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parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0427-15T2

BAROL INVESTMENT GROUP,

Plaintiff-Respondent,

v.

NICOLE LOVE,

Defendant-Appellant.

Submitted December 14, 2016 – Decided March 6, 2017

Before Judges Alvarez and Manahan.

On appeal from the Superior Court of New
Jersey, Law Division, Special Civil Part,
Essex County, Docket No. LT-16923-15.

Essex-Newark Legal Services, attorneys for
appellant (Maria D. Castruita, on the brief).

Respondent has not filed a brief.

PER CURIAM

Defendant Nicole Love appeals a July 7, 2015 judgment of
possession issued to her landlord, plaintiff Barol Investment
Group, because if it stands, she will lose her eligibility for
Section 8 tenant-based assistance housing choice voucher program,
U.S.C.A. §§ 1437 to 1437z-9. We affirm.

We briefly summarize the relevant facts from the record in the landlord tenant proceedings. Love and her family for years lived in a two-bedroom apartment in Montclair in Barol's building. The Montclair Housing Authority (MHA) subsidized Love's rent through the Section 8 program.

When her rent increased from \$1333 a month to \$1466 a month, Love was notified by the MHA that the new payment exceeded program guidelines and she therefore needed to relocate. She was also advised that she was two months behind in the rent and would be evicted if she did not satisfy the obligation. MHA sent a second notice on January 9, 2015, informing Love that an eviction would also eliminate her from the program. A third notice issued on January 28, 2015. That notice was somewhat confusing, as it indicated that Love's portion of the rent was reduced from \$131 to \$114 because of changes in the family's income; however, it also included a handwritten notation stating "not renewing. The rent does not meet our notice."

Plaintiff's first complaint for possession alleged that rent was not paid for March. At an initial order to show cause hearing on May 5, 2015, an MHA representative testified that Section 8 guidelines would not permit payment of Love's rent because it now exceeded the guidelines maximum, and that Love had been notified of this problem.

For reasons that are not clear from the record, at a June 9 order to show cause hearing, the judge dismissed Barol's first complaint for possession on the basis that the tenant had paid her portion of the rent into court. On July 7, 2015, Love appeared, without counsel, on the trial date scheduled on the landlord's second possession complaint. She insisted that the rent was paid because she had deposited her share into court. However, judgment of possession was granted to Barol because Love's payment into court was only a small portion of the five months of unpaid rent. At this hearing, Barol again produced an MHA representative who testified that Love had been noticed of the loss of eligibility resulting from the increase in rent. Love denied that she had ever been informed of the problem. Now on appeal, Love raises the following points for our consideration:¹

- I. THE WITHIN MATTER IS NOT MOOT SINCE THE EVICTION CARRIES RESIDUAL LEGAL CONSEQUENCES ADVERSE TO DEFENDANT.
- II. THE JUDGMENT BELOW SHOULD BE VACATED BECAUSE THE COURT FAILED TO MAKE SUFFICIENT FINDINGS OF FACT AND LAW SUFFICIENT TO SUPPORT ITS ENTRY.
- III. THE COURT FAILED TO PROVIDE DEFENDANT THE EXACT AMOUNT OF OUTSTANDING RENTS DUE AND AN OPPORTUNITY TO SATISFY THE JUDGMENT.

¹ Included in the appendix is a notice terminating Love from the voucher program. The notice issued August 4, 2015, obviously outside of the record. Rule 2:5-4(a) clearly states that the record on appeal consists only of documents on file with the court.

I.

Appellate courts are not to disturb the factual findings of the trial judge unless "they are so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice[.]" D'Agostino v. Maldonado, 216 N.J. 168, 182 (2013) (quoting Seidman v. Clifton Sav. Bank, S.L.A., 205 N.J. 150, 169 (2011)). However, "[a] trial court's interpretation of the law and the legal consequences that flow from established facts are not entitled to any special deference." Manalapan Realty L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995).

Love asserts the issue of the propriety of the grant of possession is a question of law that is not moot because of the significant legal consequences which follow the eviction, namely, her termination from the program. It is undisputed that "a tenant's federal subsidy may be revoked if that tenant 'has been evicted from federally assisted housing in the last five years.'" Sudersan v. Royal, 386 N.J. Super. 246, 251 (App. Div. 2005) (quoting 24 C.F.R. § 982.552 (c)(ii)).

"Courts normally will not decide issues when a controversy no longer exists, and the disputed issues have become moot." Betancourt v. Trinitas Hosp., 415 N.J. Super. 301, 311 (App. Div. 2010). An issue is considered moot "when the decision

sought in a matter, when rendered, can have no practical effect on the existing controversy." Greenfield v. N.J. Dep't of Corr., 382 N.J. Super. 254, 257-58 (App. Div. 2006) (quoting N.Y. Susquehanna & W. Ry. Corp. v. N.J. Dep't of Treasury, Div. of Taxation, 6 N.J. Tax 575, 582 (Tax Ct. 1984), aff'd, 204 N.J. Super. 630 (App. Div. 1985)). "Ordinarily, where a tenant no longer resides in the property, an appeal challenging the propriety of an eviction is moot." Sudersan, supra, 386 N.J. Super. at 251. Yet, when the eviction carries with it "residual legal consequences potentially adverse to defendant," such as the revocation of the tenant's federal subsidy, courts have declined to dismiss an appeal as moot. Ibid. Since the July 7, 2015 judgment of possession had residual legal consequences, specifically, defendant's loss of federal housing assistance, the matter is not moot.

II.

We do not agree, however, that the judgment of possession should be vacated because of insufficient findings of fact, or because the trial judge did not grant the tenant sufficient time to satisfy the judgment. The burden of proof is on a landlord to show good cause for eviction. N.J.S.A. 2A:18-61.1; Sudersan, supra, 386 N.J. Super. at 251. Good cause includes failure to pay rent. See N.J.S.A. 2A:18-61.1(a).

In this case, our review of the record makes clear that Love was on notice not only that the rent on her home would be increased, but that the amount of the monthly rent on the unit made her ineligible for continued Section 8 subsidies, and that to preserve her eligibility she would have to relocate. She was also advised that an eviction would result in termination from eligibility from the program.


Since she neither relocated nor paid the five months of back rent in full, the trial court's award of judgment to Barol met the requirements of the eviction statute. During the course of the trial on the second complaint for possession, Love insisted that she had paid her portion of rent into the court during the course of the first proceedings. Although that may have been true, that was only a small fraction of the total amount owed. Her failure to pay the full rent was a proper basis for removal.

We do not address any alleged impropriety in Love's termination from the Section 8 program. The documents related to that claim were not part of the record on appeal. Additionally, the issue was not raised before the trial judge. See N.J. Div. of Youth & Family Servs. v. M.C. III, 201 N.J. 328, 339 (2010) (stating that "issues not raised below will ordinarily not be considered on appeal unless they are jurisdictional in nature or substantially implicate the public interest").

Finally, the judge's analysis satisfies the rule requirements regarding findings of fact and conclusions of law. See R. 1:7-4(a). An action for eviction on the basis of non-payment of rent is not a complex proceeding. The judge held that the rent had not been paid in full since March, and that Love had been noticed that the obligation was hers because she did not meet the guidelines. That sufficed, and the judgment of possession properly issued.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION