

HOUSING LAW---RETALIATORY EVICTION ENJOINED

Kernodle v. Antonette Apartments (Superior Court, Chancery Division, Atlantic County) by Joseph T. Wilkins, Director, Cape-Atlantic Legal Services, with Ronald Weinstein, State Office of Legal Services, on the Brief.

As previously reported, 11 State Clearing House Report 7 (October 31, 1969), this is a request for an injunction to restrain defendant-landlord Antonette Apartments from proceeding in an action for possession in Atlantic County District Court after plaintiff-tenant had filed a complaint against defendant with the Atlantic City Health Department. On October 31, 1969, the return date for an Order to Show Cause requested by plaintiff, Chancery Judge Herbert Horn issued a temporary injunction against defendant from any further eviction proceedings in the County District Court.

Plaintiff had argued that by allowing the landlord to evict plaintiff in a summary proceeding, the District Court would, in effect, be aiding in the commission of a crime under N.J.S.A. 2A:170-92.1, which makes such reprisals a disorderly persons offense. Plaintiff further contended that New Jersey public policy, as evidenced in the state's housing and landlord-tenant legislation, requires the Chancery Court to protect the plaintiff's right to report violations of the law, and that a retaliatory eviction would deprive plaintiff of her constitutional right to petition the government for a redress of grievances. On oral argument, Counsel for plaintiff pointed out that plaintiff's remedy at law was inadequate, and that under Rule 6:4-3, plaintiff could not even serve interrogatories in the County District Court summary dispossession action. A hearing date has not yet been set

on the request for a permanent injunction.

Order to Show Cause; Complaint and Affidavits; Answering
Brief and Affidavits; Transcript; Temporary Restraining
Order.

