

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

EBRAHIM YAZDI,)	
)	
Plaintiff,)	TC-MD 040053A
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION and JUDGMENT

Ebrahim Yazdi appeals the Defendant’s denial of a payment under Oregon’s Elderly Rental Assistance program for 2002. Ebrahim Yazdi (Yazdi) was represented by the Senior Law Program of the Lane County Law and Advocacy Center. The Defendant participated through Nancy Grigorieff, of its staff.

I. STATEMENT OF FACTS

Yazdi was a respected university professor in Iran for 21 years. With that nation’s change in regime he came to America, leaving all that he had behind. Now an American citizen, he has few resources. He is disabled and has no income beyond the \$778 he receives from Social Security each month.

From 1992 through December 16, 2002, Yazdi lived in an apartment at 1715 Mill Street in Eugene, Oregon. During that time rents increased. Yazdi’s income was not able to cope with the demands. Threatened with eviction, Yazdi applied for Section 8 housing, first in Eugene on June 21, 2001, and later in Oji, California.

In December 2002, Oji Housing Authority told Yazdi that they had an opening for him. At that time, there was no Section 8 housing available in Eugene, and it was unknown when any might become available. Concluding he would lose his opportunity to secure subsidized housing

if he did not move to Oji, and impelled by his landlord's threats about eviction, Yazdi decided to move to Oji until such time as Section 8 housing in Eugene became available. Yazdi explained those facts to his caseworker in Eugene and asked about his Elderly Rental Assistance payment. He was told everything would be taken care of.

Yazdi left Eugene on December 16, 2002, for Oji. His intention was then, and is now, to return to Eugene when Section 8 housing becomes available. He is in touch with Eugene rental agencies, is on Eugene mailing lists, and retained Oregon identification through April 2003.

II. ANALYSIS

Yazdi is a sympathetic figure. He is an older man, disabled, with few financial resources, in a nation far removed from the country where he enjoyed the earlier years of his life. The payment he seeks is a relatively small amount, yet would mean much to him. There is a natural inclination to grant the payment.

However, inclinations must be tempered by the law, and the law is clear. ORS 310.630(11)¹ unequivocally declares that a taxpayer must be a resident of this state on December 31 in order to receive the payment. That requirement is made even more explicit in OAR 150-310.630(5). That administrative rule sets out that in order to receive the payment the individual's principal dwelling must be located in Oregon on December 31.

The court cannot say those requirements are unreasonable, or unconstitutional. When applied to the facts of this case, the conclusion reached is that Yazdi would not have been able to receive subsidized housing in California on December 31, 2002, if the Oji address had not been his principal residence. While Mr. Yazdi wishes to return to Oregon, his intention is less telling in this case than where he spent his time, on a day-to-day basis, on December 31.

¹All references to the Oregon Revised Statutes (ORS) are to 2001.

A last point is that Mr. Yazdi had been told by his caseworker that his Elderly Rental Assistance payment would be taken care of. That statement, while unfortunate, does not carry weight in this appeal. It was not made by representatives of Defendant. It cannot be held to estop the agency.

CONCLUSION

Now, therefore;

IT IS HEREBY ADJUDGED that this appeal is denied.

Dated this ____ day of September 2004.

SCOT A. SIDERAS
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT SIDERAS ON SEPTEMBER 8, 2004. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 8, 2004.

THIS DOCUMENT IS FINAL AND MAY NOT BE APPEALED. ORS 305.514.