

In the United States Court of Federal Claims

REBECCA SHAFFER,

Plaintiff,

v.

UNITED STATES OF AMERICA,

25-15 L

Defendant.

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COMPLAINT

Rebecca Shaffer, by and through her undersigned counsel, brings this complaint against the government of the United States, and in support states as follows:

1. Ms. Shaffer owns a single-family home in Pittsburg, Pennsylvania that she leases as a residence.
2. On August 1, 2019, Ms. Shaffer leased the residence to a new tenant, Michelle Brown (herein after referred to as "Tenant").
3. Tenant paid rent and otherwise complied with the terms of the lease until July 2020 when she missed her monthly rent payment.
4. Tenant failed to pay rent in July, August, and September 2020 and Ms. Shaffer was forced to file an action to evict her.
5. On September 11, 2020, Ms. Shaffer filed an action for eviction in the Magisterial District Court of the Commonwealth of Pennsylvania.
6. On September 25, 2020, Ms. Shaffer received an email from the Tenant with a "Declaration for the Centers for Disease Control and Prevention's Temporary Halt in Evictions to Prevent Further Spread of COVID-19" attached to the email which had been executed by the tenant.

7. On September 28, 2020, Ms. Shaffer completed an “Affidavit of Center [sic] of Disease Control and Prevention Declaration” provided to her by the court clerk which stated: “I, Rebecca Shaffer, do hereby affirm that I, the landlord for the property at issue have received a CDC Declaration form from the tenant for the property at issue.”
8. Tenant then utilized the Centers for Disease Control and Prevention (“CDC”) “Temporary Halt in Residential Evictions to Prevent Further Spread of COVID-19” (the “Eviction Moratorium”) to delay eviction for the months of September, October, November, December, January, February, March, April, May, and most of June with a judgment for the Plaintiff finally being issued by the court on June 29, 2021.
 - I. **Ms. Shaffer does not challenge the authority of the CDC to issue an eviction moratorium.**
9. The CDC’s Eviction Moratorium, noted the “historic threat to public health” presented by the COVID-19 pandemic and explained the CDC’s view that the eviction moratorium was “an effective public health measure utilized to prevent the spread of communicable disease.” 85 Fed. Reg. 55292, 55292 (Sept. 4, 2020).
10. Ms. Shaffer does not challenge the CDC’s reasoning or the authority of the CDC to issue an eviction moratorium during a global pandemic.
11. The Eviction Moratorium ordered “a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property ... during the effective period of this Order.” *Id.* at 55293.

12. The CDC Eviction Moratorium protected from eviction “any tenant, lessee, or resident of a residential property who provides to their landlord ... a declaration under penalty of perjury indicating that ... used best efforts to obtain all available government assistance for rent or housing ... expects to earn no more than \$99,000 in annual income for Calendar Year 2020 ... is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary out-of-pocket medical expenses ... is using best efforts to make timely partial payments that are as close to the full payment as the individual’s circumstances may permit ... eviction would likely render the individual homeless ... or force the individual to move into and live in close quarters in a new congregate or shared living setting...” *Id.*

13. On September 25, 2020, Tenant provided Ms. Shaffer with and filed paperwork with the Magisterial District Court swearing that the above circumstances applied to her.

14. The CDC Eviction Moratorium imposed harsh penalties for violations stating that “a person violating this Order may be subject to a fine of no more than \$100,000 if the violation does not result in a death or one year in jail, or both, or a fine of no more than \$250,000 if the violation results in a death or one year in jail, or both, or as otherwise provided by law” and that “[a]n organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law.” *Id.* at 55296.

15. The Eviction Moratorium stated that in response to any violation the United States Department of Justice would “initiate criminal proceedings as appropriate seeking imposition of these criminal penalties.” *Id.*

16. In addition, the Eviction Moratorium specified that it “shall be enforced by Federal authorities and cooperating State and local authorities through the provisions of 18 U.S.C. §§ 3559, 3571; 42 U.S.C. §§ 243, 268, 271; and 42 C.F.R. § 70.18.” *Id.* at 55296.

II. The CDC Eviction Moratorium was a physical taking of Ms. Shaffer’s property by the federal government without compensation.

17. The September 4, 2020, CDC Eviction Moratorium barred property owners from evicting tenants of residential rental properties who were delinquent or in default on their rent payments.

18. The CDC Eviction Moratorium contained no provision for compensating property owners for the losses they suffered because of their inability to evict tenants failing to pay rent and relet the property to paying tenants.

19. As the owner of a single-family home rented to a nonpaying tenant, Ms. Shaffer was prohibited by the CDC Eviction Moratorium from evicting Tenant.

20. The Takings Clause of the Fifth Amendment to the United States Constitution states “nor shall private property be taken for public use, without just compensation.”

21. Contrary to the Fifth Amendment of the United States Constitution, the federal government has failed to compensate Ms. Shaffer for the physical loss of control of her property which eliminated her right to exclude.

22.As a result of the physical taking of Ms. Shaffer’s property by the federal government in contravention of the Fifth Amendment to the United States Constitution, Ms. Shaffer is entitled to recover her damages.

III. The Court of Federal Claims has jurisdiction over this matter pursuant to the Tucker Act.

23.The Court of Federal Claims has subject matter jurisdiction over this action and venue is proper pursuant to the Tucker Act, 28 U.S.C. § 1491.

24.As a direct and proximate result of the CDC Eviction Moratorium and the consequent physical taking of her property without just compensation, Ms. Shaffer has suffered damages in excess of \$10,000.

**COUNT I
FEDERAL TAKING WITHOUT JUST COMPENSATION**

25.Ms. Shaffer realleges and incorporates the allegations in paragraphs 1 to 24 as though fully set forth herein.

26.The Takings Clause of the Fifth Amendment to the United States Constitution prohibits “private property be taken for public use, without just compensation”

27.The Fifth Amendment requires just compensation for physical takings, whether permanent or temporary.

28.The CDC Eviction Moratorium constituted a physical taking of Ms. Shaffer’s private property for public use without just compensation, in violation of the Fifth Amendment.

29.As a result of the federal government’s actions, Ms. Shaffer has proximately suffered harm, injury, and damages, and is entitled to full and just compensation for the federal government’s taking of her property.

COUNT II
ILLEGAL EXACTION BY THE FEDERAL GOVERNMENT

30. Ms. Shaffer realleges and incorporates the allegations in paragraphs 1 to 24 as though fully set forth herein.

31. In the alternative to Count I, if the Court finds that the Eviction Moratorium was not a taking as the CDC exceeded its authority, the CDC Eviction Moratorium constituted an illegal exaction.

32. As a direct result of the CDC's Eviction Moratorium, the federal government has exacted Ms. Shaffer's private property, enriched the federal government at her expense, had a direct and substantial impact on Ms. Shaffer and the exaction occurred as a direct result of the government action.

33. Ms. Shaffer is thus entitled to recover for the federal government's exaction of her property.

34. As a result of the federal government's actions, Ms. Shaffer has proximately suffered harm, injury, and damages, and is entitled to full and just compensation for the federal government's exaction of her property.

WHEREFORE, Ms. Shaffer prays that the Court issue judgment in her favor and award her:

- A. Full and just compensation from the federal government for the taking, or in the alternative the illegal exaction, of her property including without limitation the amount of rental income she would have received in the absence of the CDC Eviction Moratorium;
- B. Damages to her property from the delay in evicting Tenant;
- C. Pre-judgment and post-judgment interest;

D. Attorneys' fees and costs; and

E. Any further relief as the Court deems proper and just.

Dated: January 6, 2025

/s/ Altom Maglio
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