

2355.

DIRECT HOUSING RELIEF—LANDLORD MAY COLLECT RENT IN ARREARS ALTHOUGH RECEIVING DIRECT HOUSING RELIEF WARRANTS IN PAYMENT OF CURRENT RENT FOR INDIGENT TENANT—APPLICATION MADE HOW—

SYLLABUS:

1. *A landlord may accept or attempt to collect rent charges which are in arrears, even though he is receiving direct housing relief warrants in payment of the current rent for the indigent, pursuant to the authority of Amended Senate Bill No. 200 as amended by Amended Substitute Senate Bill No. 53 as enacted by the 90th General Assembly, at its regular and first special session.*

2. *Applications for direct housing relief under Amended Senate Bill No. 200, as amended by Amended Substitute Senate Bill No. 53, as enacted at the 90th General Assembly, general and first special session, should be made on behalf of the indigent tenant, even though prepared by the landlord with the consent of the tenant.*

COLUMBUS, OHIO, March 9, 1934.

HON. ALVIN F. WEICHEL, *Prosecuting Attorney, Sandusky, Ohio.*

DEAR SIR:—I am in receipt of your request concerning the following inquiries:

“(1) Under the provisions of Amended Senate Bill No. 200, can the owner of a piece of property occupied by an indigent tenant accept or recover back rentals while receiving direct housing relief?”

EXAMPLE

(a) ‘A’ being owner of a certain piece of real estate occupied by ‘B,’ an indigent tenant, received from ‘B’ during the month of September, 1933, the sum of \$5.00 to apply on back rent owed by ‘B.’

(b) ‘C’ being owner of a certain piece of real estate occupied by ‘D,’ an indigent tenant, received from ‘D’ during the month of September, 1933, the sum of \$8.00 to apply on rent for month of September, the rental of said property being \$15.00 per month. Under this arrangement, is ‘C’ entitled to receive direct housing relief?

(2) Under the provisions of Amended Senate Bill No. 200, it is a question as to who shall make application for direct housing relief. Shall the tenant secure the necessary application blank and secure the signature and consent of the owner? Is it permissible for the owner to secure the application form and secure the consent of the tenant?

(3) Is Amended Senate Bill No. 200, for the exclusive benefit of the tenant or is it for the benefit of the owner of said real estate?

(4) Is it the intent of the law to enable the owner to pay his taxes or is it the intent of said law to enable the tenant to pay his rent?”

Amended Senate Bill No. 200, referred to in your inquiry, was amended by Amended Substitute Senate Bill No. 53 of the first special session of the

90th General Assembly, but such amendment in no way affects the particular questions presented in your inquiry. Section 3 of such act sets forth the prerequisites on the part of the owner in order that he may obtain the housing relief warrants mentioned in such act. Such section reads:

“No voucher shall be issued to any owner of real estate according to the provisions of this act unless said owner shall agree to accept them for the rent thereof and the vouchers herein mentioned shall not be honored by the auditor unless it be endorsed thereon by the first mortgagee that said first mortgagee agrees not to foreclose on said property as long as same is occupied and paid for by such warrants without giving thirty days' notice to said county commissioners or to their duly appointed agent of the intention of foreclosing.”

In other words, the owner must agree to accept the warrant for rent on the premises occupied by the indigent. I am unable to find any other requirement in the act on the part of the owner which must be complied with before the warrant may be issued. The warrant must have the endorsement of the mortgagee, if any, before it may be received in payment of the owner's taxes. The statute contains specific limitations as to the amount of the warrant that may be issued during any one month.

The language of Section 3 of the act is, that the “owner shall agree to accept them (the vouchers) *for the rent* thereof” and not as “a payment on” the rent of the premises occupied by the indigent. It is a fundamental rule of interpretation of statutes that the meaning of a statute must be gathered from the language therein contained, if possible, and where the language is clear and unambiguous no other than a literal meaning can be attached thereto. *State ex rel. Spira vs. County Commissioners*, 32 O. App. 382; *Savings & Trust Co. vs. Schneider*, 25 O. App. 259; *State vs. Forney*, 108 O. S. 463, 466; *D. T. Woodbury & Co. vs. Berry*, 18 O. S. 456; *Smith vs. Bock*, 119 O. S. 101, 103; *Swetland vs. Miles*, 101 O. S. 501; *Stanton vs. Realty Co.*, 117 O. S., 345, 349. As stated in the third paragraph of the syllabus of *Savings & Trust Co. vs. Schneider*, *supra*:

“Courts cannot read into a statute that which does not appear therein; it being presumed that the lawmakers placed in the statute all that was intended.”

If there had been any indecision or uncertainty on the part of the legislature it does not appear in the amendment to the Act in Amended Substitute Senate Bill No. 53, as enacted by the first special session of the 90th General Assembly, *infra*. In such section the same language is used in describing the issuance of the voucher: “The clerk may issue a voucher * * * for the rent of any indigent * * *.” While the language of the act requires the landlord, in the event that he elects to receive the vouchers, to receive them in full payment of the current month's rental, I am unable to find any language in the act which would require him to forbear his endeavors to collect rent accruing prior to the month for which the voucher was issued. I am, therefore, of the opinion that your first inquiry should be answered in the affirmative.

Section 1 of Amended Senate Bill No. 200, as amended by Amended Substitute Senate Bill No. 53, at the first special session, reads:

"In addition to all other forms of relief, the commissioners of any county are authorized to appropriate the sum that said commissioners decide is necessary for the purpose of direct housing relief to indigent persons. Said commissioners may appoint the clerk of the board of county commissioners to investigate claims and demands for such relief. The clerk may issue a voucher to the auditor of the county each month for the rent of any indigent person whom he finds is entitled to such relief, which amount so allowed each month shall be not less than \$4.00 for a 2 room suite, \$5.00 for a 3 room suite, \$6.00 for a 4 room suite, \$7.00 for a 5 room suite and \$8.00 for a 6 or more room suite; but such voucher shall in no case exceed the sum of ten dollars per suite or single house, nor shall the total of such vouchers issued upon any one taxable property exceed in any one month one-twelfth of the total annual tax exclusive of special assessments upon such property for the preceding calendar year. Such voucher shall give the line and page of the book of the tax list of the county on which such property is entered and otherwise identify same as the auditor may direct and upon presentation of such voucher to the auditor, the auditor shall issue a warrant mentioning the property described in said voucher which shall be received by the treasurer on payment of taxes on the premises mentioned on said voucher. Said warrant shall not be negotiable or received by the treasurer in payment of taxes of any property except the property mentioned therein. At each semi-annual settlement between the treasurer and the auditor, the warrants that have been presented for the payment of taxes as herein provided shall be entered on a book provided by the auditor who shall deduct from each taxing subdivision the portion of the tax which is represented by said warrants and in making the settlement with each taxing subdivision amounts so deducted shall be entered upon same as taxes withheld for direct housing relief."

From the tenor of the entire act it would appear that the poor relief which is authorized to be furnished is to and on behalf of the tenant. While the act contains no mention of "an application" for direct housing relief it does use the terms "claims and demands." The purpose of the act being to help indigent persons pay their rent and thus prevent their ejection, it would appear that it is the indigent's claim or demand that must be investigated, rather than that of the landlord's need for the rent. While I am unable to find any provision in the statute requiring any formal presentation of the "claim or demand" for direct housing relief, it would appear that such claim is for and on behalf of the indigent, by whomsoever it may be prepared and presented. If the landlord chose to present the application on behalf of the indigent tenant I am unable to find any provision of the statute which would prevent its allowance, in the event that investigation showed that the indigent was entitled to the relief. Your second question, in my opinion, should be answered in the affirmative.

By reason of my answer to your second inquiry, it is evident that my

opinion as to your third question is that the chief benefit of Amended Senate Bill No. 200, was intended for the indigent tenant, even though the landlord may incidentally be financially benefited.

I am unable to state that the intent of Amended Senate Bill No. 200, is either of those suggested in your fourth inquiry. The purpose or aim of the act is at best, only a matter of conjecture, to be gathered if possible from the language contained therein. The aim or purpose of the legislature in enacting the act in question might have been to, if possible, prevent the indigent person from becoming a more burdensome public charge.

Specifically answering your inquiries it is my opinion that:

1. A landlord may accept or attempt to collect rent charges which are in arrears, even though he is receiving direct housing relief warrants in payment of the current rent of the indigent pursuant to the authority of Amended Senate Bill No. 200 as amended by Amended Substitute Senate Bill No. 53 as enacted by the 90th General Assembly at its regular and first special session.

2. Applications for direct housing relief under Amended Senate Bill No. 200, as amended by Amended Substitute Senate Bill No. 53, as enacted at the 90th General Assembly, general and first special sessions, should be made on behalf of the indigent tenant, even though prepared by the landlord with the consent of the tenant.

Respectfully,

JOHN W. BRICKER,

Attorney General.

2356.

DISAPPROVAL, PROPOSED ARTICLES OF INCORPORATION OF
THE RECOVERY MUTUAL INDEMNITY COMPANY.

COLUMBUS, OHIO, March 10, 1934.

HON. GEORGE S. MYERS, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I acknowledge receipt of the proposed articles of incorporation of The Recovery Mutual Indemnity Company which you have submitted to me for my approval.

The purposes for which this corporation is being formed, are set forth in the third paragraph of the articles, which reads as follows:

“The purpose or purposes for which said corporation is formed are to carry on the business of mutual insurance, and to reinsure, and to accept reinsurance as follows:

Against loss, expense and liability resulting from the ownership, maintenance or use of any automobile or other vehicle including aircraft, watercraft, electric motors and apparatus and heat and pressure devices; and against loss or damage by any hazard upon objects having to do with energy which are not prohibited by the statutes of the State of Ohio or at common law from being the subject of insurance, except life insurance.”