

LANDLORD-TENANT LAW----HOUSING AUTHORITY'S LEASE PROVISIONS DECLARED
UNCONSTITUTIONAL IN CLASS ACTION

Lee v. Housing Authority of the City of
Elizabeth (Union County District Court,
Docket No. 141136, Decided April 24, 1972)
by David Einhorn, Union County Legal Services
Corp. OPINION NOT APPROVED FOR PUBLICATION
AT THIS WRITING.

Plaintiff in this class action on behalf of herself and other tenants of the defendant Housing Authority was successful in having several provisions of the defendant's standard lease enjoined and declared unenforceable. The voided provisions concerned waiver of notice of termination of tenancy, the Authority's right to immediate re-entry and dispossession action, various exculpatory clauses, standardless maximum occupancy limits and incontestable income-determination procedures. The court, citing 42 U.S.C.A. 1408 and HUD circulars RHM 7465.6 (8-10-70), RHM 7465.8 and 7465.9 (2-22-71), found that the lease form presently in use by the defendant fails to conform with the requirements of the HUD circulars and due process.

Judge McKenzie's opinion briefly discusses Goldberg v. Kelly, 397 U.S. 254 (1970) and other cases upholding the validity of HUD regulations and the obligation of local housing authorities to provide evidentiary administrative hearings to tenants under certain circumstances. Certain issues concerning the Authority's handling and disposition of tenants' security deposits were remanded for trial.

Opinion; Plaintiffs' Brief in Support of Cross-Motion for Summary Judgment; Plaintiffs Brief in Opposition to Defendants' Motion for Summary Judgment.