

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

CI 20,767 & CI 20,768

In re: 2480 16th Street, N.W.

Ward One (1)

DORCHESTER HOUSE TENANTS ASSOCIATION, ET AL.
Tenant/Appellant

v.

DORCHESTER HOUSE ASSOCIATES LIMITED PARTNERSHIP
Housing Provider/Appellee

ORDER DISMISSING APPEAL

August 9, 2002

PER CURIAM. On July 23, 2002, the Dorchester House Tenants Association, the tenant/appellant, filed a notice of appeal in the Commission, because the “[h]earing [e]xaminer abused his discretion when he denied the [o]ccupants [sic] request for a continuance”, and “the [h]earing [e]xaminer’s decision is [sic] arbitrary and capricious.” Tenant’s Notice of Appeal at 1. Subsequently, an administrative hearing on Capital Improvement (CI) 20,767 and CI 20,768 was held by OAD on July 26, 2002.

The Commission’s jurisdiction over notices of appeal is based on the Act, D.C. OFFICIAL CODE § 42–3502.02(a)(2) which states, “[t]he Rental Housing Commission shall decide appeals brought to it from decisions of the Rent Administrator,” and 14 DCMR § 3802.1, which provides, “[a]ny party aggrieved by a final decision of the Rent Administrator may obtain review of that decision by filing a notice of appeal with the Commission.” In addition, 14 DCMR § 3804.1, provides “[u]pon receipt of a notice of

appeal, the Commission shall request in writing that the Rent Administrator forward the complete record of the case....”

However in the instant case, the Commission cannot request the certified record from the Rent Administrator pursuant to 14 DCMR § 3804.1, because the tenant’s notice of appeal was filed prior to the July 26, 2002 hearing on the matter, and a final decision and order had not been issued by OAD. Since a final OAD decision on the case had not been issued when the tenant association filed its Notice of Appeal, the tenant association was not an aggrieved party and had not filed a notice of appeal from a final decision of the Rent Administrator. Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541 (1949), District of Columbia v. Tschuden, 390 A.2d 986 (D.C. 1978) cited in Borger Mgmt. Inc. v. Bennett, TP 22,402 (RHC Nov. 14, 1991).

Therefore, the tenant association’s appeal is dismissed, because there is no final decision for the Commission to review. After a final decision on the matter is issued by OAD, the tenant association’s right to appeal will commence and they may file a new notice of appeal in the Commission, if necessary.

SO ORDERED.



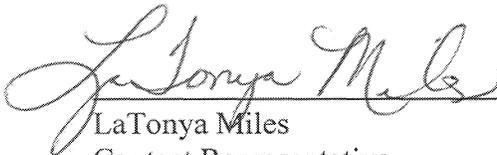
RUTH R. BANKS, CHAIRPERSON

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing ORDER DISMISSING APPEAL in CI 20,767 and CI 20,768 was mailed by priority mail, with delivery confirmation, postage prepaid this 9th day of August, 2002 to:

Bernard A. Gray, Sr.
2009 18th Street, S.E.
Washington, D.C. 20020-4201
Counsel for the Tenant/Appellant

Richard W. Luchs, Esq.
Greenstein DeLorme & Luchs, P.C.
1620 L Street, N.W., Suite 900
Washington, D.C. 20036-5605
Counsel for the Housing Provider



LaTonya Miles
Contact Representative