

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 26,119

ERIN MARIE DEY
Tenant/Appellant/Cross Appellee

v.

L. J. DEVELOPMENT, INC.
Housing Provider/Appellee/Cross Appellant

ORDER ON MOTION FOR SUMMARY REVERSAL AND REMAND

August 30, 2002

BANKS, CHAIRPERSON. On July 3, 2002, the Office of Adjudication issued its decision and order. Both parties filed motions for reconsideration and on August 5, 2002, the hearing examiner issued an order on reconsideration, which disposed of both motions. On August 12, 2002, the Tenant filed a notice of appeal and motion for summary reversal. On August 22, 2002, the Housing Provider filed a cross appeal. The motion is denied for the following reasons, and the two appeals will be processed in accordance with the Commission's rules.

The motion requested summary reversal based on: 1) the decision contains clerical error, 2) the hearing examiner granted single rather than treble damages without an explanation; and 3) the hearing examiner failed to award damages to the date of the decision. These are the identical issues on appeal.

The Housing Provider's cross appeal raised one issue related to post hearing submissions, after the hearing examiner allowed it, but later excluded the Housing Provider's post hearing submission.

The Commission has stated repeatedly that it will not summarily dispose of issues raised on appeal unless only one (1) issue is raised on appeal, and in the Commission's discretion, that issue is suitable for summary disposition. See Rittenhouse, LLC v. Tenants of 45 Affected Rental Units, SF 20,049 (RHC June 19, 2002), where the Commission stated:

The Housing Provider cited Shipley Gardens v. Tenants of Shipley Park Apartments, CI 20,130 (Dec. 18, 1987) as authority for the Commission to summarily reverse the hearing examiner. In Shipley the Commission stated:

As a threshold issue, we must determine whether the housing provider's requested relief—summary reversal—is appropriate in the case before us. Summary reversal is an extraordinary remedy for which the proponent has a 'heavy burden of demonstrating both that his remedy is proper and that the merits of his claim so clearly warrant relief as to justify expeditious action. (Citations omitted.) There are two sub-questions at issue: (1) whether the case is one in which summary disposition is appropriate, and (2) whether the merits of the movants' claim warrant reversal.

In JBG Properties, Inc. v. Van Ness South Tenants Ass'n, TP 20,773 (RHC Mar. 17, 1986), we found justification for summary disposition of an appeal where only a single legal issue was involved and 'both parties have had ample opportunity to state their respective positions and their legal arguments.' Id. at 3.

Cited also in Sydnor v. Johnson, TP 26,123 (RHC June 20, 2002). The Tenant presented three (3) issues for review, and the Housing Provider raised one issue for review, as stated above, by the Commission. Both parties have appealed and four (4) issues are pending before the Commission. Accordingly, this appeal does not meet the test for consideration for summary reversal.

The Commission will allow the parties the opportunity to file briefs and present oral argument on the appeal issues in accordance with the Commission's rules. This is

not an appeal that could be decided summarily, as explained in Shipley. Accordingly, the Tenant's motion for summary reversal and remand is denied.

SO ORDERED.


RUTH R. BANKS, CHAIRPERSON

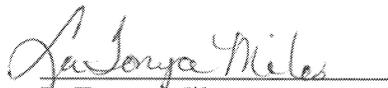
CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Order on Motion for Summary Reversal was mailed by priority mail, with confirmation of delivery, postage prepaid, this 30th day of August, 2002 to:

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