

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 26,119

In re: 1825 18th Street, N.W., Unit F

Ward Two

ERIN MARIE DEY
Tenant/Petitioner/Cross Appellee

v.

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

**ORDER ON MOTION TO VACATE JUDGMENT OR IN THE ALTERNATIVE
TO STAY ENFORCEMENT**

April 3, 2003

BANKS, CHAIRPERSON. This case is on appeal to the Rental Housing Commission from a decision and order issued by the Rent Administrator. The applicable provisions of the Rental Housing Act of 1985 (Act), 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 (1991) govern the proceedings.

On July 3, 2002, the Office of Adjudication (OAD) issued its decision and order in this case. The parties timely filed cross appeals in the Commission. On October 23, 2002, the Commission held its hearing on the cross appeals. While the appeals were pending in the Commission, on November 4, 2002, OAD issued its order awarding attorney's fees to the Tenant in this case. That order notified the parties that the deadline for appeals from it was November 22, 2003. Almost two months later, on January 21, 2003, the Housing Provider filed in the Commission a motion to vacate the judgment for

attorney's fees, or in the alternative to stay enforcement of the judgment for attorney's fees. The Tenant filed an opposition to the motion, which argued that the Housing Provider failed to timely appeal from the order awarding the attorney's fees.

The motion is denied for the following reasons. The Housing Provider did not file a notice of appeal from the order for attorney's fees, and accordingly, the Commission has no jurisdiction over the issues raised about the order for attorney's fees. The Commission's jurisdiction is over timely filed notices of appeal. 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).

The Commission's rule, 14 DCMR § 3802.1 (1991), 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." The rules also provide, "[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 (1991). The Housing Provider did not timely appeal the order for attorney's fees, and consequently, the Commission has nothing before it to consider for a stay or to consider whether to vacate the judgment. Cf. Tenants of Dorchester House Apartments v. Dorchester House Assocs., CI 20,767 (RHC Jan. 24, 2003) (There after timely filing a notice of appeal, the Tenants subsequently timely filed a notice of appeal from an order on attorney's fees that was issued after the first appeal was noted from the OAD decision and order. The appeal

was dismissed for reasons unrelated to timeliness). Here, the motion is denied, because there is no notice of appeal from the OAD order awarding attorney's fees.

SO ORDERED.



RUTH R. BANKS, CHAIRPERSON

CERTIFICATE OF SERVICE

I certify that a copy of the ORDER ON MOTION TO VACATE JUDGMENT OR IN THE ALTERNATIVE TO STAY ENFORCEMENT in TP 26,119 was served by priority mail, with delivery confirmation, postage prepaid, this 3rd day of April, 2003, to:

Michelle E. Klass, Esquire
714 G Street, S.E.
Suite 201
Washington, D.C. 20002

Eric Von Salzen, Esquire
Hogan & Hartson, LLP
555 13th Street, N.W.
Washington, D.C. 20004-1109



LaTonya Miles
Contact Representative