DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,122

In re: 1815 M Street, N.E.

Ward Five (5)

CORNELIUS & VANESSA McFADDEN
Housing Providers/Appellants

v.

TINA & KEITH FULLINGTON
Tenants/Appellees

ORDER DISMISSING APPEAL

September 18, 2002

YOUNG, COMMISSIONER. This case is on appeal from the District of Columbia Department of Consumer and Regulatory Affairs (DCRA), Office of Adjudication (OAD), to the Rental Housing Commission (Commission). 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, 14 DCMR §§ 3800-4399 (1991) govern these proceedings.

I. PROCEDURAL HISTORY

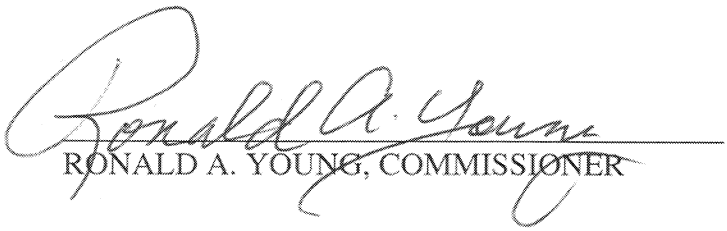
On May 28, 2002, OAD issued a decision and order in TP 27,122. On June 14, 2002, Cornelius and Vanessa McFadden, the housing providers/appellants filed a Notice of Appeal of the OAD decision with the Commission. On September 12, 2002, the Commission held a hearing on the appeal. Neither the housing providers/appellants nor the tenants/appellees appeared at the Commission hearing. The Commission's records

reflect, through the "Track & Confirm" page of the United States Postal Service web site, that Notices of Rescheduled Hearing on Appeal for September 12, 2002, and Notices of Certification of Record were delivered to the housing providers/appellants and the tenants/appellees on July 16, 2002.

II. THE COMMISSION'S ORDER

Pursuant to the DCAPA, D.C. OFFICIAL CODE § 2-509(b) (2001), "[i]n contested cases, ...the proponent of a rule or order shall have the burden of proof." In the instant case, the housing providers/appellants were the proponents of the Notice of Appeal and therefore had the burden of proof to prosecute the appeal in the Commission. Further, the housing providers/appellants received actual notice of the Commission's hearing and failed to appear. The housing providers/appellants did not contact the Commission with a reason for their failure to appear, nor did they request a continuance of the hearing date. The Commission's Notice of Rescheduled Hearing on Appeal, page 1, warns the parties that failure to appear may result in the dismissal of the appeal. See Stancil v. District of Columbia Rental Hous. Comm'n, No. 01-AA-5 (DCCA Sept. 12, 2002), where the court affirmed the Commission's dismissal of an appeal due to the failure of a party to appear for the Commission's scheduled hearing) citing Tenants of 1755 N Street, N.W. v. N Street Follies Ltd. P'ship., HP 20,746 (RHC June 21, 2000). Accordingly, the appeal of the housing providers/appellants, Cornelius and Vanessa McFadden is dismissed.

SO ORDERED



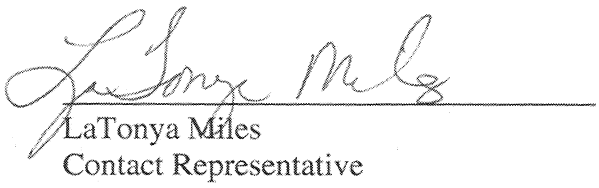
RONALD A. YOUNG, COMMISSIONER

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing order to Dismiss Appeal in TP 27,122 was mailed postage prepaid by priority mail with delivery confirmation this **18th day of September, 2002,** to:

Cornelius & Vanessa McFadden
3457 Massachusetts Avenue, S.E.
Washington, D.C. 20019

Tina & Keith Fullington
310 Datelyaf Avenue
Capitol Heights, MD. 20743



LaTonya Miles
Contact Representative