



IN THE NOOKSACK TRIBAL COURT
FOR THE NOOKSACK INDIAN TRIBE
DEMING, WA

NOOKSACK INDIAN HOUSING
AUTHORITY ("NIHA"),

Plaintiff,

vs.

MARGRETTY RABANG
5913 Johnny Drive
Deming, WA 98244.

Defendant(s).

Case No. 2016-CI-HSG- 009

ORDER ALLOWING ENTRY, ORDER
OF EVICTION AND WRIT OF
RESTITUTION [45 N.T.C. § 45.08]

THE NOOKSACK TRIBAL COURT:

**TO: Chief of the Nooksack Tribal Police or his Designee for service on Margretty Rabang;
and**

TO: Office of Nooksack Tribal Attorney.

WHEREAS, on the 14th day of December, 2016, a second hearing was held on motion of Plaintiff in the above-entitled action. The first hearing held on November 9, 2016 was continued to allow Defendant time retain legal counsel. Defendant appeared at this hearing pro se.

The Court having been fully advised, makes the following findings of fact by a preponderance of the evidence and issues the accompanying conclusions of law:

I. FINDINGS

1. On October 3, 2016, Defendant was served notice of this suit and the hearing date by service of a summons and complaint in accordance with the provisions in § 45.06 of the Nooksack Code of Laws.

2. Defendant appeared for this hearing pro se.
3. This was a continued hearing from the initial hearing of November 9, 2016.
4. At the November 9, 2016 hearing Defendant requested and by agreement of counsel for NIHA, was granted additional adequate time to retain legal counsel. The Court recommended to Defendant that she immediately contact the Northwest Justice Project as they had recently served as legal counsel in another NIHA eviction case.
5. Defendant stated on the record that she only contacted the Northwest Justice Project last week and they informed her that they would need more time to prepare. The Court has received nothing from the Northwest Justice Project to date. Defendant again requested additional time to find legal counsel.
6. Under the Unlawful Detainer Procedures of the Nooksack Indian Tribe, Title 45, § 45.05, "[t]he trial date specified in the summons shall be not less than 5, nor more than 45 days from the date of service of the summons and complaint."
7. Counsel for NIHA objected to any further continuances.
8. Given Defendants admission that she only contacted the Northwest Justice Project last week, her request for additional time was denied.
9. Under the Unlawful Detainer Procedures of the Nooksack Indian Tribe, Title 45, § 45.07, "[t]he hearing shall be a summary judgment hearing based on the evidence submitted the day of the hearing. The Tribal Court must consider all proof in favor of the defendant(s). Once the plaintiff proves there are no genuine issues for trial, the burden shifts to defendant(s) to set out specific facts that demonstrate there are genuine issues for trial."
10. The NIHA Complaint for Unlawful Detainer at paragraph 5, alleged that "[o]n or about December 27, 2007, the Defendant and NIHA entered into a Mutual Help and Occupancy Agreement ("Rental Agreement"). A copy of the agreement was attached to the Declaration of Tiffani Zamudio as Exhibit 2.
11. In Defendant's Pro Se Answer to Complaint for Unlawful Detainer, at III. FACTUAL ALLEGATIONS, ¶ 5, Defendant admitted that the Rental Agreement referred to in paragraph 5 of the NIHA Complaint for Unlawful Detainer was the governing agreement.
12. At the hearing, the Court inquired of the parties if there was an executed copy of that Rental Agreement as the one attached to the declaration was blank except for a section that was filled out on page 10 thereof.

1 13. Counsel for NIHA stated that the exhibit was what NIHA had in its file.

2 14. Defendant did not have a signed copy.

3 15. Defendant only filed her answer in this case. Defendant did not file or provide at the
4 hearing any declarations or affidavits in support of her answer.

5 16. The Court could not find, nor was it provided any citation to federal laws or regulations
6 governing tenancy in a situation where there was no executed lease.

7 **II. CONCLUSIONS**

8 17. Without a signed lease, NIHA could require Defendant to vacate upon providing notice to
9 vacate. NIHA provide Defendant with notice to vacate on August 19, 2016.

10 18. Having provided proof that Defendant was given notice to vacate, NIHA satisfied its
11 burden under the Unlawful Detainer Procedures of the Nooksack Indian Tribe, Title 45, §
12 45.07 that there were no genuine issues for trial thus the burden shifted to Defendant to set
13 out specific facts that demonstrate there were genuine issues for trial.

14 19. Defendant failed to demonstrate that there were genuine issues for trial.

15 20. With no signed lease and having been provided notice to vacate, Defendant is guilty of an
16 act of unlawful detainer in that she and other members of her household have continued to
17 unlawfully occupy the residence.

18 21. Plaintiff is entitled to a Writ of Restitution, restoring to Plaintiff possession of the property
19 described in the Complaint as 5913 Johnny Drive, Deming, WA 98244.

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- 1 4. A Writ of Restitution is hereby entered, and the Defendant and all members of her
2 household shall be evicted from the property located at 5913 Johnny Drive, Deming, WA
3 98244, no later than the 28th day of December, 2016 at 5:00 p.m.
- 4 5. The Defendant is further ORDERED to pay to Nooksack Indian Housing Authority all
5 rents/utilities and costs accrued, and any damage fees due, as provided by § 45.08 of the
6 Nooksack Code of Laws, in the amount of \$75.07.
- 7 6. The Defendant is further ORDERED to pay to Nooksack Indian Housing Authority any
8 other costs accrued, and any damage fees due which amounts will be entered by separate
9 Judgment upon presentation of such amounts to the Court by Nooksack Indian Housing
10 Authority on or before the 21st day of December, 2016.
- 11 4. IT IS FURTHER ORDERED that should the Defendant seek appellate review of this order,
12 and desires a stay of execution, a hearing will be held requiring Defendant to execute and
13 file a bond for the amount of this judgment. At that time Defendant will also be ordered to
14 abide by the orders of this Court and ordered to pay all rents and other damages justly
15 accruing to Nooksack Indian Housing Authority during the pendency of the appeal.

16 **ORDERED** this 14th day of December, 2016.

17 NOOKSACK TRIBAL COURT

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19 _____
20 Raymond G. Dodge
21 Chief Judge
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