

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Elderly Rental Assistance

JOE LONG,)
)
 Plaintiff,) No. 020081F
)
 v.)
)
 DEPARTMENT OF REVENUE,)
 STATE OF OREGON,)
)
 Defendant.) **DECISION AND JUDGMENT**

Plaintiff appeals the Defendant's Notice of Refund Adjustment for the 2000 tax year. The Plaintiff timely applied for elderly rental assistance. See ORS 310.630 to ORS 310.706. The Plaintiff lives at the Pearl Court Apartments, a property whose landlord is the Housing Authority of Portland. The property is exempt from property taxes. The Defendant denied the elderly rental assistance refund because the property is exempt from property taxes.

In determining who is eligible for elderly rental assistance, ORS 310.635(1)¹ states that "[a] taxpayer who is eligible for elderly rental assistance shall be granted the rental assistance[.]" The definitions used in the elderly rental assistance program are

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contained in ORS 310.630. For purposes of the elderly rental assistance program, a

¹All references to the Oregon Revised Statutes are to 1999.

"taxpayer" is defined as:

" * * * an individual who is a resident of this state on December 31 of the year for which elderly rental assistance is claimed and **whose homestead**, as of the same December 31 and during all or a portion of the year ending on the same December 31, is rented and while rented **is the subject**, directly or indirectly, **of property tax levied by this state or a political subdivision** or of payments made in lieu of taxes." ORS 310.630(10) (emphasis added).

Paraphrasing the statute cited above, in order to be considered a taxpayer, the taxpayer/renter's home must be the subject of property tax which is levied by the state or one of its political subdivisions. Further evidence of this requirement is found in the definition of homestead. Homestead is defined as "the **taxable principal dwelling** located in Oregon, either real or personal property, rented by the taxpayer, and the taxable land area of the tax lot upon which it is built." ORS 310.630(4) (emphasis added).

Pursuant to the statutes cited above, the Plaintiff is not a taxpayer for purposes of elderly rental assistance. Nor does he reside in a homestead within the meaning of the statute. Now, therefore,

IT IS HEREBY ADJUDGED AND DECREED that the Plaintiff's appeal is denied.

Dated this ____ day of May, 2002.

SALLY L. KIMSEY
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON MAY 31, 2002. THE COURT FILED THIS DOCUMENT ON MAY 31, 2002.