

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

TP 27,583

In re: 2934 Bellevue Terrace, N.W.

Ward Three (3)

OXFORD HOUSE-BELLEVUE  
Tenant/Appellant

v.

BLAINE ASHER  
Housing Provider/Appellee

**ORDER ON MOTION FOR STAY PENDING APPEAL**

**June 10, 2003**

**BANKS, CHAIRPERSON.** On March 27, 2003, the hearing examiner issued the Rent Administrator's final decision and order, which concluded that the property was exempt from rent control, and dismissed all other issues. On April 14, 2003, counsel for the Tenant filed a motion for stay pending appeal. The motion states that the notice of appeal does not implicate 14 DCMR § 3802.10 & 3802.11 (1991), because the Tenant challenged the Housing Provider's claim of exemption. The second assertion was that the Rent Administrator erred by verbally denying the Tenant's motions for subpoena for PEPCO and other records.

**THE COMMISSION'S ORDER**

The Commission denies the motion for stay for the following reasons.

Motions for stay are governed by the Commission's regulations, 14 DCMR § 3802.10 & 3802.11 (1991).<sup>1</sup> The court interpreted these regulations in Hanson v. District of Columbia Rental Hous. Comm'n, 584 A.2d 592, 595 (D.C. 1991), where the court stated:

[T]he Commission action was not 'final' and could not be enforced in the trial court until after judicial review of the agency's action was completed or the appeal period has expired. (citation omitted). If Commission actions cannot be judicially enforced, then it would seem to follow logically that RACD decisions of the hearing examiner also cannot be enforced until appellate review has been exhausted. (citation omitted). If the decisions of the hearing examiner cannot be enforced until after judicial review, then there is no need for rules requiring a motion to stay since decisions of the examiner are, in effect, automatically stayed. Since the regulations were inconsistent with the doctrine of primary jurisdiction, the Commission was not bound to follow them. (citation omitted.) (emphasis added.)

Cited in Redman v. Graham, TP 24,681 (RHC Jan. 6, 2003); Lanier Asso./Larry Drell v. 1773 Lanier Place, N.W., Tenants' Asso., TP 27,344 (RHC Nov. 8, 2002); Vicente v. Anderson, TP 27,201 (RHC Sept. 23, 2002); Barnes v. MacDonald, TP 25,070 (RHC Oct. 3, 2001); Dias v. Perry, TP 24,379 (RHC June 17, 1999); Savoy Trust v. Clark, TP 11,784 (Apr.23, 1987). Since the court

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<sup>1</sup> 14 DCMR §§ 3802.10-11 (1991) state:

Any party appealing a decision of the Rent Administrator which orders the payment of money may stay the enforcement of such decision by establishing an escrow account or purchasing a supersedeas bond which complies with the requirements of § 3806 within five (5) days of filing the notice of appeal.

The payment of money described in §3802.10 shall include the award of rent increases to a housing provider. Establishment of an escrow account or the purchase of a supersedeas bond pursuant to § 3802.10 shall be based on at least six (6) months of the rent increase per party appealing; Provided, that the escrow may be paid in monthly deposits during the pendency of the appeal and the appellee shall be notified of the deposits.

determined that decisions of the Rent Administrator are automatically stayed until all appeals are exhausted, the motion for a stay is denied.

SO ORDERED.

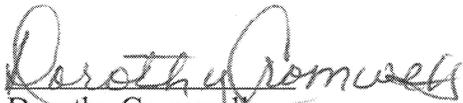
  
RUTH R. BANKS, CHAIRPERSON

### CERTIFICATE OF SERVICE

I certify that a copy of the ORDER ON MOTION FOR STAY was served by priority mail, with delivery confirmation, postage prepaid, this \_\_\_ day of June, 2003, to:

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