

Housing Authority of the City of Russellville, Arkansas

Grievance Procedure

1. Applicability

- a. This Grievance Procedure shall be applicable to all individual grievances as defined in paragraph 2a below between the resident and the **PHA EXCEPT** for evictions concerning the termination of tenancy that involve the following:
 - (1.) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents or employees of the PHA, or
 - (2.) Any drug-related criminal activity on or near such premises
- b. The PHA Grievance Procedure shall not be applicable to disputes between Residents not involving the PHA or to class grievances. The Grievance Procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of Residents and the PHA's Board of Commissioners.

2. Definitions

- a. Grievance shall mean any dispute which a Resident may have with respect to PHA action or failure to act in accordance with the individual Resident's lease or PHA regulations which adversely affect the individual Resident's rights, duties, welfare, or status.
- b. Complainant shall mean any Resident whose grievance is presented to the PHA or at the project management office in accordance with paragraphs 3 and 4a.
- c. Selecting Official. The Selecting Official shall be the Executive Director of the PHA.
- d. Elements of Due Process shall mean an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
 - (1.) Adequate notice to the Resident of the grounds for terminating the tenancy and for eviction.
 - (2.) Opportunity for the Resident to examine all relevant documents, records and regulations of the PHA prior to the trial for the purpose of preparing a defense.
 - (3.) Right of Resident to be represented by counsel.
 - (4.) Opportunity for the Resident to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses, and to present any affirmative legal or equitable defense which the Resident may have.
 - (5.) A decision on the merits,
- e. Hearing Officer shall mean a person selected in accordance with paragraph 4 to hear grievances and render a decision with respect thereto.
- f. Resident shall mean any lessee or the remaining head of the household of any Resident family residing in housing accommodations covered under this Grievance Procedure.
- g. PHA shall mean the Housing Authority of the City of Russellville, Arkansas.

3. Informal Statement

Any grievance shall be personally presented, either orally or in writing, to the PHA office or to the Office of the Project in which the complainant resides so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within a reasonable time. One copy shall be given to the Resident and one copy retained in the PHA's Resident File. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore and shall specify the procedures by which a hearing under paragraph 4 may be obtained if the complainant is not satisfied.

4. Procedure to Obtain a Hearing

a. Request for Hearing

The complainant shall submit a written request for a hearing to the PHA or to the development office within ten working days after receipt of the summary of discussion pursuant to paragraph 3 above. The written request shall specify;

- (1.) The reasons for the grievance; and
- (2.) The action or relief sought.

b. Selection of Hearing Officer

Grievances shall be presented before a hearing officer. A hearing officer shall be selected as follows:

- (1.) The hearing officer shall be an impartial, disinterested person selected by the PHA Executive Director, other than a person who made or approved the PHA action under review or a subordinate of such person.
- (2.) The PHA shall consult the resident organizations before PHA appointment of the hearing officer. Any comments or recommendations submitted by the resident organizations shall be considered by the PHA before the appointment.

c. Failure to Request a Hearing

If the complainant does not request a hearing in accordance with this paragraph, then the PHA's disposition of the grievance under paragraph 3 above shall become final, provided, that failure to request hearing shall not constitute a waiver by complainant of his or her right thereafter to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

d. Hearing Prerequisite

All grievances shall be personally presented either orally or in writing, pursuant to the informal procedure prescribed in paragraph 3 above as a condition precedent to a hearing under this section, provided, that if the complainant shall show good cause why he/she failed to proceed in accordance with paragraph 3 above to the hearing officer or hearing panel, the provisions of this subparagraph may be waived by the hearing officer or hearing panel.

e. Escrow Deposit

Before a hearing is scheduled in any grievance involving the amount of rent in the Resident's lease which the PHA claims is due, the complainant shall pay to the PHA an amount equal to the amount of the rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The complainant shall thereafter deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer. These requirements may be waived by the PHA in extenuating circumstances. Unless so waived, the failure to make such payments shall result in a terminations of the Grievance Procedure, provided, that failure to make payment shall not constitute a waiver of any right the complainant may have to contest the PHA's disposition of his or her grievance in any appropriate judicial proceeding.

f. Schedule of Hearings

Upon complainant's compliance with subparagraphs a, d, and e of paragraph 4, a hearing shall be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the PHA. A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the complainant and the appropriate PHA official.

5. Accommodation of Residents with Disabilities

- a. Reasonable accommodation for Residents with disabilities to participate in the hearing will be provided by the PI-IA. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.
- b. If the Resident is visually impaired, any notice to the Resident which is required under this procedure will be in an accessible format.

6. Procedures Governing the Hearing

- a. The hearing shall be held before a hearing officer.
- b. The complainant shall be afforded a fair hearing providing the basic safeguards of due process, which shall include:
 - (1.) The opportunity to examine before the hearing, and at the expense of the complainant, to copy all documents, records, and regulations of the PHA that are relevant to the hearing. Any document not so made available after the request therefore by the complainant may not be relied on by the PHA at the hearing.
 - (2.) The right to be represented by counsel or another person chosen as his or her representative.
 - (3.) The right to present evidence and arguments in support of his or her complaint, to controvert evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses on whose testimony or information the PHA or project management relies.
 - (4.) A decision based solely and exclusively upon the facts presented at the hearing.
- c. The hearing officer may render a decision without proceeding with the hearing if the hearing officer determines that the issue has been previously decided in another proceeding.
- d. If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing not to exceed five business days or may make a determination that the party has waived his or her right to a hearing. Both the complainant and the PHA shall be notified of the determination by the hearing officer, provided, that a determination shall not constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.
- e. At the hearing, the complainant must first make a showing or an entitlement to the relief sought and thereafter, the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed.
- f. The hearing shall be conducted informally by the hearing officer, and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The hearing officer shall require the PHA, the complainant, counsel, and other participants, or spectators, to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interest of the disorderly party and the granting or denial of the relief sought, as appropriate.
- g. The complainant or the PHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

7. Decision of the Hearing Officer

- a. The hearing officer shall prepare a written decision, together with the reasons therefore, within a reasonable time after the hearing. A copy of the decision shall be sent to the complainant and the PHA. The PHA shall retain a copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the PHA and made available for inspection by a prospective complainant, his representative, or the hearing officer.
- b. The decision of the hearing officer shall be binding on the PHA, which shall take all actions or refrain from any actions, necessary to carry out the decision, unless the PHA Board of Commissioners determines within 30 days and promptly notifies the complainant of its determination, that
 - (1.) The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease or PHA regulations, which adversely affect the complainant's rights, duties, welfare, or status;

- (2.) The decision of the hearing officer is contrary to applicable Federal, State, or Local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and the PHA.
- c. A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the complainant in whole or in part, shall not constitute a waiver of nor affect in any manner whatever any rights the complainant may have to a trial de novo a judicial review in any judicial proceedings, which may thereafter be brought in the matter.

