

IN THE COURT OF APPEALS OF IOWA

No. 9-609 / 09-0317
Filed August 19, 2009

SABRINA KELLER,
Plaintiff-Appellant,

vs.

IOWA CITY HOUSING AUTHORITY,
Defendant-Appellee.

Appeal from the Iowa District Court for Johnson County, Douglas S. Russell, Judge.

Recipient of housing assistance appeals a decision of the district court denying her petition for writ of certiorari and upholding termination of her housing assistance. **AFFIRMED.**

Elizabeth A. Norris of Iowa Legal Aid, Iowa City, for appellant.

Susan Delek, Assistant City Attorney, Iowa City, for appellee.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

EISENHAUER, J.

Sabrina Keller appeals a decision of the district court denying her petition for a writ of certiorari and upholding the decision of the Iowa City Housing Authority (ICHA) to terminate her rental assistance under the Housing Choice Voucher Program. We affirm.

I. Background Facts and Proceedings.

On December 10, 2007, ICHA notified Keller her rental assistance would be terminated because she had allowed Larry Watson Sr. to reside with her without first obtaining written approval from her landlord and ICHA. ICHA needs to know who is residing in subsidized housing in order to determine program eligibility and income. The amount of the subsidy depends on the income of the residents. Keller appealed the termination decision and an administrative hearing was held on January 15, 2008. The hearing officer upheld the termination.

In February 2008, Keller filed a petition for writ of certiorari claiming the ICHA acted illegally and abused its discretion because it did not consider the effect of denial of assistance on her children and because its termination decision is not supported by substantial evidence. In January 2009, the district court ruled the ICHA did not act illegally in terminating Keller's rental assistance and annulled the writ of certiorari.

Keller appeals and argues the district court erred in ruling: (1) substantial evidence supports the administrative agency's voucher termination decision; and (2) the agency did not abuse its discretion.

II. Standard of Review.

Certiorari actions are proper when an inferior board/tribunal, exercising judicial functions, acts illegally. Iowa R. Civ. P. 1.1401. An illegality is established if the decision of the board/tribunal is not supported by substantial evidence. Iowa R. Civ. P. 1.1410. See *City of Cedar Rapids v. Mun. Fire & Police Ret. System*, 526 N.W.2d 284, 287 (Iowa 1995).

Our review of a district court certiorari ruling is at law. Iowa R. App. P. 6.907 (2009). We are bound by the findings of the district court if they are supported by substantial evidence in the record. *Perkins v. Bd. of Supervisors*, 636 N.W.2d 58, 64 (Iowa 2001). Evidence is substantial when “a reasonable mind would accept it as adequate to reach a conclusion.” *Id.* (citation omitted).

III. Substantial Evidence.

After reviewing the record, we conclude the district court’s findings are supported by substantial evidence. While there is conflicting evidence, we note “evidence is still substantial even though it would have supported contrary inferences.” *City of Cedar Rapids*, 526 N.W.2d at 287. We adopt the district court’s well-reasoned discussion:

The court concludes there is substantial evidence in the record to support [ICHA’s] decision that [Keller] allowed Larry Watson Sr. to reside at 16 Coneflower Court without [Keller] having obtained permission from [ICHA] to have another individual reside at the residence. [ICHA’s] decision is supported by the fact that [Keller] provided [ICHA] with conflicting testimony regarding where Larry Watson Sr. lived and the dates he lived at certain addresses, and that Larry Watson Sr. provided 16 Coneflower Court as his address to certain governmental entities. While some of this evidence undoubtedly was hearsay evidence, the fact that Larry Watson Sr. made statements regarding his address to governmental entities lends a level of trustworthiness and credibility to the statements that

may not have been provided simply through the testimony of [Keller] and other witnesses. There is an element of reliability in the hearsay evidence due to the fact that some of the statements were made to the Internal Revenue Service and the Iowa City Police Department, entities that recorded Larry Watson Sr.'s address as being 16 Coneflower Court. The conflicting testimony provided by [Keller] also provided a basis for the hearing officer to determine that [Keller's] testimony regarding where Larry Watson Sr. lived was not credible, regardless of whether the hearing officer specifically set forth any credibility determinations. In short, due to the substantial evidence that supports the hearing officer's decision, this Court will not substitute its judgment for that of the agency, even where the Court might draw different inferences from the facts presented to the hearing officer.

IV. Consideration of the Effects of Termination.

Keller also argues the district court erred in not finding ICHA and the hearing officer "abused discretion by not considering the effects of the termination on [Keller] and her children." We disagree. The relevant regulation provides the agency hearing officer "may" consider the effects of termination on other family members. See 24 C.F.R. § 982.552(c)(2)(i) (2008). Therefore, substantial evidence supports the district court's ruling:

While the hearing officer could have considered such effects, the hearing officer was not required to do so, and there were other relevant circumstances to support the hearing officer's decision, such as the fact that [Keller] provided inconsistent testimony regarding Larry Watson Sr.'s living arrangements, and that Larry Watson Sr. had provided 16 Coneflower Court as his address.

Accordingly, we affirm the district court's denial of Keller's petition for writ of certiorari.

AFFIRMED.