

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

TP 27,514

TP 27,542

TP 27,543

In re: 2330 High Street, S.E.

Ward Eight (8)

TYRONE L. HENSON

MARK TURNER

JOSEPH D. WIGGINS

Tenants/Appellants

v.

JAMES BRYANT

Housing Provider/Appellee

**DECISION AND ORDER**

**September 30, 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.

**I. THE PROCEDURES**

On May 24, 2002, Tyrone L. Henson filed Tenant Petition (TP) 27,514. On June 25, 2002, Mark Turner filed Tenant Petition (TP) 27,542, and Joseph D. Wiggins filed Tenant Petition (TP) 27,543. TP 27,514 alleged: 1) the Housing Provider failed to file the proper rent increase forms; 2) the housing accommodation was not properly

registered, 3) services and facilities were substantially reduced, and 4) an improper notice to vacate was served on the Tenants. TP 27,542 alleged: 1) a proper thirty (30) day notice of rent increase was not provided before the rent increase became effective, 2) a rent increase was taken while the housing accommodation was not in compliance with the housing code, 3) the housing accommodation is not properly registered, 4) services and facilities were substantially reduced, 5) retaliatory action was taken, 6) an improper notice to vacate was served, and 7) the Housing Provider violated section 211 of the Act. TP 27,543 alleged: 1) a proper thirty (30) day notice of rent increase was not provided before the rent increase became effective, 2) the Housing Provider failed to file the proper rent increase forms, 3) a rent increase was taken while the housing accommodation was not in compliance with the housing code, 4) the housing accommodation is not properly registered, 5) services and facilities were substantially reduced, 6) retaliatory action was taken, and 7) the Housing Provider violated section 211 of the Act.

The hearing on the petitions was on August 26, 2002 before Hearing Examiner Carl Bradford and the decision and order was issued on October 23, 2002. The decision contained the following findings of fact:

1. The subject housing accommodation 2330 High Street, S.E. is owned by James & Janet Bryant.
2. Petitioner Joseph D. Wiggins resided at 2330 High Street, S.E. at all relevant times.
3. Petitioner Mark Turner resided at 2330 High Street, S.E. at all relevant Times.
4. Petitioner Tyrome L. Henson resided at 2330 High Street, S.E. at all relevant times.

5. Respondent did not retaliate against Petitioners when he served each a notice to vacate.
6. Respondent did demand or receive illegal rent increases charged the Petitioners.
7. Respondent did not substantially reduce Petitioners services and facilities.
8. The Respondent did act in bad faith when he failed to properly register the property as required by the Act.
9. The Examiner fines the Respondent for failing to properly register the units located at 2330 High Street, S.E.
10. Respondent knowingly violated the Act and acted in bad faith when he continued to operate without a business license and certificate of occupancy.

After a careful evaluation of the evidence and findings of facts, the Examiner concludes, as a matter of law.

1. Respondent did not take a rent increase that was in violation of D.C. Official Code, 2001 Ed. Section 42-3502.05(g) [sic].
2. The Respondent failed to properly register the property in violation of D.C. Official Code, 2001 § 42-3502.05(g) [sic].
3. Respondent is fined \$2500.00 for knowingly violating D.C. Official Code, 2001 Ed. § 42-3502.05 (g) and acting in bad faith.
4. Respondent did not retaliate against Petitioners in violation of D.C. Official Code, 2001 Ed. § 42-3502.02.
5. Respondent did not reduce Petitioners services and facilities in violation of D.C. Official Code, 2001 Ed. § 42-3502.11.

## II. APPEAL ISSUES

On November 12, 2002, the Tenants filed a notice of appeal, which stated, in relevant part:

- A. "We question existing evidence that was presented and could have been more effective in reaching a more fairer decision, but was excluded in the course of a final decision."

- B. "We challenge the actions/damages inflicted upon the petitioners by the housing providers James and Janet Bryant which would warrant compensation."
- C. "We challenge this decision based on the party's failure to appear at the hearing."

The Tenants attached to the notice of appeal the Rental Housing Commission's form, which instructed them to state "clear and concise statement(s) of the alleged errors in the Rent Administrator's decision and order." The Tenants wrote:

Existing evidence excluded  
Damages inflicted upon appellants  
Party's failure to appear  
Retaliation (improper notice to vacate) .... Enclosure  
Property not brought up to code as ordered

The Commission held its hearing on January 8, 2003.

### III. PRELIMINARY ISSUE

#### **Whether the notice of appeal and the Commission's form for notice of appeal state issues under 14 DCMR § 3802.5 (1991).**

The Commission's rule, 14 DCMR § 3802.5(b) (1991) states:

The notice of appeal shall contain the following:

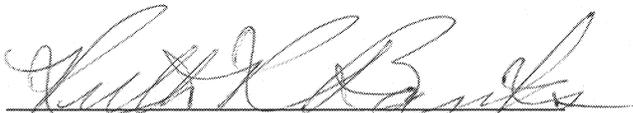
...  
The Rental Accommodations and Conversion Division (RACD) case number, the date of the Rent Administrator's decision appealed from, and a clear and concise statement of the alleged error(s) in the decision of the Rent Administrator.

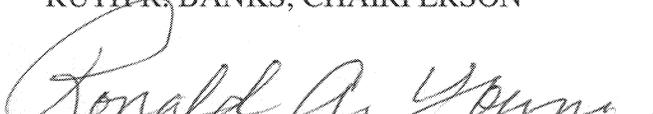
In Steelman v. Uzomah, TP 27,629 (RHC July 3, 2003) the Commission stated, "the notice of appeal does not state any errors in the decision and order in violation of the Commission's rule, 14 DCMR § 3802.5 (1991)." It also stated, "[t]he Commission's rule, 14 DCMR § 3802.13, states, '[t]he Commission may dismiss an appeal for failure to comply with the requirements of § 3802.5.'" See also Harrison v. Fred A. Smith Co., TP

25,059 (RHC Mar. 14, 2001) (where the Commission held that the notice of appeal and the two pages of the OAD decision attached to it did not state a clear and concise statement of alleged errors in that decision, in violation of 14 DCMR § 3802.5 (1991)).

In the instant appeal, the Tenants failed to state an error in the decision and order. They made statements and submitted a list of sentences, which do not state an error in the decision. Therefore, their appeal is dismissed.

SO ORDERED.

  
RUTH R. BANKS, CHAIRPERSON

  
RONALD A. YOUNG, COMMISSIONER

  
JENNIFER M. LONG, COMMISSIONER

## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Decision and Order TPs 27,514, 27,542, & 27,543 was mailed by priority mail, with confirmation of delivery, postage prepaid this **30<sup>th</sup> day of September, 2003**, to:

Tyrome L. Henson  
2330 High Street, S.E  
Washington, D.C. 20020

Joseph D. Wiggins  
2330 High Street, S.E.  
Washington, D.C. 20020

Mark Turner  
2330 High Street, S.E.  
Washington, D.C. 20020

Dalton Howard, Esquire  
6701 16<sup>th</sup> Street, N.W.  
Washington, D.C. 20012

James Bryant  
2330 High Street, S.E  
Washington, D.C. 20020

Janet Bryant  
1721 Highland Place, S.E.  
Washington, D.C. 20020

Gwendolyn Fair  
110 Gallatin Street, N.W.  
Washington, D.C. 20011



LaTonya Miles  
Contact Representative