

LENKIN v. D.C. RENTAL HOUSING COMMISSION, 677 A.2<sup>nd</sup> 46 (1996)

Court: D.C. Court of Appeals, opinion by Farrell, A.J.

Judicial History: After remand of decision to Rental Housing Commission (“RHC”) for calculation of award of attorney’s fees to attorney who prevailed in *pro se* proceeding challenging rent increase, landlord petitioned for review of award.

Facts: Tenant, an attorney proceeding *pro se*, prevailed at the agency level on his claim that his landlord violated the statutory ban against implementing two rent increases within a six-month period, and sought attorney’s fees. The Court of Appeals remanded to the RHC for calculation of the amount of fees appropriate for tenant work as an attorney before the agency. The RHC in turn remanded to the Rental Accommodation and Conversion Division for a hearing, and a hearing examiner awarded tenant \$8,488.00 for his work at the agency level. Before the hearing examiner issued his decision, however, the Supreme Court issued a decision holding that an attorney who represents himself in a federal civil rights action may not be awarded attorney’s fees. Landlord appealed examiner’s decision on the ground that the examiner had not followed the Supreme Court’s holding and the RHC affirmed the decision. Landlord then brought this appeal.

Holding: The Court of Appeals held that decision on prior appeal holding that *pro se* attorney was presumptively entitled to fees as prevailing party under Rental Housing Act was law of the case.

Reasoning: Decision on prior appeal was presumptively entitled to fees as prevailing party under Rental Housing Act was law of the case, despite intervening Supreme Court decision holding that attorney representing himself in federal civil rights action could not be awarded attorney fees under Section 1988 of the Act; prior decision was not rendered clearly erroneous by Supreme Court’s decision.

Decision: Affirmed.