

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,241

In re: 1325 Quincy Street, N.W., Unit 3

PHILLIP TALLEY
Tenant

v.

VELMA BROCK
Housing Provider

ORDER WITHDRAWING COMMISSION INITIATED REVIEW

April 15, 2003

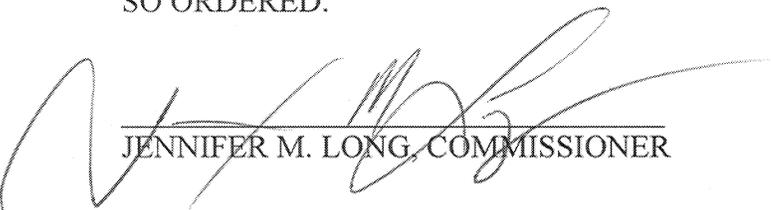
LONG, COMMISSIONER. Pursuant to the Rental Housing Act of 1985, D.C. OFFICIAL CODE § 42-3502.16(h) (2001), the Commission initiated review of a decision and order issued by the Rent Administrator on August 5, 2002. The Commission initiated review because the hearing examiner dismissed the petition, when there was no record proof that the United States Postal Service delivered the OAD hearing notice to the tenant. Moreover, the hearing examiner held that dismissal was proper, because the tenant did not prosecute or inquire about the case within one year of its filing.

On September 10, 2002, Commission mailed the notice of initiated review to the parties. After receiving the certified record on February 25, 2003, the Commission issued the notice of certification of record and the notice of hearing to the parties. In response to the Commission's hearing notice, the housing provider informed the Commission that the tenant's attorney moved to withdraw the petition on December 4, 2001. The housing provider attached a copy of a letter, which the tenant's attorney mailed to the agency. There is an original copy of the letter in the certified record.

In order to initiate review in the time period prescribed by 14 DCMR § 3808.1 (1991),¹ the Commission initiated review before the Office of Adjudication certified the record to the Commission. Once the Commission received and reviewed the certified record, the Commission discovered that the tenant asked the agency to withdraw the petition without prejudice. The tenant moved to withdraw the petition on December 4, 2001, because the agency had not scheduled a hearing date for the petition filed on August 2, 2001.

The hearing examiner erred when he issued the decision and order, without considering or ruling upon the tenant's request to withdraw the petition without prejudice. Moreover, the hearing examiner erred when he held that the tenant failed to prosecute the claim, and when he dismissed the petition, when there was no proof the USPS delivered the hearing notice. However, in light of the tenant's request, the errors were harmless since the hearing examiner dismissed the petition without prejudice. Accordingly, the Commission withdraws its initiated review.

SO ORDERED.



JENNIFER M. LONG, COMMISSIONER

¹ 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.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Order Withdrawing Commission Initiated Review in TP 27,241 was mailed by priority mail with delivery confirmation, postage prepaid, on this 15th day of April, 2003 to:

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