not barred by the statute of limitations. While there is a discrepancy of \$ 283 between the amount the Housing Authority claims was owed since that date and the amount actually paid, this Court understands that White claims this amount was properly paid and not properly credited to her account. In any event, clearly the focus of the Tribal Court on large rental arrearage amounts that it failed to recognize were barred by the statute of limitations blinded it to any consideration of this small discrepancy. For reasons more fully developed below, however, this Court finds that it need not resolve this discrepancy or remand the matter to the Tribal Court for further action. Suffice it to say, that most of the rental arrearages claimed by the Housing Authority were barred by the applicable three-year statute of limitations and therefore could not constitute a lawful ground for either eviction or entry of judgment for back rent.

This error constituted such plain error that any failure of the *pro se* plaintiff to raise it at trial is irrelevant. In such cases where a *pro se* litigant is arrayed against the legal staff of the corporate plaintiff, the Tribal Court has an independent obligation to see that justice is done while maintaining judicial independence and neutrality in the proceeding. In this case that meant assuring that any judgment it enters fully complies with Tribal Law. This one clearly did not.

B. Laches

In addition to the statute of limitations, White through counsel now asserts the defense of laches. The defense of laches generally bars any action brought so long after the cause of action accrued that because of the undue and inexcusable delay the defendant has sustained actual prejudice in the ability to defend the action. *Estate of Goldtooth Begay No.2*, No. A-CV-11-91 (Navajo, decided July 17, 1991); *Rutt v. Frank*, 186 Neb. 842, 186 N.W.2d 911 (1971); *Criswell v. Criswell*, 101 Neb. 349, 163 N.W. 302 (1917). Clearly, the Tribal Code recognizes the defense of laches. Winnebago Tribal Code, § 2-208(3)(L).

The parties disagree whether the defense of laches is available to White in this proceeding. White argues that she was seriously harmed by the failure of the Housing Authority to notify her or take prompt action regarding the claimed arrearage in rent so that she could promptly cure it or defend herself properly. The Housing Authority notes that the defense of laches is equitable and does not generally apply to action at law and further points to the fact that it is a governmental body and argues that laches generally cannot be invoked as a defense against the actions of the sovereign.

In the unique circumstances of this case, this Court holds that laches is available against the Housing Authority in this matter. The Housing Authority exists to provide subsidized housing to eligible low and moderate income families. This Court takes judicial notice of the fact that such families generally lack any major savings and tend to live from month to month on their available income. Thus, if the Housing Authority permits a substantial monthly payment arrearage to accrue and does absolutely nothing to enforce its rights for a long period time, it helps create a situation where the lessee or purchaser of its subsidized housing will be absolutely unable to cure any arrearage. Furthermore, the sheer age of the claims makes it difficult to defend since most tenants or purchasers have skimpy records at best and often no records at all of long past transactions. In this case, even the Housing Authority was unable or unwilling for whatever reasons, to produce records of rents and payments before December 21, 2004, a period within the statute of limitations but sufficiently removed from the initiation of litigation that it could not, or at least did not, document its claim. Thus, low and moderate income purchasers like White are likely to be significantly prejudiced in defending a forcible entry and detention action over real property when, as here, the Housing Authority sleeps on its rights and waits years before taking any legal action to enforce them. This Court finds that permitting an arrearage of \$ 5,141.00 to accrue on a home with a \$ 90 month payment constituted sufficient prejudice to White to bar the Housing Authority from any taking action to collect such arrearages or to evict her based on such a large arrearage. While not technically bound by Nebraska law, this Court nevertheless agrees with the finding of the Nebraska court in *Ohio National Life Insurance Co. v. Rust*, 255 Neb. 372, which indicated that laches could be found regardless of whether the claims were brought within the statute of limitations.

Insofar as the Housing Authority claims exemption from the doctrine of laches based on its sovereign status, claiming to be an arm of the tribe, this Court rejects the

claim. First, as noted above, the Housing Authority was created by and its members continue to be appointed by the Village of Winnebago pursuant to Nebraska state law. Second, while the Housing Authority correctly notes that it is a governmental body and that some cases hold that laches cannot be asserted against the sovereign, e.g. *Costello v. United States*, 365 U.S. 265 (1961), *INS v. Elibi*, 414 U.S. 5 (1973), this Court finds these cases inapplicable to the Housing Authority in the circumstances of this case. As *Costello* notes, the policy against applying laches to the sovereign is found in the "great public policy of preserving the public rights, revenues, and property from injury and loss, by the negligence of public officials." Quoting Justice Story in *United States v. Hoar*, 26 Fed. Cas. 320, 329. Unlike cases finding laches inapplicable to the sovereign such as *Costello* or *INS*, the Housing Authority is not an organ of government that either makes governmental policy or raises revenue for the government. Rather, it is engaged in a nonprofit, albeit distinctly commercial, enterprise of leasing and selling housing which normally is performed by the private sector except for this type of subsidized housing for low or moderate income families. Thus, this Court finds little other than the formal governmental structure of Housing Authority that reflects the need to avoid application of the doctrine of laches.

Since the mission of the Housing Authority is to assist eligible low and moderate income families by providing subsidized housing and the perverse effect of its delay is to make it far more difficult for those same families to cure any arrearage in their accounts, it would be totally inconsistent with the mission and purpose of the Housing Authority to accept its argument that it can victimize its tenants and purchasers by sleeping on its rights for years as long as it files suit to evict them within the period of the statute of limitations. This Court refuses to accept such formalisms and holds that the doctrine of laches bars the Housing Authority claims in this case since it obviously slept on its rights for at least most of a decade before launching an all out legal assault on White's right under the Mutual Help and Occupancy Agreement to remain in the home she sought to purchase. Clearly, waiting that long, then suddenly announcing that a low or moderate income purchaser owes over \$5,000, and finally unleashing its arsenal of attorneys on the *pro se* tenants² makes it impossible to cure the arrearage. Clearly, the Housing Authority is entitled to its payments, but it must act promptly in response to any arrearage before its tenant or purchaser has been so prejudiced that any opportunity for cure or to effectively defend is irretrievably lost. This it did not do in this case and laches therefore bars its cause of action in its entirety.

² While the Housing Authority clearly had every right to employ attorneys to secure eviction of White for the claimed arrearage in payments, their excessively zealous representation in this case seemed calculated to thwart White's statutory right to appeal the eviction order through demands for ever increasing bonds as a precondition for a stay of the eviction order and then through subsequent demands for dissolution of the stay on the eve of argument in this matter. Clearly, low and moderate income tenants of the Housing Authority generally will be in no position to post the types of bonds demanded by the attorneys for the Housing Authority as a precondition for any stay. Nothing in the Winnebago Tribal Code suggests that the statutory right to appeal depends on the wealth of the appellant. Accordingly, this Court does not look favorably upon the efforts of the Housing Authority for force White out of the home she was purchasing by repeated demands that she post a sizable bond as a precondition of asserting her statutory rights. For the reasons stated in this Opinion and Order any and all outstanding motions by the Housing Authority to that effect must be and hereby are denied.

2. The Findings of Fact and Conclusions of Law Cannot be Supported by the Evidence and Are Clearly Erroneous and No Evidence Therefore Supports the Order of Judgment

In its Order of Judgment dated June 22, 2006, the Tribal Court made two critical findings of fact, neither of which can be supported by the evidence adduced at trial. First, it found that the "Defendant owes the Housing Authority for past due payments under the Mutual Help and Occupancy Agreement the sum of \$ 5424.00." Order of Judgment, ¶ 6. Second, the Court held that "the Defendant signed a Mutual Help and Occupancy Agreement with the Housing Authority for Unit 221 on July 1, 1991." Order of Judgment, ¶ 3. This Court finds both of these findings totally unsupported by the record and therefore clearly erroneous. Since each constituted an essential element of the judgment each error constitutes an alternative and fully adequate ground for reversal and entry of judgment for the defendant.

First, beyond the claims made in the Complaint, the only evidence adduced at trial supporting a finding that the defendant was in arrearage in her required monthly payments in the sum of \$ 5,424.00 was the Customer Balance Detail received into evidence as Exhibit C. As already noted, this record was not an ordinary business record or ledger since it contained no rental amounts or payments *before* December 31, 2004. Rather, the first line simply claimed without any supportive details that the amount of \$ 5,141.00 was owed as of that date. At oral argument this Court was advised that this amount was reconstructed by a forensic accountant pursuant to an audit following discovery of poor record keeping and embezzlement. Neither the accountant nor her methodology were made available to either the Tribal Court or this Court. In short, the only evidence adduced at trial suggesting that White owed \$ 5,141.00 of the \$ 5,424.00 (or 95% of the amount claimed) was the simple assertion of that fact *without proof* in Exhibit C and without breaking down the details of debt and payment. Just as the mere allegations of fact in a Complaint require proof or admission before the entry of judgment, so does the mere allegation of past debt in Exhibit C. The fact that the Housing Authority claimed in Exhibit C that White owed \$ 5,141.00 as of December 31, 2004 does not make it so without sufficient proof to establish that fact. Unfortunately, no further proof or breakdown of the vast bulk of the claimed rental arrearage was forthcoming at trial. Instead, it seemed the Trial Court simply *presumed* the debt and asked the defendant to explain or excuse herself or otherwise show cause why she should not be evicted.³ That

³ This fact was not the only inappropriate action by the judge. At one point, having been advised that White's monthly payment was \$ 90, the trial judge opined incredulously and in a manner both belittling and disbelieving of the defendant that you cannot rent an apartment anywhere for \$ 90 per month, apparently totally ignoring the fact that the housing payments were subsidized under federal and tribal housing programs. The totality of the gross errors in the factual findings and this remark made during trial strongly suggest at least the appearance of a bias of the trial judge against either this defendant or low and moderate income defendants in subsidized housing generally. It appears that she shifted the burden of proof from the plaintiff to the poor. If this Court were going to remand this case (which it is not), the combination of these events would suggest to this Court the need to reassign the case to a different judge in the interest of fairness and the appearance of impartiality. It offers this observation in the hope that in future cases the record will reflect a more impartial approach to the administration of justice.

approach unfortunately inverted the burden of proof, which rested with the Housing Authority, and, apparently, obscured the Tribal Court's evaluation of the lack of evidence offered by the Housing Authority for the debt it claimed. In short, this Court finds that the Housing Authority failed to prove \$ 5,141.00 or 95% of the debt it claimed.⁴ Thus, the judgment for the claimed amount cannot be sustained. But for the next error in fact finding this Court might have been inclined to remand the case for consideration of the remaining 5% of the debt. As will be evident in the next paragraph, however, no such remand is required here.

Even more remarkable than the finding made by the Tribal Court in paragraph 6 of its Order of Judgment is the finding made in paragraph 3 that "the Defendant signed a Mutual Help and Occupancy Agreement with the Housing Authority for Unit 221 on July 1, 1991." What makes this finding remarkable and totally unsupported by the record is the fact that through negligence or mistake of either the Housing Authority or its counsel, counsel for the the Housing Authority marked and introduced into evidence as Plaintiff's Exhibit A a totally blank and unsigned Mutual Help and Occupancy Agreement form that did not even contain White's name or the terms of her alleged agreement, let alone her signature. Thus, at trial there was no signed or completed agreement introduced into evidence from which any reasonable trial judge could find that "the Defendant signed a Mutual Help and Occupancy Agreement with the Housing Authority for Unit 221 on July 1, 1991." The fact that the Tribal Court nevertheless did so find not only demonstrates that the finding is clearly erroneous but also that the tribal judge placed the burden of proof on the defendant, rather than on the Housing Authority where it properly belonged. Claims by the plaintiff constitute no substitute for evidentiary proof, yet the Tribal Court took them as such. For this reason alone, the judgment must be reversed and judgment directed for the defendant.

The implications of this ruling, however, require some explanation. It may or may not be true that White had a substantial rental arrearage. We will never know since the Housing Authority had an opportunity at trial to prove both the existence of the agreement and the nature and amount of the arrearage and due to negligence, mistake, inadequate record keeping or otherwise it failed to prove either fact. As a result of claim preclusion (*res judicata*), it does not get multiple opportunities to prove those facts. Having failed to prove its claim in this judicial outing, whatever claim the Housing Authority may have had against White for payments accrued prior to the date of judgment, October 22, 2006, are forever barred. Thus, the Housing Authority must treat those claims as if they were fully paid for purposes of calculating sums due under the Mutual Help and Occupancy Agreement. To the extent that this means the Housing Authority may have been owed a substantial sum that will now not be paid, any remedies it may have to recover that sum may lie elsewhere than with White.

⁴ The Court also notes that the terms of the federally subsidized housing administered by the Housing Authority calls for periodic recertification of the payments based on income. See Mutual Help and Occupancy Agreement, Exhibit A, ¶4.1(a). In addition to failing to introduce any records of rent and payment prior to December 31, 2004, the Housing Authority failed to introduce any records of income certification and redeterminations of the amount of the Required Monthly Payment by the Housing Authority, which is absolutely essential to determine the actual amount owed by the occupant under the agreement. Thus, the tribal court failed to note a further lack of proof on the part of the Housing Authority.

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The Court notes, however, that while this ruling means that the Housing Authority must carry White's account on its books as current as of June 22, 2006, this fact does not preclude future actions to evict White and recover the property should she subsequently fall behind in her payments and the Housing Authority takes *prompt* but not precipitous action to enforce its rights.

For the reasons stated herein, the Order of Judgment entered by the Tribal Court on June 22, 2006 in this matter must be and hereby is reversed and judgment in this matter is directed for the Defendant/Appellant, Crystal White. Crystal White is awarded continuing occupancy of Unit 221 under the terms of the Mutual Help and Occupancy Agreement and this Court orders that her account under that Agreement shall be treated as current as of June 22, 2006. In addition, the funds posted by White for a bond to secure a stay of execution pending appeal shall be returned to White forthwith.

ÉGI HESKÉKJËN.

IT IS SO ORDERED.

Entered this 21st day of February, 2007 on behalf of the entire court,

By: Robert N. Clinton
Robert N. Clinton
Chief Justice