(No. 79 CC 1.—Complaint dismissed.)

In re ASSOCIATE JUDGE EUGENE R. WARD of the Circuit Court of Cook County, Respondent.

Order entered July 10, 1980.—Motion for reconsideration denied August 26, 1980.

SYLLABUS

On March 27, 1979, the Judicial Inquiry Board filed a multi-paragraph complaint with the Courts Commission, charging the respondent with conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute. In summary form, the allegations were that during November and December of 1976, and March and September of 1977, the respondent presided in cases or over court calls in which the following occurred: the

respondent directed and permitted the court clerk to conduct the court call and enter dispositive orders, in violation of Supreme Court Rules 61(c)(1),(4) and (25) (Ill. Rev. Stat., ch. 110A, pars. 61(c)(1),(4) and (25)); in nearly 100 cases the respondent arbitrarily acted contrary to determined law by failing and refusing to consider relevant evidence in deciding the cases before him, in violation of Supreme Court Rules 61(c)(1),(4) and (5) (Ill. Rev. Stat., ch. 110A, pars. 61(c)(1),(4) and (5)); and the respondent made statements to litigants in 22 cases, and to a court observer and newspaper reporter to the effect that he acknowledged he employed procedures and applied substantive legal procedures in cases before him contrary to determined law, in violation of Supreme Court Rule 61(c)(4) (Ill. Rev. Stat., ch. 110A, par. 61(c)(4)).

The complaint further alleged the following also occurred during the aforementioned period: in 8 cases the respondent ruled favorably for plaintiffs where defendants were not present and where an examination of the facts and law by the respondent would not have required such rulings, in violation of Supreme Court Rules 61(c)(4) and (5) (Ill. Rev. Stat., ch. 110A, pars. 61(c)(4) and (5)); in 16 cases the respondent acted contrary to determined law by ruling favorably for plaintiffs who presented no evidence and who failed to establish *prima facie* claims, in violation of Supreme Court Rule 61(c)(5) (Ill. Rev. Stat., ch. 110A, par. 61(c)(5)); in 13 cases the respondent failed to plainly state his rulings, thereby misleading the parties as to the status of the actions, in violation of Supreme Court Rule 61(c)(4) (Ill. Rev. Stat., ch. 110A, par. 61(c)(4)); and in a single case the respondent entered judgment for plaintiff even though the parties told the judge they had settled the matter, in violation of Supreme Court Rules 61(c)(1), (4) and (5) (Ill. Rev. Stat., ch. 110A, pars. 61(c)(1), (4) and (5)).

The Judicial Inquiry Board's responses to interrogatories propounded by the respondent revealed the above-described events occurred in cases involving landlord—tenant disputes, *e.g.*, nonpayment of rent, tender of and refusal to accept rent payments, warranty of habitability defense and possession of the rented premises. The responses to interrogatories also revealed that virtually all of the allegations in the complaint were based on "data sheets" and affidavits of observers ("court-watchers") in the respondent's courtroom.

Held: Complaint dismissed.

Devoe, Shadur & Krupp, of Chicago, for Judicial Inquiry Board.

William J. Harte, Ltd., of Chicago, for respondent.

Before the COURTS COMMISSION: RYAN, J., chairman, and LORENZ, SEIDENFELD, HUNT and MURRAY, JJ., commissioners. ALL CONCUR.

ORDER

The Illinois Judicial Inquiry Board (Board) filed a Complaint with the Illinois Courts Commission (Commission) charging Eugene R. Ward (respondent), an associate judge of the circuit court of Cook County, with conduct that is prejudicial to the administration of justice, or that brings the judicial office into disrepute. The alleged misconduct pertains to the practices and procedures employed by the respondent while conducting hearings in forcible entry and detainer cases. These cases involved complaints by the landlord for possession under the Forcible Entry and Detainer Act (Ill. Rev. Stat. 1977, ch. 57, par. 1 *et seq.*), coupled in some instances with claims for rent. We need not set out the specific allegations of wrongdoing contained in the Complaint. A statement of the issues on which evidence was offered and which have been argued will suffice. The Board contends that the respondent: (1) failed to consider relevant evidence on issues crucial to the outcome of forcible entry and detainer actions; that is, notice, habitability and payment or tender of rent; (2) openly acknowledged that the procedures employed and the principles he followed were contrary to determined law; (3) ruled in favor of plaintiffs when defendants were not present and where the facts and law dictated a contrary result; (4) failed to require plaintiffs to establish *prima facie* claims; (5) failed to state plainly the nature of his rulings; and (6) on two occasions delegated judicial responsibility to court clerks.

The respondent's conduct in (1) through (5) above allegedly occurred in more than 100 cases heard by the respondent from November 1976 through March 1977.

The delegation of the judicial responsibilities to clerks allegedly occurred on September 13 and 14, 1977.

Several of the issues stated above are based on the allegations of the Complaint that the respondent acted contrary to "determined law" in violation of Supreme Court Rule 61(c)(1), (4), (5). The respondent contends, and we agree, that not every failure to follow "determined law" can be the basis for judicial discipline. In *People ex rel. Harrod v. Illinois Courts Com.* (1978), 69 Ill. 2d 445, the Supreme Court of this State held that simple abuses of judicial discretion should not be the subject of discipline. The court stated that where the law is clear on its face, a judge who repeatedly imposes punishment not provided by law is subject to discipline. *Harrod* involved an alleged violation of Rule 61(c)(18) which specifically states that a judge should not impose a sentence or discipline "without authority of law." There is no similar statement in Rule 61(c)(1), (4), or (5). However, as implied in *Harrod*, although a simple abuse of discretion should not be the subject of judicial discipline, an arbitrary or gross abuse of judicial authority would be, and would fall within the proscriptions of Rule 61(c)(1), (4) and (5). We must therefore examine the charges against the respondent and his conduct in that light, and not with a view to ascertaining whether this conduct simply violates a principle or rule of "determined law".

The respondent was assigned to Room 1502 of the Richard J. Daley Center in Chicago. This was a high-volume court in which the respondent heard 75 or more forcible entry and detainer cases in a day. In most of these cases, the tenants were not represented by attorneys. The proceedings were informal in that established court procedures and rules of evidence were not followed.

It was testified to before the Commission that some attorneys of the Legal Assistance Foundation of Chicago

were critical of the way forcible entry and detainer cases were being handled in the circuit court of Cook County. A court-watchers program was developed to monitor the court's handling of these cases. The court-watchers recruited for the program were primarily law students who were given some instructions and were provided with data sheets upon which certain categories of procedures and dispositions were listed, and upon which they were to record, by making check marks following the appropriate statement, certain information concerning the court's handling and disposition of cases. Each court-watcher later prepared summaries which, along with the data sheets, were returned to the Legal Assistance Foundation, where affidavits were prepared by staff members and later signed by the court-watchers. In preparation for the program, contact was made with the presiding judge of the appropriate division of the circuit court, who, in turn, contacted the respondent and requested him to accommodate the court-watchers program. The respondent provided a space for the court-watchers in his courtroom about six feet from the bench, approximately in the position where a court reporter would normally sit.

At the hearing before this Commission, none of the litigants involved in the more than 100 cases, upon which this Complaint is based, testified. All of the testimony concerning the misconduct in these cases came from court-watchers, who used their affidavits and data sheets to refresh their recollection, and from an attorney from the Legal Assistance Foundation who had been active in organizing and training the court-watchers.

The charges that the respondent failed to consider relevant evidence relates to evidence of notices (5-day demands for rent under Ill. Rev. Stat. 1977, ch. 80, par. 8, or 30-day notices terminating tenancy under Ill. Rev. Stat. 1977, ch. 80, par. 6), the equitable defense of warranty of habitability as announced in *Jack Spring*,

Inc. v. Little (1972), 50 Ill. 2d 351, and the payment or tender of rent. A summary of the testimony relative to each question will be sufficient for the purposes of this order. There were no court reporters assigned to the respondent's courtroom at that time, so there are no transcripts of any of the proceedings. The evidence given before this Commission is based solely on the recollections of the witnesses supported by their affidavits and data sheets.

Supporting the charge that the respondent failed to consider relevant evidence concerning the giving of notices required by the statute, court-watchers testified that in each of three named cases the defendant did not appear and the judge stated to the landlord's attorney that if the tenant had been present, he would have had to rule in favor of the tenant because the notice was defective. The witnesses did not see the notice, and they did not know in what respect it was defective.

In two other cases, the witnesses stated that although the tenants were present in court, and stated that they had not been served with a notice, the respondent, nonetheless, entered judgment for possession. In one case the court-watcher testified that the judge had said to the tenant, "Be practical about it, the landlord will only serve another notice."

The court-watchers testified that in one case, after examining the notice, the respondent told the landlord's attorney that the case had been filed too soon, since the complaint was dated 4 days after notice had been served. In this case, the landlord sought a money judgment for rent, as well as possession. The respondent struck the claim for a money judgment for rent, entered judgment for possession and stayed the writ of restitution for 38 days instead of the usual 15.

In other cases, according to the testimony, the landlord's attorney had failed to present the notice to the judge, but represented that notice had been served and

that it was in the attorney's office. The judge entered judgment for the landlord in each case without having examined the notices. The court-watchers testified that in all other cases the judge would examine the required notice and in several cases in which the notices were not proper, the judge dismissed the case even if the tenants were not present in court.

The evidence presented on behalf of the respondent with regard to notices was to the effect that the respondent always examined the notice and if it were defective, he would dismiss the case, even if the tenants had not appeared. This practice was established not only by the respondent's testimony, but also by the testimony of deputy clerks who had worked in the respondent's court and by the testimony of several attorneys who had regularly handled large numbers of forcible entry and detainer cases in the respondent's court. The respondent testified that on rare occasions, when a landlord's attorney had forgotten to bring the notice to court, but represented to the court that notice had been served, the respondent would ask the tenant if he had received notice and whether he wanted a continuance until the notice was brought into court. If the tenant did not want a continuance, the respondent stated that the court would proceed even though the notice had not been physically presented to the judge.

The evidence shows that the respondent was very concerned about housing for the tenants who were evicted. By working with the Chicago Department of Human Services, he initiated a program whereby tenants who were evicted through court proceedings could find housing. The respondent arranged to have representatives of the Department of Human Services in his courtroom. When he would enter a judgment for possession, he would refer the tenant to one of these representatives and they would confer in the judge's

chambers. The judge would allow extensions of time in which to find housing for the tenant.

The respondent is also charged with failure to consider relevant evidence concerning the *Jack Spring, Inc. v. Little* equitable defense of breach of warranty of habitability. The court-watchers testified that in several cases the tenant told the judge of various defects in the property but that the court, nonetheless, entered judgment for possession even when no contrary evidence was presented.

The respondent testified that he considered equitable defenses when they were raised by a tenant. He would listen to the tenant's complaints and in cases where he thought it justified, he would grant the tenant relief. He stated that he never told a tenant he did not have a right to a "Jack Spring" defense, or that he had to move regardless of the defense. Other witnesses who testified for the respondent stated that when the tenant would complain about the condition of the premises, the judge would ask him if he wanted to continue to live in the premises. If the tenant said no, the judge would refer him to the Department of Human Services and continue the matter or enter judgment for possession and grant a stay. In some instances, where both a judgment for rent and possession were sought, the judge would abate the claim for rent and grant judgment for possession. If the tenant would say that he wanted to stay in the premises, the respondent would ask him if he could pay the rent. If he could, the court would direct repairs to be made and continue the case. If, on the continued date, the repairs had been made and the rent had been paid, the court would dismiss the proceedings. He usually gave the tenants the choice of staying or moving, but he admonished them that if they stayed they had to pay rent.

It is also charged that in two instances evidence was

presented to the effect that the rent had been paid or tendered but that the respondent failed to consider this relevant evidence. The court-watcher witness testified that in one of these cases the tenant admitted that the rent had not been paid on time. The landlord was not in court but his counsel was present. The respondent suggested that the attorney call the landlord to ascertain the status of the case. The attorney reported back that the landlord had said he had mailed the check back to the tenant. The judge informed the tenant to try "to work something out with the landlord" and entered judgment for possession. The court-watcher witness admitted that if the rent is not tendered on time, a landlord need not accept it. In the other case concerning payment or tender of rent, the Board's evidence is in the form of past recollection recorded, being the notations of a court-watcher made while in the respondent's courtroom. It was to the effect that the tenant stated he had tendered the rent but the landlord had refused to accept it and had turned off the heat. There was no showing that the tender was timely made or that it was sufficient to defeat an action for possession based on non-payment of rent.

Considering all of the charges that the respondent failed or refused to consider relevant evidence, the Commission finds that the Board has failed to prove the allegations by clear and convincing evidence. For the most part, the evidence was given by non-attorneys who were unfamiliar with courtroom procedures, especially those necessarily employed in a high-volume court. They seized upon what they perceived to be procedural violations, which in most instances were, in reality, the effort of a concerned judge attempting, in an informal atmosphere, to alleviate the hardships of eviction, and at the same time protect the rights of the landlord in his property and the rent therefrom. Inasmuch as most of the tenants were not represented by counsel, the proceedings necessarily required a substantial involvement

by the judge and they were of necessity informal in nature. In such a proceeding the court must, through a balancing procedure, seek a practical solution to difficult and perplexing problems. The lines of demarcation between the rights of the parties are not always clearly defined and would not be easily discernible to the inexperienced eyes of the law student-court-watchers. Their testimony, tested by the process of cross-examination, disclosed nothing more than an attempt by a concerned judge to achieve an orderly disposition of a large volume of difficult cases.

The next general charge is that the respondent acknowledged that the procedures he employed and the principles he followed were contrary to determined law. A court-watcher testified that in one case a tenant represented to the judge that there were rats in the apartment as large as cats. The judge responded, according to the court-watcher, that the only relevant question was whether the rent had been paid. On cross-examination the court-watcher stated that he *believed* that is what the judge stated, and also testified that the landlord had told the judge that the tenant would not allow a repairman on the premises to make repairs. In another case, relying on notations on an exhibit which had been made by a court-watcher, the Board contends that the respondent stated, in reply to a defense of uninhabitability, "Even if the place is no good, you cannot stay there without paying rent." The context in which this statement was made has not been presented to the Commission. *Jack Spring, Inc. v. Little* does not hold that the defense of a breach of warranty of habitability will permit a tenant to live in an apartment rent-free. The Board has therefore not established that the alleged statements of the respondent in these two cases were not correct statements of the law under the facts of the cases or that they constituted an acknowledgment that the respondent followed procedures contrary to determined

law. Some of the cases referred to by the Board under this general charge are cases that concern alleged defective notice and were also presented by the Board as supportive of its charge that the respondent refused to consider relevant evidence concerning notice. Here, as under that charge, the Commission finds that the Board has failed to prove by clear and convincing evidence that the respondent exercised an arbitrary abuse of discretion in those cases. The Board also cites the respondent's action in *L. J. Laurion, Inc. v. Marshall*, 77 M1 752361 (1/5/78), as supporting this charge. This case will be dealt with later in the discussion of another charge where the case has again been cited.

The Board also charged that the respondent ruled in favor of the landlord when the tenants were not present and where the facts and the law dictated a contrary result. The Board again relied on three cases wherein it is contended that the notices had been defective but that the respondent, nonetheless, entered judgment for the landlord. The court-watcher who testified concerning these three cases admitted that she did not know the nature of the defect. There is no evidence that the alleged defects in the notices were of such a nature as to be jurisdictional or that the respondent, in entering judgment, abused his discretion. This conclusion finds further support in the explanation by the respondent of the procedures he customarily followed in handling notice questions and in the other testimony presented on behalf of the respondent concerning the method of handling these questions. This evidence has been previously discussed.

The Board also charges that the respondent failed to require landlords to establish a *prima facie* case. The Board cites the previously mentioned case of *L. J. Laurion, Inc. v. Marshall.* In that case, Nancy Collins, an attorney for the Legal Assistance Foundation, represented the tenant. She testified before this

Commission that the attorney for the landlord was in court at the forcible entry and detainer hearing, but that the landlord was not. She, as the attorney for the tenant, presented a motion to dismiss under section 48 of the Civil Practice Act (Ill. Rev. Stat. 1977, ch. 110, par. 48), which the respondent denied. Attorney Collins stated that she had her three witnesses in court to testify for the tenant. The attorney for the landlord moved for a continuance until the landlord could be present. The respondent denied the motion for a continuance and required the tenant's attorney to present her case. After the tenant's presentation, the respondent held in favor of the tenant. The evidence that was presented concerned primarily rent receipts and did not relate to the section 48 motion which had been denied. Attorney Collins now complains, and the Board charges, that in so ruling the respondent required the tenant to present its case without first requiring the landlord to establish a *prima facie* case. This Commission sees no merit in this charge. This witness admitted that if the respondent would have granted the landlord's motion for a continuance, she would have had to bring her witnesses back to court on another occasion. She admitted she got what she sought in this case, that is, a ruling in favor of her client. In the informal atmosphere of his court, the respondent, as an accommodation to this attorney and her witnesses, denied the motion for a continuance, permitted her to put on her defense to the action, and held in her favor.

The other cases cited by the Board wherein the respondent failed to require the landlord to present a *prima facie* case are cases in which the landlord's attorney failed to bring the notices to court. The respondent accepted the representation of the attorney as to service of the notice and accepted the further representation that the attorney's secretary had inadvertently returned the notices to the client. There is no indication in the testimony presented concerning

these cases as to whether any of the tenants were present, and there is no testimony that the respondent did not follow his usual procedure to which he testified that in these rare occasions he would request the tenant, if present, to express his desire concerning a continuance. The acceptance by the respondent of the representation of counsel, an officer of the court, as to the service of the notice is not such a deviation from accepted procedures as to warrant discipline.

The final charge growing out of cases observed by the court-watchers from November 1976 through March 1977 alleges that the respondent failed to state plainly the nature of his ruling. It is contended that such conduct violated Supreme Court Rule 61(c)(4) (73 Ill. 2d R. 61(c)(4)) which is captioned "*Avoidance of Impropriety.*" The respondent's failure in this respect involves his practice of staying the writ of restitution for 15 days following the entry of judgment for possession. A court-watcher testified that in one of the cases discussed above under another charge, the court stated that when the tenant received the rent check (tender of which had been refused) back from the landlord, the tenant would have 15 days to "deal with the landlord." This witness testified that the court had in fact entered judgment for possession and stayed the writ of restitution for 15 days. There has been no showing to this Commission that the respondent did not announce the judgment in open court. The tenant did have 15 days thereafter, by virtue of the stay of the writ, within which to "deal with the landlord." There were several other cases wherein attorney Collins testified that tenants had consulted her following the entry of a judgment for possession against them and did not understand what it was they had to do within the 15-day period. In criminal cases a complete understanding is necessary to a valid plea of guilty and to a waiver of certain rights, and it is incumbent upon the court to satisfy itself that such an understanding is

present. There is no similar requirement when a court enters judgment in a civil case. Substantial evidence was presented on behalf of the respondent that he always stated his rulings plainly in open court. The fact that some litigants did not fully understand the import of his rulings does not create an appearance of "impropriety" in violation of Rule 61(c)(4). No evidence was presented to show that the litigants inquired of the respondent as to the meaning of his rulings.

As noted before, this was a high-volume court in which the respondent heard from 1500-2000 forcible entry and detainer cases a month. During the 5-month period covered by the testimony of the court-watchers, the respondent heard between 7,500 and 10,000 cases. It is inconceivable that he did not, in hearing this number of cases, make several erroneous rulings or abuse the discretion vested in him. However, this Commission does not sit as a court of review and a reversible error alone is not sufficient reason to discipline a judge. As stated in *Harrod*, "to maintain an independent judiciary mere errors of law or simple abuses of discretion should not be the subject of discipline by the Commission." (69 Ill. 2d 445, 471.) Certainly, judicial proceedings must be conducted within established procedural boundaries and accepted principles of law must be applied. However, it is not the role of the judicial disciplinary machinery created by our Constitution to so confine a judge to a procedural or legal straitjacket that he is unable to make reasoned decisions, or to freely exercise the discretion which our adversary system necessarily vests in him. The legal principles and procedures must be flexible enough to accommodate factual situations which are extremely varied. The presiding judge has the responsibility of bringing about this accommodation.

This Commission should not so rigidly enforce the Supreme Court rules as to chill the exercise of judicial discretion. The common law has been able to develop

and meet the demands of the present because of its flexibility. To rigidly construe the Supreme Court rules governing the conduct of judges so that judicial initiative is stifled would strike a severe blow to our adversary system and its role in the development of the common law.

The final charge relates to the respondent's conduct on September 13 and 14, 1977, when it is alleged he abdicated his judicial functions and directed and permitted a court clerk in Room 1508 to conduct part of the court call and enter final judgments disposing of cases without a judge being present. The allegation, until viewed in context of what actually transpired, appears serious. The respondent ordinarily presided in Room 1502 and another judge ordinarily heard forcible entry and detainer cases in Room 1508. The two days in question were Jewish Holy Days and the judge who usually presided in Room 1508 was of the Jewish faith. The respondent was requested to preside in both courtrooms on these two days and the procedure followed in previous years was explained to him. Ordinarily, default cases were assigned to Room 1508 and non-default cases to Room 1502 (the respondent's courtroom). When court was opened in Room 1508 on September 13, following the procedure used in prior years the respondent announced that he would preside over both courtrooms; that while he was engaged in Room 1502, the clerk in Room 1508 would make a preliminary call of the cases; that in cases where the tenant appeared and the landlord did not, the cases would be dismissed; that in cases where the landlord appeared and the tenant did not, judgment with a 15-day stay of the writ would be entered; and where both parties appeared, the respondent would hear these cases when he returned from Room 1502. When the respondent returned to Room 1508, the clerk had placed

the cases in three piles according to the respondent's previous announcement. The respondent directed the clerk to enter the orders he had previously announced would be entered and proceeded to hear the cases in which both parties had appeared. The respondent testified that the normal procedure in his court was for the clerk to enter the orders at the court's direction. In the cases in question the court did not permit the clerk to enter orders on the days alleged in the absence of a judge. In order to accommodate the attorneys and the litigants so that it would not be necessary for them to remain in the courtroom several additional hours, the respondent, following a practice that had been previously used, authorized the clerk to conduct a preliminary call of the cases and to sort the contested from the uncontested cases. According to the respondent's testimony, the orders were entered at his direction when he returned. The Board charges that the respondent permitted these orders to be entered without having personally examined the notices to ascertain if they were defective. The respondent admitted that he did not know if the 5-day notices with proof of service had been presented to the clerk in Room 1508 when the cases were called. The respondent testified that in cases involving notices or demands for rent, he ordinarily examined them to see if they were defective. However, we are not prepared to say that the ministerial act of checking whether or not a demand for rent had been served on the tenant 5 days before the date a forcible entry and detainer action was filed cannot be performed by a clerk of the court. The act does not require the exercise of judgment or discretion. The Board asserts that this conduct constituted a delegation of judicial responsibilities to the clerk but it has cited no authority that holds that this ministerial function must be performed by a judge. If it is a ministerial function that

may be performed by the clerk, then it would have been the clerk who would have been derelict in his duties if he found that a notice had not been served the requisite number of days before the filing of the case and did not call this defect to the court's attention. There has been no showing, and it is not contended, that any of the notices involved in these cases was defective or that judgment for possession was entered in any of them when it should not have been.

An attorney who represented a tenant testified that she was in Room 1508 on September 13, 1977 and heard the respondent announce that he would be holding court in both courtrooms and how the call would be handled. When her case was called, she informed the clerk she wanted a jury trial and the clerk certified the case back to the presiding judge, which, it is now contended, the respondent should have done. Also, a court-watcher testified that on September 14, 1977, in Room 1508, when the clerk called the cases, he also granted several continuances and entered some judgments not only for possession but also for rent. There is no record of the clerk's having entered any orders without the direction of the respondent. As stated earlier, the clerk was to conduct the call according to the respondent's direction and when the respondent returned to Room 1508, the call had been conducted and the cases were sorted according to the disposition to be made. Judgments were then entered at the direction of the respondent. We do not know if the clerk informed the respondent that certain continuances were sought or that the plaintiff sought money-judgment for rent in certain cases and thereafter entered such orders or judgments at the direction of the respondent, or whether the clerk took it upon himself to enter such orders or judgments absent any direction from the respondent. If the clerk took it upon himself to certify a case for jury trial, and if that is a function only a

judge can perform, or if the clerk entered orders for continuances or judgment for rent without directions from the respondent, then the clerk violated specific directions that had been given to him. The fault then lies with the clerk. There was no attempt by the respondent to delegate these duties to the clerk. It appears that by this charge against the respondent, as in the others, the Board seeks to discipline the respondent for an attempt to accommodate the litigants and the counsel who appeared before him. He had been requested to preside in both courtrooms for two days. The only way this could be done without making the litigants and counsel spend hours waiting for their cases to be called was to follow the procedure adopted. The Board has not proved by clear and convincing evidence that in expediting the handling of these cases the respondent delegated the performance of judicial duties to the clerk.

All of the evidence presented shows the respondent to be a sincere and dedicated judge concerned for the rights of the litigants who appeared before him, especially the tenants who were dispossessed by his orders. He attempted to conduct the proceedings in his court to accommodate those who appeared before him.

It is the order of this Commission that the Complaint be dismissed.

Complaint dismissed.