

§ 1944.554

violation of the lease terms or for other good cause as determined by the borrower or the project manager in accordance with paragraph XIV A of exhibit B of subpart C of part 1930. The borrower shall not evict any tenant except by judicial action pursuant to State or local law and in accordance with the requirements of this subpart.

(g) *Disputes between tenants.* This subpart does not apply to disputes between tenants not involving the borrower.

(h) *Displacement or other effects as a result of prepayment.* This subpart does not apply to tenant displacement or other effects due to prepayment of the FmHA or its successor agency under Public Law 103-354 loan. Opportunities for tenant input into the prepayment process are outlined in subpart E of part 1965 of this chapter.

[48 FR 56177, Dec. 19, 1983, as amended at 56 FR 2256, Jan. 22, 1991; 58 FR 38925, July 21, 1993; 58 FR 40954, July 30, 1993]

§ 1944.554 Reasons for grievance and appeal.

(a) *Tenants.* Grievance and appeal procedures provide a means for a tenant, in an FmHA or its successor agency under Public Law 103-354 financed rental project, to meet with a borrower and to obtain a hearing if the tenant has a grievance. This opportunity relates to a borrower's action or failure to act, in accordance with the lease and/or FmHA or its successor agency under Public Law 103-354 regulations and results in a denial, significant reduction or, termination of benefits; or, when a tenant contests a borrower's notice of proposed adverse action as provided in § 1944.555(b) of this subpart. This may include:

(1) Failure to maintain the premises in such manner that provides decent, safe, and sanitary housing.

(2) Violation of lease covenants and rules.

(3) Modification of lease.

(4) Rule changes.

(5) Rent changes not authorized by FmHA or its successor agency under Public Law 103-354 according to exhibit C of subpart C of part 1930 of this chapter.

(6) Failure to maintain the premises according to State and local laws, statutes, or ordinances in effect at the date

7 CFR Ch. XVIII (1-1-05 Edition)

of final construction unless new or amended laws and ordinances are made retroactive to, or prior to, the date of final construction.

(7) Denials of RA.

(b) *Applicant.* Grievance and appeal procedure provides an appeal right for a person whose application for admission to occupancy in an RRH or LH project has been rejected, as well as for a person who has been denied an application for admission. This appeal right does not apply to those persons who are clearly not eligible for occupancy under FmHA or its successor agency under Public Law 103-354 regulations.

[48 FR 56177, Dec. 19, 1983, as amended at 50 FR 8596, Mar. 4, 1985; 58 FR 40954, July 30, 1993]

§ 1944.555 Settlement of grievances and appeals.

(a) *General.* Borrowers and applicants/tenants are encouraged to attempt to settle disputes through informal meetings without resorting to the hearing process further described in this subpart.

(b) *Notice to applicant/tenant.* In the case of a borrower's proposed adverse action including denial of admission to occupancy, the borrower shall notify the applicant/tenant in writing. The notice must be delivered by certified mail return receipt requested, or a hand-delivered letter with a signed and dated acknowledgement of receipt from the applicant/tenant, giving specific reasons for the proposed action. The notice must also advise the applicant or tenant of the right to respond to the notice within 10 calendar days after receipt, in accordance with paragraph (c) of this section and of the right to a hearing in accordance with § 1944.556 of the subpart. In projects where there is a concentration of non-English speaking individuals, the notice must also be in the non-English concentration language, when necessary, for the tenant's understanding.

(c) *Presentation of grievances or responses to notice of proposed adverse actions.* If the adverse action cannot be resolved otherwise, the applicant/tenant shall personally present to the borrower or borrower's designee any grievance or response, either orally or in writing, within 10 calendar days after

occurrence of the grievance or receipt of a notice of proposed adverse action. If requested, the borrower shall meet with the tenant within 5 working days of the request in an attempt to resolve the grievance. The meeting shall be informal and the borrower shall be responsible for keeping appropriate notes relative to the meeting. If the grievance is not resolved to the applicant's/tenant's satisfaction, the borrower shall prepare a summary of the problem, including the borrower's position, the applicant's/tenant's position, and the results of the meeting (Exhibit A of this subpart must be used as the format for the summary) within 10 calendar days after the informal meeting. Two copies of the summary must be given to the applicant/tenant, one retained in the borrower's files and one sent to the District Director.

§ 1944.556 Procedure for obtaining a hearing.

(a) *Request for hearing.* If the applicant or tenant desires a hearing, a written request for a hearing must be submitted to the borrower within 10 calendar days after receipt of the summary of any informal meeting. The written request must specify:

(1) The reasons for the grievance or contest of the borrower's proposed action, and

(2) The action or relief sought.

(b) *Selection of hearing officer or hearing panel.* In order to properly evaluate grievances and appeals, the borrower and tenant shall select a hearing officer or hearing panel. The hearing officer shall be an impartial, disinterested person selected jointly by the borrower and the tenant. If the borrower and the tenant cannot agree on a hearing officer, they shall each appoint a member to a hearing panel and the members so selected shall select a third member. If within 30 days from the date of the request for a hearing the tenant and borrower, or their designee, have not agreed upon the selection of a hearing officer or hearing panel, the borrower shall notify the District Director by mail of the facts of the matter. The District Director shall, within 10 working days of receipt of the letter, appoint a person to serve as the sole hearing officer. The District Director's

selection of a hearing officer is final. The person selected by the District Director should not be an individual previously considered by the tenant or borrower. Members of the hearing panel or the hearing officer must be willing to render their service without compensation. The hearing officer or hearing panel has the authority to reverse the borrower's decision.

(c) *Standing hearing panel.* In lieu of the procedure set forth in paragraph (b) of this section for each grievance or appeal presented, a borrower may provide that a standing panel be organized for each project. Such a panel may be organized soon after initial rent-up or at any time in the case of existing projects. Such a panel will be selected and have a membership as follows:

(1) Standing panelist(s) of the tenants would be elected by a majority of the tenants. Either two alternates could be elected or three panelists of the tenants could be elected with equal status. The tenant, in this latter case, would designate one of the three tenant panelists to participate in the hearing. All tenants would be notified of the time, date, and purpose of the meeting to elect permanent hearing panelists at least two weeks before the appointed date. The notice must be conspicuously posted in the rental office and in each apartment building or structure. The meeting must be held at a place which is convenient and accessible to the tenants.

(2) Standing borrower panelist(s) selected by the borrower. One or two alternates may also be designated.

(3) A standing mutual panelist, to serve as the chair, selected by the other two persons or groups, including alternates, in which case each "group" gets one vote.

(4) All standing hearing panel members serve one year and may be re-elected. They must be willing to render their services without compensation.

(5) A panel for a hearing shall consist of 3 members, one tenant panelist, one borrower panelist and the chair.

(d) *Examination of records.* When the borrower has provided the applicant/tenant with a notice of proposed adverse action, the borrower shall allow the tenant to have the opportunity, at a reasonable time before the hearing