

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

TP 27,222

In re: 1909 19<sup>th</sup> Street, N.W., Unit 105

MOHAMED YAHYAOU  
Tenant/Appellant

v.

DAVID CORMIER  
Housing Provider/Appellee

**ORDER ON MOTION FOR RECONSIDERATION**

**May 28, 2002**

**YOUNG, COMMISSIONER.** The applicable provisions of the Rental Housing Act of 1985 (Act), D.C. OFFICIAL CODE §§ 42-3501.01-3509.07 (2001), the District of 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 February 8, 2002, the Commission received by mail a single copy of a document from the tenant, Mohamed Yahyaoui. Pursuant to its rule, 14 DCMR § 3802.1<sup>1</sup>, the Commission treated the document as a notice of appeal of the OAD decision and order in Yahyaoui v. Cormier, TP 27,222 (OAD Jan. 31, 2002). The OAD decision and order dismissed, with prejudice, a tenant petition filed by Yahyaoui on July 16, 2001. The reason for the dismissal was the tenant's failure to appear at the properly noticed OAD hearing scheduled for January 14, 2002.

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<sup>1</sup> The regulation, 14 DCMR § 3802.1 provides, "[A]ny party aggrieved by a final decision of the Rent Administrator may obtain review of the decision by filing a notice of appeal with the Commission."

The notice of appeal did not include a certificate of service to the housing provider, David Cormier, in violation of the Commission's rule, 14 DCMR § 3801.8, nor was the appeal filed with an original and four (4) copies as is required by the Commission's rule, 14 DCMR § 3801.7. The Commission, in an order dated February 13, 2002, Yahyaoui v. Cormier, TP 27,222 (RHC Feb. 13, 2002), granted the tenant ten (10) days from the date of receipt of the Order to Comply with Appeal Rules. The order also informed the tenant that failure to comply with the order would result in the dismissal of the appeal.

The tenant failed to comply with the order by filing the notice of appeal with a certificate of service and the required four (4) additional copies, within 10 days after receipt of the order, which expired on Friday, March 1, 2002.<sup>2</sup> Therefore, on March 14, 2002, the Commission dismissed the appeal for failure to comply with its rules. See Yahyaoui v. Cormier, TP 27,222 (RHC Mar. 14, 2002). On April 10, 2002, the tenant filed a Motion for Reconsideration of the Commission's March 14, 2002 order dismissing his appeal. In his motion for reconsideration the tenant asserted that he did not receive either the Order to Comply with Appeal Rules dated February 13, 2002 or the Commission's March 14, 2002 Order Dismissing Appeal.

Pursuant to 14 DCMR § 3823.1<sup>3</sup> the tenant had ten (10) days from receipt of the Order Dismissing Appeal to file his motion for reconsideration. The record reflects that the Commission's order was delivered at the tenant's address of record, 1909 19<sup>th</sup> Street,

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<sup>2</sup> The Commission excluded the President's Day Holiday as required by its rules. 14 DCMR §§ 3802.2 and 3816.1-4, cited in Gardiner v. Charles C. Davis Real Mgmt. Realty, TP 24,955 (RHC Nov. 15, 2000).

<sup>3</sup> The regulation, 14 DCMR § 3823.1 provides: "Any 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; Provided, that an order issued on reconsideration is not subject to reconsideration."

N.W., Unit 105, Washington, D.C., 20009 on March 16, 2002. Therefore, the tenant had until March 29, 2002, to file a Motion for Reconsideration. As previously stated, the tenant's Motion for Reconsideration was not filed with the Commission until April 10, 2002.

## II. THE LAW

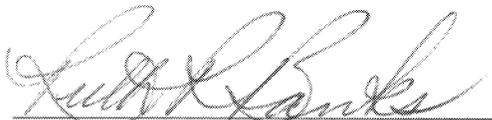
Pursuant to the Act<sup>4</sup> and the District of Columbia Court of Appeals decision in Joyce v. District of Columbia Rental Hous. Comm'n, 741 A.2d 24 (D.C. 1999), the Commission is required to mail its decisions and orders by certified mail or other form of service which assures delivery. In the instant case the Commission sent its orders to the parties by priority mail with delivery confirmation. In the case of the Order to Comply with Appeal Rules, Yahyaoui v. Cormier, TP 27,222 (RHC Feb. 13, 2002), the Commission's staff conducted a follow-up telephone call to the United States Postal Services Delivery Confirmation contact number, 1-800-222-1811, which confirmed that the Commission's order was delivered at the tenant's address of record on February 14, 2002, at 10:41 a.m. – Delivery Confirmation number 0310 2990 0005 8206 2665. In the case of the Order Dismissing Appeal, Yahyaoui v. Cormier, TP 27,222 (RHC Mar. 14, 2002), the Commission's staff conducted a follow-up telephone call to the United States Postal Services Delivery Confirmation contact number, 1-800-222-1811, which confirmed that the Commission's order was delivered at the tenant's address of record on March 16, 2002, at 10:09 a.m. – Delivery Confirmation number 0300 1290 0001 0805 2036.

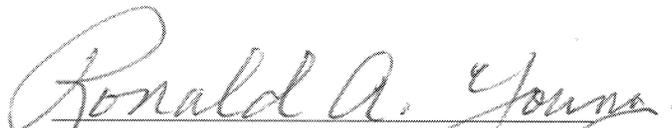
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<sup>4</sup> D.C. OFFICIAL CODE § 42-3502.16(j) provides: "A copy of any decision made by the Rent Administrator, or by the Rental Housing Commission under this section shall be mailed by certified mail or other form of service which assures delivery of the decision to the parties."

The tenant does not claim that the Commission mailed the orders to an incorrect address, nor does the tenant contend that the Commission failed to mail the orders in the manner specified by the Act or the court's decision in Joyce. The Commission complied with the Act, when it sent the orders to the last known address provided by the tenant in the manner required by the Act. See Allen v. District of Columbia Dep't. of Employment Servs., 578 A.2d 687, 691 (1990). The record reflects that the tenant received the Commission's Order Dismissing Appeal on March 16, 2002, the record further reflects that the tenant did not file his Motion for Reconsideration until April 10, 2002, eight (8) days past the date that the motion was due. Accordingly, the tenant's Motion for Reconsideration is dismissed as untimely filed.

SO ORDERED.

  
RUTH R. BANKS, CHAIRPERSON

  
RONALD A. YOUNG, COMMISSIONER

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **ORDER ON MOTION FOR RECONSIDERATION** in TP 27,222 was served by priority mail with delivery confirmation, postage prepaid, this **28<sup>th</sup> day of May, 2002** to:

Mohamed Yahyaoui  
1909 19th Street, N.W.  
Apt. 105  
Washington, D.C. 20009

David Cormier  
9514 Linden Lane  
Bethesda, Maryland 20814

  
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LaTonya Miles  
Contact Representative