

## SHEBOYGAN HOUSING AUTHORITY GRIEVANCE PROCEDURE

### 1. PURPOSE OF THE GRIEVANCE PROCEDURE

This Grievance Procedure is to assure that any Housing Authority tenant has the opportunity for a hearing if that tenant disputes within a reasonable time any Housing Authority action or failure to act which involves that tenant's lease with the Housing Authority regulations which adversely affect that individual tenant's rights, duties, welfare, or status. This procedure does not apply to disputes between tenants which do not involve the Housing Authority or to class grievances and shall not be used by residents to negotiate policy changes with the Housing Authority.

### 2. DEFINITIONS

A. Grievance is defined as any dispute which a tenant may have with respect to any Housing Authority action or failure to act, in accordance with that individual tenant's lease or Housing Authority regulations, when such action or failure to act adversely affects the individual tenant's rights, duties, welfare, or status.

B. Complaint is defined as any Housing Authority tenant whose grievance, as defined in 2A above, is presented orally or in writing to the Housing Authority office or to the site office at the project in which that tenant resides and who follows the steps outlined in this procedure to seek relief of that grievance.

C. Tenant is defined as any lessee or the remaining head of the household of any lessee's family residing in housing accommodations covered by this procedure.

### 3. PROCEDURE PRIOR TO A HEARING

A. Informal Discussion to Settle the Grievance. Any grievance shall be personally presented, in writing, within 10 (ten) days or less of the date of the incident, to the Housing Authority office or to the office of the project at which the complainant resides, so that the grievance may be discussed informally with the appropriate member(s) of the Housing Authority staff and settled without a hearing. Within 10 days after this discussion, the Housing Authority shall prepare a summary of the discussion; one copy of this summary shall be given to the tenant and one copy retained by the Housing Authority in that tenant's file. The summary shall specify the names of the participants, date of the meeting, the nature of the action which is proposed to resolve or dispose of the complaint, and the specific reasons for this decision, and the summary shall specify the manner by which a hearing may be obtained according to this grievance procedure.

B. Hearing Prerequisite. All grievances shall be personally presented in conformance with the procedure outlined in 3A above as a condition before a hearing can be granted.

If the complainant can show good cause to the hearing officer or hearing panel why he or she failed to proceed according to the requirements for the informal discussion, the requirements for the informal discussion may be waived by that hearing officer or hearing panel.

C. Procedure to obtain a Hearing. If the complainant is not satisfied with the results of the informal discussion, he or she shall submit, within 10 days after receipt of the summary of the discussion, a written request for a hearing. This request shall be presented to the Housing Authority office. The written request shall specify:

- (1) The specific reasons for the grievance.
- (2) The action or relief sought by the tenant from the Housing Authority.

D. Selection of the Hearing Officer or Hearing Panel. Once a request for a hearing has been presented by a complainant as outlined in 3C, or that complainant has chosen to request a waiver of the requirement for an informal discussion, as outlined in 3B, a hearing officer or hearing panel shall be selected.

The grievance hearing shall be conducted by an impartial person or persons appointed by the Housing Authority, other than a person who made or approved the Housing Authority action under review or a subordinate of such person.

E. Failure to Request a Hearing. If the complainant does not request a hearing in the manner outlined above, the decision offered after the informal discussion described in 3A shall become final. Failure to request a hearing does not, however, constitute a waiver by the complainant of his or her right thereafter to contest in an appropriate judicial proceeding the Housing Authority's action in disposing of the complaint.

F. Grievances Involving Rental Payments. If the grievance for which a hearing is sought involved payment by the complainant of the amount of rent stipulated in that tenant's dwelling lease with the Housing Authority, no hearing will be scheduled until the complainant has paid to the Housing Authority the rent due as of the first day of the month preceding the month in which the aggrieved incident occurred. The complainant shall thereafter deposit the same amount of monthly rent in an escrow account monthly until the hearing officer or hearing panel has resolved the grievance. Failure to do so will result in a termination of the grievance procedure activities. In unusual circumstances, the Housing Authority may waive this requirement. Failure to make the monthly payment does not waive any right the complainant may have to contest in any appropriate judicial proceeding the Housing Authority's disposition of his or her grievance.

G. Scheduling the Hearing. Within 15 days after the criteria specified in 3A, 3B, 3C, and 3F, above have been met, the hearing officer or hearing panel shall schedule a hearing for a time and place reasonably convenient to both the Housing Authority and the complainant. A written notification of this hearing shall be delivered to the complainant

and to the Housing Authority and shall stipulate the time and place and the procedures governing the hearing.

#### 4. THE HEARING

A. The hearing will be held before the hearing officer or hearing panel appointed in accordance with this procedure and the complainant shall have the right to be represented by counsel or another person he or she chooses as his or her representative.

B. The complainant has the right to examine and copy, at his or her own expense, before the hearing all Housing Authority documents, records, and regulations which are relevant to the hearing. Any documents not made available by the Housing Authority after request by the complainant may not be used by the Housing Authority at the hearing.

C. The complainant has the right to a private hearing, but upon request shall be granted a public hearing.

D. The complainant has the right to present evidence and arguments to support his or her complaint or challenge evidence of the Housing Authority or project management and to cross-examine all witnesses upon whose testimony or information the Housing Authority or project management relies.

E. The decision of the hearing officer or hearing panel shall be based solely upon the facts presented at the hearing.

F. The hearing officer or hearing panel may make a decision without holding the hearing if that officer or panel determines that the issue has already been decided in a previous grievance hearing.

G. If the complainant or the Housing Authority fails to appear for the scheduled hearing, the hearing officer or hearing panel may determine to postpone the hearing for no more than five business days or may determine that the party not appearing has waived its right to a hearing. Both the complainant and the Housing Authority shall be notified of the decision by the hearing officer or hearing panel. A decision that the complainant has waived his or her right to a hearing shall not abridge any right that complainant may have to challenge in an appropriate judicial proceeding the action taken by the Housing Authority on the grievance.

H. At the hearing, the complainant must first show his or her entitlement to the relief being sought, and thereafter the Housing Authority must justify that action or failure to act against which the complaint is directed.

I. The hearing shall be conducted informally by the hearing officer or hearing panel. Oral or written evidence pertinent to the facts and issues raised by the complainant may be received as evidence without regard to the rules of evidence which apply to judicial

proceedings. The hearing officer or hearing panel shall require all parties to conduct themselves in an orderly manner. Failure to comply with the directions of the hearing officer or hearing panel may result in the disorderly party being excluded from the hearing or in a decision unfavorable to that disorderly party.

J. Either the Housing Authority or the complainant may arrange to have made a transcript of the proceedings, and any interested party shall have an opportunity to purchase a copy of that transcript.

## 5. DECISION OF THE HEARING OFFICER OR HEARING PANEL

A. Written Decision. The hearing officer or hearing panel shall prepare a statement of their decision and the reasons for it within 5 days after the hearing. One copy of this statement shall be forwarded to the complainant and one copy to the Housing Authority.

The Housing Authority shall retain a copy in the tenant's file and shall retain another copy, with names and identifying references deleted, in a separate file for inspection by a prospective complainant or his or her representative or a future hearing officer or hearing panel.

B. Enforcement of the Decision. The decision of the hearing officer or hearing panel shall be binding, and the Housing Authority shall take all actions, or refrain from actions, necessary to carry out that decision, unless the Housing Authority Board of Commissioners determines, within 10 days after receiving the decision, and so notifies the complainant that:

- (1) The complaint did not constitute a grievance as defined in this procedure; OR
- (2) The decision is contrary to applicable Federal, State, or local law, HUD regulations, or the Housing Authority's annual contributions contract with HUD.

C. A decision by the hearing officer, hearing panel, 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 or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

## 6. HOUSING AUTHORITY EVICTION ACTIONS

If a tenant has requested a hearing in accordance with this procedure on a complaint involving a Housing Authority notice of lease termination, and the hearing officer or hearing panel upholds the Housing Authority's decision to terminate tenancy, the Housing Authority shall not begin eviction actions in a state or local court until it has served on the tenant a notice to vacate. This notice to vacate shall not be issued prior to the mailing or delivery to the complainant of the decision of the hearing officer or hearing panel.