

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

SC 04-002

IN THE MATTER OF

2270 Cathedral Avenue, N.W., Basement Unit

Ward Three (3)

ORDER DISMISSING APPEAL

May 21, 2007

YOUNG, CHAIRMAN. This case is on appeal to the Rental Housing Commission from a decision and order issued by the Rent Administrator, based on an Order of Show Cause initiated by the Rental Accommodations and Conversion Division (RACD) on March 29, 2004. The applicable provisions of the Rental Housing Act of 1985 (Act), D.C. Law 6-10, D.C. OFFICIAL CODE §§ 42-3501.01-3509.07 (2001), the District of Columbia Administrative Procedure Act (DCAPA), D.C. OFFICIAL CODE §§ 2-501-510 (2001), and the District of Columbia Municipal Regulations (DCMR), 14 DCMR §§ 3800-4399 (2004), govern the proceedings.

I. THE PROCEDURES

On March 29, 2004, the Rent Administrator, issued an Order of Show Cause to Dan Haendel and Ellen Goldberg, the owners of the housing accommodation located at 2270 Cathedral Avenue, N.W. The Rent Administrator's order charged that the housing providers petitioned and received a grant of possession of the basement unit at 2270 Cathedral Avenue, N.W., from the Superior Court of the District of Columbia, Landlord-Tenant Branch on January 17, 2003. The order further stated that the grant of possession was based on the housing provider's request made pursuant to the Act, D.C. OFFICIAL

CODE § 42-3505.01 (e) (2001), for “immediate and personal use and occupancy.”

Contrary to their request, the Order states, neither housing provider used or occupied the housing accommodation.

On April 15, 2004, Hearing Examiner Keith A. Anderson, Esquire, conducted the Show Cause hearing. On June 30, 2004, the hearing examiner issued the decision and order. The decision and order ordered the housing provider to pay a fine of \$2,500.00. On July 9, 2004, housing provider, Dan Haendel, filed a Motion for Reconsideration of the June 30, 2004 decision and order. On July 23, 2004, the Rent Administrator granted the housing provider’s Motion for Reconsideration. On September 14, 2004, the Rent Administrator conducted a de novo Show Cause hearing. On January 28, 2005, the hearing examiner issued the second decision and order, again fining the housing providers \$2,500.00 for their violation of the Act.

On February 11, 2005, the housing provider, Dan Haendel, filed a Motion for Reconsideration of the January 28, 2005, decision and order. The Motion for Reconsideration was denied by order dated March 3, 2005. The housing provider filed a notice of appeal with the Commission on March 27, 2007.

II. THE ISSUE

The Commission raises the preliminary issue whether it has a properly filed appeal before it.

The appeal filed by Dan Haendel is untimely filed in the Commission, because it was filed after the date for appeals stated on the decision. The Rental Housing Act of 1985 provides that appeals may be made to the Commission from the decisions of the

Rent Administrator within ten (10) days of the Rent Administrator's decision. D.C.

OFFICIAL CODE § 42-3502.16(h) (2001).

III. THE LAW

The Commission is required by law to dismiss appeals that are untimely filed, because time limits are mandatory and jurisdictional. United States v. Robinson, 361 U.S. 209 (1960); Hija Lee Yu v. Dist. of Columbia Rental Hous. Comm'n, 505 A.2d 1310 (D.C. 1986); Totz v. Dist. of Columbia Rental Hous. Comm'n, 474 A.2d 827 (D.C. 1974). The Commission determines the time period between the issuance of the RACD decision and the filing of the notice of appeal by counting only business days, as required by its rules. See 14 DCMR § 3802.2 (2004); Town Ctr. v. Dist. of Columbia Rental Hous. Comm'n, 496 A.2d 264 (D.C. 1985).

The Commission's rules state:

The issues in a show cause hearing shall be disposed of in a final decision and order of the Rent Administrator which may be appealed to the Commission.

14 DCMR § 4015.10 (2004)

The ten (10) day time limit in which an appeal to the Commission shall be filed, as prescribed in § 216 of the Act and § 3802.2, shall begin to run when the decision becomes final.

14 DCMR § 4013.6 (2004).

A notice of appeal shall be filed by the aggrieved party within ten (10) days after a final decision of the Rent Administrator is issued; and if the decision is served by mail an additional three (3) days shall be allowed.

14 DCMR § 3802.2 (2004).

When the time period is ten (10) days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

14 DCMR § 3816.3 (2004).

If a party is required to serve papers within a prescribed period and does so by mail, three (3) days shall be added to the prescribed period to permit reasonable time for mail delivery.

14 DCMR § 3816.5 (2004).

In this appeal, the thirteen business day time period commenced on March 4, 2005, which was the first business day after the Rent Administrator's order on Motion for Reconsideration was issued and served by mail. The thirteen business day period provided in rules, 14 DCMR § 3802.2 (2004), ended on March 23, 2005 and the housing provider filed his appeal on March 27, 2007, well after the time period for filing appeals expired on March 23, 2005. See The New Capitol Park Twin Towers Tenants v. American Rental Mgmt. Co., TP 27,926 (RHC Jan. 23, 2004) (where the Commission dismissed an appeal filed two days late); Camp v. Ghani, TP 27,533 (RHC Jan. 27, 2003) (where appeal dismissed because filed too late); Jassiem v. The Jonathan Woodner Co., TP 27,348 (RHC June 24, 2002) (where the Commission dismissed the appeal, because it was untimely filed).

IV. CONCLUSION

Accordingly, the housing provider's Notice of Appeal is dismissed, because it was untimely filed.

SO ORDERED.


RONALD A. YOUNG, CHAIRMAN

MOTIONS FOR RECONSIDERATION

Pursuant to 14 DCMR § 3823 (1991), final decisions of the Commission are subject to reconsideration or modification. The Commission's rule, 14 DCMR § 3823.1 (1991), provides, "[a]ny party adversely affected by a decision of the Commission issued to dispose of the appeal may file a motion for reconsideration or modification with the Commission within ten (10) days of receipt of the decision."

JUDICIAL REVIEW

Pursuant to D.C. OFFICIAL CODE § 42-3502.19 (2001), "[a]ny person aggrieved by a decision of the Rental Housing Commission ... may seek judicial review of the decision ... by filing a petition for review in the District of Columbia Court of Appeals." Petitions for review of the Commission's decisions are filed in the District of Columbia Court of Appeals and are governed by Title III of the Rules of the District of Columbia Court of Appeals. The court may be contacted at the following address and telephone number:

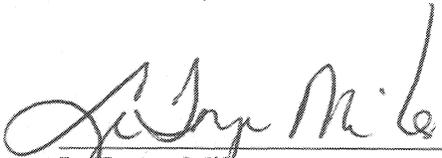
D.C. Court of Appeals
Office of the Clerk
500 Indiana Avenue, N.W., 6th Floor
Washington, D.C. 20001
(202) 879-2700

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **Order Dismissing Appeal** in SC 04-002 was mailed postage prepaid by priority mail, with delivery confirmation on this **21st day of May, 2007** to:

Dan Haendel, Esquire
8900 Lynnhurst Drive
Fairfax, VA 22031

Timothy Budd
2500 Van Dorn Street
Apartment 1127
Alexandria, VA 22302



LaTonya Miles
Contact Representative
(202) 442-8949