

CAN I ASSIGN MY LEASE?

You are a tenant in a building belonging to a non-profit corporation that receives public subsidies in order to provide dwellings to low-income individuals, but the building is not low-rental housing. Can you assign your lease?

THE FACTS

A tenant had been living in her dwelling for 30 years. The building in which she lived belonged to a non-profit organization that received public subsidies in order to provide decent housing to low-income individuals. The tenant paid a rent of \$264 for a dwelling that had an economic value of \$1,100. On May 15, 2006, she notified her landlord (the non-profit organization) that she intended to assign the dwelling to her daughter on June 1, 2000. On May 25, 2000, the landlord refused the assignment of lease. It claimed that the tenant's daughter and the daughter's husband were not low-income individuals who were entitled to benefit from the apartment. On July 7, 2000, the landlord filed an application with the Régie du logement seeking the rescission of the lease as well as the eviction of the tenant and the persons living in the apartment. The Régie du logement concluded that the landlord could not oblige the tenant to subscribe to its social policy and to by-laws that had not been in force when she had moved into the dwelling 30 years earlier. According to the Régie du logement, the tenant was entitled to assign her lease. The landlord therefore appealed this decision to the Court of Québec.

THE ISSUE IN DISPUTE

Was the tenant entitled to assign her lease?

THE JUDGMENT

The judge allowed the appeal from the decision of the Régie du logement. It declared the assignment of lease to be illegal and rescinded the lease.

THE REASONS

Clearly, the lessee was aware of the non-profit organization's social and economic mission. According to the caselaw, there are limits on the right of certain tenants to assign their leases when the landlord's mandate is known to the tenant and the assignment does not respect that mandate. Those who would have benefited from the assignment were not part of the target clientele of the subsidized dwellings, namely low-income individuals. Furthermore, the law stipulates that a landlord cannot refuse an assignment of lease without a serious reason. In the case at hand, the judge was of the opinion that the reason relied upon by the non-profit organization was entirely valid. The court therefore concluded that the assignment of lease entered into between the tenant and her daughter was illegal and ordered the expulsion of the tenant and all occupants of the dwelling.

References

Société d'habitation du Village Jeanne-Mance v. Sicotte,
(July 8, 2004), 500-80-000734-021 (Montreal), J.E. 2004-1560
Civil Code of Québec, S.Q., 1991, c. 64, art. 1871, 1938.

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The judgement discussed in this article was rendered based on the evidence submitted to the court. Each situation is unique. If in doubt, we suggest you consult an attorney.

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