

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,631

In re: 1648 Park Road, N.W., Unit 4

Ward One (1)

JOHN H. WADE
Tenant/Appellant

v.

PARK ROAD ASSOCIATES & MORRIS MANAGEMENT
Housing Providers/Appellees

ORDER ON MOTION FOR RECONSIDERATION

January 12, 2006

YOUNG, COMMISSIONER. This case is before the Rental Housing Commission (Commission), pursuant to a Motion for Reconsideration of a decision and ordered rendered by the Commission. 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, 14 DCMR §§ 3800-4399 (2004) govern these proceedings.

I. PROCEDURAL HISTORY

On September 30, 2002, John H. Wade filed Tenant Petition (TP) 27,631 with RACD. An RACD hearing on the petition was held on October 28, 2002, with Hearing Examiner Sandra McNair presiding. The hearing examiner issued a decision and order on April 7, 2004.

The hearing examiner granted TP 27,631 in part, and ordered the housing

provider to pay the tenant a rent refund of \$6,825.00, plus interest in the amount of \$442.10, for a total refund of \$7,267.10. Further, the hearing examiner imposed a fine in the amount of \$750.00 on the housing provider for violating the Act.

The tenant and housing provider filed motions for reconsideration on April 21 and April 27, 2004, respectively. By order dated April 29, 2004 the hearing examiner denied the tenant's motion for reconsideration. By order dated April 30, 2004 the hearing examiner granted the housing provider's motion for reconsideration. On May 14, 2004, the tenant filed with the hearing examiner a Motion to Dismiss Without Prejudice, requesting that his tenant petition be dismissed.

On May 28, 2004 the hearing examiner, over the objection of the housing provider, issued an order in response to the tenant's motion dismissing TP 27,631, however, the hearing examiner dismissed the petition with prejudice. Wade v. Park Rd. Assocs. & Morris Mgmt., TP 27,631 (RACD May 28, 2004).

On June 17, 2004 the tenant filed a Notice of Appeal in the Commission. The Commission held its appellate hearing on August 12, 2004. The Commission determined that the tenant raised one issue on appeal, that is, whether the hearing examiner erred when she dismissed TP 27,631 with prejudice. In its discussion of the sole issue raised by the tenant, whether the hearing examiner erred when she granted the tenant's motion and dismissed the petition, with prejudice, the Commission stated:

The Commission finds no arbitrary action, capricious action or abuse of discretion in the Rent Administrator's dismissal of the tenant petition, with prejudice, because the tenant enjoyed the benefit of a full DCAPA evidentiary hearing. Therefore, the tenant's appeal of this issue is denied.

Wade v. Park Rd. Assocs. & Morris Mgmt., TP 27,631 (RHC Dec. 21, 2005) at 10.

II. ISSUES ON RECONSIDERATION

In his motion for reconsideration the tenant raised the following issues:

1. Proper Registration with RACD as a four-unit condominium or six-unit Rental property with the exemption numbers 509672?
2. If not exemption, why did not the law included [sic] all tenant[s] who resided on the premises at the time in question?
3. My rent increased to [\$] 515 in three rent increases in eighteen months with the first for seventy dollars inside of my first year lease. My rent increased one hundred and fifteen dollars in less than two years with the first year included.
4. Violations before the three years statutory time limit and violations afterwards. My rent was raised four times since October 28, 2002 until December 1, 2005.
5. Two Posted Notices which one[sic] states six units first, second, and third floor. The other states six units' [sic] condominium dated 4-23-04 [sic]. Electrical inspector stated on complaint #22932 Certify [sic] basement level. I never could obtain a status report on the two basement units, which make up six units.
6. I took possession on July 1, 1986, six months before Mr. Vondas illegally claimed to be the owner. We signed a lease dated January 1, 1987 but his name appeared on a deed as a partner February 23, 1988.
7. C.S. Georgilakis is the owner of 1648 Park Rd [sic] but in hearing Mr. Vondas lied and said the he is a partner.
8. Morris Management is the incompetent Manager of the property.
9. Title II of the Act?
10. When the bootlegged basement level which has not been inspected, it put at high risk the safety of all occupants of 1648 Park Road N.W.
11. Many notices were consistently ignored by Morris Management such as a hole in pan which the air condition drain in at number fire [sic] which leaks on Number 4.
12. A fine of [\$] 750 dollars is without justifications [sic] to the laws that are broken or embezzled.

Motion for Reconsideration at unnumbered pages 2 and 3.

III. THE COMMISSION DECISION

The Commission's regulations applicable to motions for reconsideration state:

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.

14 DCMR § 3823.1 (2004).

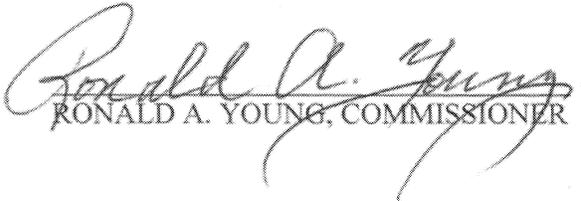
The motion for reconsideration or modification shall set forth the specific grounds on which the applicant considers the decision and order to be erroneous or unlawful.

14 DCMR § 3823.2 (2004).

The issues raised by the tenant in his motion for reconsideration are statements and/or questions similar to those raised in his notice of appeal. However, the tenant failed to set forth the reasons he considers the Commission decision affirming the hearing examiner's dismissal of his petition, with prejudice, to be erroneous or unlawful. Therefore, because the tenant failed to set forth the specific grounds on which the tenant considers the decision and order to be erroneous or unlawful, the motion for reconsideration is denied.

SO ORDERED.


RUTH R. BANKS, CHAIRPERSON


RONALD A. YOUNG, COMMISSIONER

JUDICIAL REVIEW

Pursuant to D.C. OFFICIAL CODE § 42-3502.19 (2001), “[a]ny person aggrieved by a decision of the Rental Housing Commission ... may seek judicial review of the decision ... by filing a petition for review in the District of Columbia Court of Appeals.” Petitions for review of the Commission’s decisions are filed in the District of Columbia Court of Appeals and are governed by Title III of the Rules of the District of Columbia Court of Appeals. The court may be contacted at the following address and telephone number:

D.C. Court of Appeals
Office of the Clerk
500 Indiana Avenue, N.W., 6th Floor
Washington, D.C. 20001
(202) 879-2700

CERTIFICATE OF SERVICE

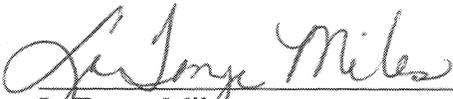
I certify that a copy of the foregoing Order on Motion for Reconsideration in TP 27,631 was mailed postage prepaid by priority mail, with delivery confirmation on this **12th day of January, 2006** to:

John H. Wade
1648 Park Road, N.W.
Unit 4
3 Washington, D.C. 20010

Carol S. Blumenthal, Esquire
1700 - 17th Street, N.W.
Suite 301
Washington, D.C. 20009

Jerry Morris
Morris Management
1787 Columbia Road, N.W.
Washington, D.C. 20010

Leo Vondas
3249 Mount Pleasant Street, N.W.
Washington, D.C. 20010



LaTonya Miles
Contact Representative
(202) 442-8949