

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,136

In re: 1708 Newton Street, N.W. Unit 6

Ward One (1)

LUZ M. JOSEPH

Tenant

v.

MASSOUD HEIDARY

Housing Provider

DECISION AND ORDER

July 29, 2003

PER CURIAM: This matter is before the District of Columbia Rental Housing Commission (Commission) pursuant to 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) also govern the proceedings. In accordance with D.C. OFFICIAL CODE § 42-3502.16(h) (2001), the Commission initiated review of the Rent Administrator's decision issued by Administrative Law Judge (ALJ) Smith on July 17, 2002.

I. PROCEDURAL BACKGROUND

Luz Joseph filed Tenant Petition (TP) 27,136 with the Rental Accommodations and Conversion Division (RACD) on May 25, 2001 with an amendment filed in the Office of Adjudication on June 29, 2001. In the petition, the tenant alleged:

- 1) The housing provider, Massoud Heidary, imposed a rent increase larger than the amount allowed by the Act.

- 2) The housing provider failed to provide a proper 30 day notice of rent increase before the rent increase became effective.
- 3) The rent charged exceeded the legally calculated rent ceiling; and
- 4) The property was not in compliance with D.C. Housing Regulations.

The hearing examiner convened the hearing on October 22, 2001. The tenant appeared pro se and the housing provider failed to appear. On July 17, 2002, the hearing examiner issued a decision ordering the housing provider to pay a refund in the amount of \$2,899.00 to the tenant and a fine in the amount of \$3,000.00 for demanding a rent increase larger than the allowable amount and without a proper 30-day notice. The hearing examiner also ordered the rent ceiling and rent charge to remain at the pre-increase level until the housing provider complied with D.C. Housing Regulations.

On August 22, 2002, the Commission initiated review of the hearing examiner's decision pursuant to D.C. OFFICIAL CODE § 42-3502.16(h) (2001)¹ and 14 DCMR § 3808 (1991).² In accordance with 14 DCMR § 3808.2 (1991), the Commission notified the parties of its reason for initiating review and informed the parties of their right to present

¹ "[T]he Rental Housing Commission may review a decision and order of the Rent Administrator on its own initiative." D.C. OFFICIAL CODE § 42-3502.16(h) (2001).

² The regulation, 14 DCMR § 3808 (1991), provides:

- 3808.1 Not later than twenty (20) days after the deadline for the parties to file an appeal, the Commission may initiate a review of any decision of the Rent Administrator.
- 3808.2 The Commission shall serve the parties who appeared before the hearing examiner with its reasons for initiating a review and shall inform them of their right and opportunity to present arguments on the issues identified by the Commission.
- 3808.3 All due process rights afforded parties in a review commenced by a notice of appeal shall also be provided when the review is initiated by the Commission.
- 3808.4 In appeals initiated pursuant to this section, the provisions of §§ 3802.10, 3802.11 and 3805.5 shall not apply.

arguments on the issue identified by the Commission. The Commission scheduled the hearing on its initiated review for January 7, 2003.

II. ISSUE ON APPEAL

In its notice of initiated review, the Commission identified the following issue as the basis of review:

Whether the hearing examiner erred when he calculated the interest on the rent refund by using the total number of months the housing provider held the rent overcharges, rather than a separate calculation for each time period.

Notice of Commission Initiated Review (RHC Aug. 22, 2002) at 2.

III. DISCUSSION OF THE CASE

Whether the hearing examiner erred when he calculated the interest on the rent refund by using the total number of months the housing provider held the rent overcharges, rather than a separate calculation for each time period.

The hearing examiner calculated the interest on the rent refund by using the total amount of the overcharge and not a separate calculation of the overcharge for each time period a month's rent was withheld. Interest is calculated by multiplying the overcharge by the number of months the housing provider held the rent overcharge, by the judgment interest rate used by the Superior Court of the District of Columbia on the date that the hearing examiner issued the decision and order. 14 DCMR § 3826.3 (1998). In The Rittenhouse, LLC v. Campbell, TP 25,093 (RHC Dec. 17, 2002), the Commission recalculated the interest on the overcharge by performing an individual calculation for each month in the period set by the hearing examiner. In the instant case, the Commission corrects the hearing examiner's plain error and recalculates the interest for the rent overcharges from April 1, 2001 through July 17, 2002, which is the refund period found by the hearing examiner. The judgment interest rate on July 17, 2002, which is the

date the hearing examiner issued the decision, was 4%. The amount of the improper overcharge was \$185.00 each month. Interest will be imposed in the amount of \$66.44 for the period of the rent overcharges from April 1, 2001 through July 17, 2002. The interest calculation for this period appears in the following chart:

Interest Chart
April 1, 2001 through July 17, 2002

A	B	C	D	E
Amount of Overcharge	Months Held by Housing Provider	Monthly Interest Rate	Interest Factor (BxC)	Interest Due (AxD)
\$185.00	15	.003%	.045	\$8.33
\$185.00	14	.003%	.042	\$7.77
\$185.00	13	.003%	.039	\$7.22
\$185.00	12	.003%	.036	\$6.66
\$185.00	11	.003%	.033	\$6.11
\$185.00	10	.003%	.030	\$5.55
\$185.00	9	.003%	.027	\$5.00
\$185.00	8	.003%	.024	\$4.44
\$185.00	7	.003%	.021	\$3.89
\$185.00	6	.003%	.018	\$3.33
\$185.00	5	.003%	.015	\$2.78
\$185.00	4	.003%	.012	\$2.22
\$185.00	3	.003%	.009	\$1.67
\$185.00	2	.003%	.006	\$1.11
\$185.00	1	.003%	.003	\$.56
			Total Interest:	\$66.64

The hearing examiner multiplied \$185.00 by 15 months, totaling \$2775.00. See Luz v. Heidary, TP 27,136 (OAD July 17, 2002) at 7. He then multiplied \$2775.00 by the interest factor of .045 to arrive at the interest due in the amount of \$124.88. Id at 7. The hearing examiner used the formula: Total Amount of the Overcharge x Interest Factor = Interest Due, which is incorrect. Id at 7. The correct formula for calculating interest requires a separate calculation for each time period as appears in the chart above. Therefore, the hearing examiner erred in the calculation of interest for the rent refund

because he failed to make a separate calculation for each period of time the monthly rent overcharge was withheld from the tenant.

In order to calculate interest for the entire period of litigation, the Commission calculated interest from the date of the hearing examiner's decision to the date that the Commission issued its decision and order. See 14 DCMR § 3826.2 (1998); see also Redmond v. Majerle Mgmt., Inc., TP 23,146 (RHC Mar. 26, 2002). The Commission utilized the interest rate on the date of the Commission's decision. The rate on July 29, 2003 is 4%. The Commission calculated simple interest on the refund using the formula, Interest = Principal x Rate x Time. See Johnson v. Harris, TP 21,400 (RHC Aug. 1, 1994) at 5. The Commission multiplied \$2775.00 (principal) x .003 (rate) x 12 months and 12 days (time), totaling \$103.24. The interest for the period of July 17, 2002 through July 29, 2003 is \$103.24.

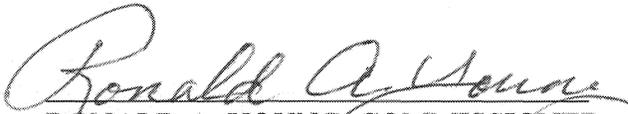
Based on the calculations above, the housing provider shall refund \$2944.88 to the tenant for the rent overcharge. This figure represents the rent refund of \$2775.00 plus interest from April 1, 2001 through July 17, 2002 in the amount of \$66.64, and interest in the amount of \$103.24 from July 17, 2002 through July 29, 2003.

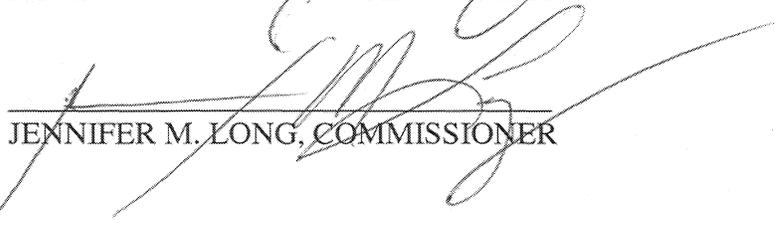
V. CONCLUSION

The Commission corrects the hearing examiner's error of using an improper method to calculate the interest due on the rent refund. The Commission also imposed interest through the date of its decision. Accordingly, the housing provider shall refund \$2944.88 to the tenant for the rent overcharge.

SO ORDERED.


RUTH R. BANKS, CHAIRPERSON


RONALD A. YOUNG, COMMISSIONER


JENNIFER M. LONG, COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Decision and Order in TP 27,370 was mailed by priority mail with delivery confirmation, postage prepaid, this **29th day of July 2003** to:

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Massoud Heidary
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LaTonya Miles
Contact Representative