

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT

WAYNE COUNTY, ILLINOIS

WAYNE COUNTY HOUSING AUTHORITY,

Plaintiff,

v.

██████████ AND ANY UNKNOWN OCCUPANTS,

Defendants.

Case No. ██████████

DEFENDANT ██████████ MOTION TO DISMISS THE CLAIM FOR
POSSESSION AND REQUEST FOR WILLFUL-HOLDOVER DAMAGES UNDER 735 ILCS
5/2-619(a)(9)

Defendant ██████████ appearing pro se and solely on his own behalf, moves to dismiss as premature Plaintiff's claim for possession and request for willful-holdover damages based on its August 24, 2026 termination notice. Defendant states:

I. BASIS OF THE MOTION

1. Plaintiff alleges that Defendant's lease terminated, that Defendant unlawfully withholds possession, and that Plaintiff is presently entitled to possession. Complaint ¶¶ 4–5.
2. Defendant presents affirmative matter defeating the legal effect of the asserted termination: he timely requested grievance review, Plaintiff did not complete the required process, and its termination notice did not contain the statements required to invoke a permitted exclusion.
3. Under 24 C.F.R. § 966.4(l)(3)(iv), when a grievance hearing is required and timely requested, the tenancy shall not terminate until the grievance process has been completed, even if the state notice-to-vacate period has expired.
4. Section 2-619(a)(9) permits dismissal when affirmative matter avoids the legal effect of or defeats a claim. Defendant supports facts outside the complaint through his accompanying Certified Statement, the Certified Statement of ██████████ and the identified exhibits. See 735 ILCS 5/2-619(a); Illinois Supreme Court Rule 191(a).
5. For purposes of this motion, Defendant does not ask the Court to resolve the underlying conduct allegations. The issue is whether Plaintiff could assert a completed termination without completing the required grievance process or properly invoking an exclusion.

II. THE GRIEVANCE PROCEDURE IS PART OF THE LEASE PLAINTIFF SEEKS TO ENFORCE

6. Plaintiff alleges that it leased the apartment to Defendant and incorporates the lease as Exhibit 1 to its complaint. Complaint ¶ 2.
7. Paragraph 15 of that lease provides that grievances arising under the lease shall be processed and resolved pursuant to Management's grievance procedure and expressly incorporates that procedure by reference. Plaintiff's Exhibit 1, paragraph 15.
8. Paragraph 19 further provides that grievance procedures constitute part of the lease. Paragraph 14(c) recognizes the tenant's right to request a hearing under Management's grievance procedure. Plaintiff's Exhibit 1, paragraphs 14(c) and 19.
9. Federal regulation independently requires the grievance procedure to be included in, or incorporated by reference into, tenant dwelling leases. 24 C.F.R. § 966.52(b). The lease must also provide for covered disputes to be resolved through the grievance procedure. 24 C.F.R. § 966.4(n)(1).
10. Although paragraph 15 prints "866," Defendant submits that this is a clerical error referring to the public-housing grievance regulations in Part 966. Regardless of that numerical error, the paragraph expressly incorporates Management's grievance procedure.
11. Defendant therefore relies on both the governing federal requirements and the grievance obligations incorporated into the lease Plaintiff invokes as the basis for possession.

III. FOUR TERMINATION NOTICES AND FOUR REQUESTS FOR REVIEW

12. Plaintiff issued four successive termination notices. Defendant requested grievance review through written requests dated:

Termination notice	Grievance request
April 16, 2026	April 19, 2026
July 8, 2026	July 26, 2026
July 27, 2026	August 5, 2026
August 24, 2026	September 2, 2026

13. As described in Defendant's Certified Statement, Plaintiff provided no grievance hearing resolving those requests before service of this lawsuit.
14. The earlier requests establish the background of Defendant's repeated efforts to obtain review. This motion principally concerns the September 2 grievance challenging the August 24 notice on which Plaintiff's complaint expressly relies. Complaint ¶ 3.

IV. DEFENDANT PRESENTED THE SEPTEMBER 2 GRIEVANCE AT PLAINTIFF'S CENTRAL OFFICE

15. The August 24 notice expressly states: “You have a right to request a hearing in accordance with the WCHA Grievance Policy.” It directs that the request be made no later than ten days after receipt. Exhibit A, page 2.
16. Defendant exercised that right through his September 2 written grievance request. Exhibit B.
17. On September 2, Defendant personally carried that request to Plaintiff’s central office at 303 North First Street, Fairfield, Illinois, and deposited it in the office drop box. Defendant’s Certified Statement; Exhibits C–D.
18. The contemporaneous message exchange identifies the September 2 packet, the planned delivery, and Defendant’s subsequent confirmation accompanied by the delivery video. Exhibits C–D; [REDACTED] Certified Statement, Exhibit F.
19. Section III of Plaintiff’s Grievance Procedure requires personal presentation of a grievance, orally or in writing, at the central office or development management office. Exhibit E, page 2.
20. That provision does not expressly require placing a written request into an employee’s hands. Defendant personally brought his request to the specified office and deposited it in the office drop box.
21. Defendant contends that this delivery satisfied Plaintiff’s presentation requirement. Failure to retrieve or process a properly deposited request would not establish that Defendant failed to present it.
22. The September 2 request was within the ten-day period stated in the August 24 notice.

V. PLAINTIFF DID NOT COMPLETE THE REQUESTED PROCESS

23. Section III of Plaintiff’s procedure requires written notification with reasons if a grievance is excluded. If no exclusion applies, it requires contact within ten working days to arrange informal settlement and a subsequent written summary explaining the disposition and formal-hearing procedure. Exhibit E, page 2.
24. According to the accompanying certified statements, Plaintiff provided no response resolving the September 2 request, informal-settlement conference or summary, grievance hearing or decision, or written exclusion determination before Defendant was served with this lawsuit.
25. Federal law requires grievance procedures providing an opportunity for an impartial hearing upon timely request, subject to specified exclusions. 42 U.S.C. § 1437d(k); 24 C.F.R. §§ 966.51(a), 966.52(a).
26. Because the applicable process remained incomplete, § 966.4(l)(3)(iv) prevented termination. The expiration of thirty days after the notice did not substitute for completion of that process.

VI. THE TERMINATION NOTICE DID NOT PROPERLY INVOKE AN EXCLUSION

27. Defendant acknowledges that 24 C.F.R. § 966.51(a)(2) permits defined exclusions when its conditions are satisfied.

28. When a public housing agency elects to exclude a termination grievance, § 966.4(1)(3)(v) requires the termination notice to:

- a. State that the tenant is not entitled to a grievance hearing on the termination;
- b. Specify the judicial eviction procedure and state that HUD has determined that procedure provides a court hearing containing the basic elements of due process; and
- c. Identify the criminal-activity category as required by subsection (C).

29. Exhibit A does not state that Defendant's termination grievance is excluded or that he is not entitled to a hearing on that termination. It expressly offers grievance rights.

30. Its general statement that Plaintiff "may exclude" certain grievances does not communicate an actual exclusion of Defendant's grievance.

31. The notice also does not specify the judicial eviction procedure and HUD determination required by subsection (B). Its general reference to judicial action and presenting a defense in court does not supply that information.

32. Allegations of criminal activity do not eliminate these express notice requirements. Plaintiff cannot establish a compliant exclusion merely by pointing to the allegations underlying termination.

33. Plaintiff's own incorporated procedure additionally required written notification with reasons if it excluded Defendant's grievance. The accompanying certified statements establish that Defendant and his designated representative received no such determination.

34. Defendant therefore contends that Plaintiff lacked a completed termination supporting its asserted present right to possession when it commenced this action.

VII. THE ASSERTED TERMINATION ALSO DOES NOT SUPPORT WILLFUL-HOLDOVER DAMAGES

35. Plaintiff requests willful-holdover damages under 735 ILCS 5/9-202.

36. That statute requires willfully holding over after expiration of the tenancy and written demand for possession.

37. Because Defendant's tenancy remained subject to the uncompleted, required grievance process, Plaintiff has not established the expired tenancy necessary for enhanced holdover damages based on the August 24 notice.

38. Defendant expressly denies willfully holding over after expiration of his tenancy.

39. Defendant does not contend that legitimate ordinary rent obligations disappeared. He reserves his defenses concerning any separately recoverable rent, disputed charges, payments, credits, attorney fees, and costs.

REQUEST FOR RELIEF

Defendant respectfully requests that the Court:

- A. Dismiss as premature Plaintiff's claim for possession based on the August 24, 2026 termination notice;
- B. Dismiss the request for willful-holdover damages premised on that asserted termination;
- C. Decline to award attorney fees or costs predicated solely on the dismissed claims;
- D. If the Court declines dismissal or any claim remains, establish a reasonable deadline for Defendant to answer or otherwise respond and preserve his ability to present the grievance defense; and
- E. Grant other appropriate relief.

Respectfully submitted,

Signature: /s/ [REDACTED]

[REDACTED] Defendant pro se

Date: 10/19/2026

303 North First Street, Apartment [REDACTED]
Fairfield, Illinois 62837

SUPPORTING MATERIALS

Certified Statement of [REDACTED]

Exhibit A — August 24, 2026 Termination Notice

Exhibit B — September 2, 2026 Grievance Request

Exhibit C — September 2, 2026 Text-Message Exchange

Exhibit D — September 2, 2026 Video of Grievance Delivery to WCHA Central-Office Drop Box, submitted as directed by the Court

Exhibit E — WCHA Grievance Procedure, complete four-page document

Exhibit F — Certified Statement of [REDACTED]

LEASE REFERENCE

Plaintiff's Complaint, Exhibit 1 — Lease, particularly paragraphs 14(c), 15, and 19.