

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,650 & TP 27,651

In re: 40 G Street, S.W., Unit 1

Ward Six (6)

DEBORAH A. REDMAN
Tenant/Appellant

v.

PHILIP A. GRAHAM
RAYMOND J. PITTS
LONG & FOSTER
LEWIS BASHOOR
Housing Providers/Appellees

ORDER ON MOTIONS TO WITHDRAW APPEALS

September 5, 2003

LONG, COMMISSIONER. On August 19, 2003, the tenant filed two Notices of Removal to Court. The tenant noticed the removal of TPs 24,681 & 24,681A and TPs 27,650 & 27,651 from the agency. The housing providers did not file an opposition to the tenant's notices of removal.

The Commission does not have a regulation that prescribes the removal of appeals. However, 14 DCMR § 3824.1 (1991) permits an appellant to "file a motion to withdraw an appeal pending before the Commission." Accordingly, the Commission shall treat the notices of removal as motions to withdraw the tenant's appeals. The Commission's regulation, 14 DCMR § 3824.2 (1991), provides that the "Commission shall review all motions to withdraw to ensure that the interests of all parties are protected."

Tenant Petitions 24,681 & 24,681A

The tenant filed a notice of appeal in TPs 24,681 & 24,681A on October 24, 2002. The housing provider, Philip Graham, filed a cross appeal through Attorney Phillip Felts on November 5, 2002. The Commission held the hearing on the cross appeals on March 10, 2003. The housing provider appeared through counsel and presented oral argument on the issues that he raised in the notice of appeal. The tenant did not appear, and the housing provider's attorney made an oral motion to dismiss the tenant's appeal. On April 24, 2003, the Commission granted the housing provider's motion and dismissed the tenant's appeal in TPs 24,681 & 24,681A. The housing provider's appeal is currently pending in the Commission.

On April 29, 2003, the tenant petitioned the District of Columbia Court of Appeals (DCCA) to review the Commission's order dismissing the tenant's appeal in TPs 24,681 & 24,681A. The Commission forwarded the certified record in TPs 24,681 & 24,681A to the Office of the Corporation Counsel (OCC) on August 21, 2003. The OCC filed the certified record in the DCCA on August 22, 2003. As a result, the tenant's appeal in TPs 24,681 & 24,681A is not pending in the Commission. Accordingly, the Commission denies the tenant's motion to withdraw the appeal in TPs 24,681 & 24,681A as moot, because the Commission does not have jurisdiction over the tenant's appeal.

Tenant Petitions 27,650 & 27,651

The tenant filed the notice of appeal in TPs 27,650 & 27,651 on February 27, 2003. In addition, the tenant filed numerous pre-hearing motions and notices. After considering the pre-hearing motions, the Commission scheduled the matter for a hearing on July 17, 2003. On July 15, 2003, the Commission canceled the hearing. The

Commission canceled the hearing because the Department of Consumer and Regulatory Affairs scheduled the Commission to attend an agency meeting; the attorneys for one of the housing providers were summoned to appear in court; and the tenant's physician advised the Commission that the tenant was medically unable to attend the Commission's hearing. See Redman v. Graham, TPs 27,650 & 27,651 (RHC July 15, 2003).

Thereafter, the tenant filed a series of notices and motions, the last of which was the notice of removal.

The tenant/appellant has requested to remove TPs 27,650 & 27,651 from the Commission. The tenant indicated that part of her retaliation claim is pending in the Superior Court of the District of Columbia and "efficiency considerations require consolidation of the cases at court." Notice of Removal at 1. In addition, the tenant stated, "Removal was necessary for reasons of fairness and efficiency." Id.

An appellant may move to withdraw an appeal as a matter of right. See 14 DCMR § 3824.1 (1991). None of the housing providers, either individually or through counsel, filed an opposition to the tenant's notice of removal. The tenant, who filed the notice of appeal, indicated that she did not want TPs 27,650 & 27,651 to "remain at the [a]gency and go through the appeal process." Notice of Removal at 1 n.1. The tenant has indicated that the retaliation issue is pending in the Superior Court, and she intends to file a subsequent action to recoup compensation for the alleged retaliation. Id. at 1.

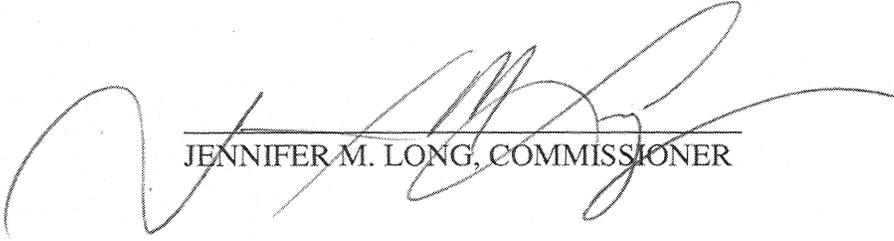
The Commission, which has construed the notice of removal as a motion to withdraw the tenant's appeal, is satisfied that the interests of all parties are protected. 14 DCMR § 3824.2 (1991). See Sindram v. Borger Mgmt., Inc., TPs 27,056 & 27,259 (RHC Aug. 5, 2002) (granting the tenant's motion to withdraw because the matter was

being litigated in Superior Court). Accordingly, the Commission grants the tenant's motion to withdraw TPs 27,650 & 27,651.

Conclusion

The Commission grants the motion to withdraw TPs 27,650 & 27,651. The Commission denies the motion to withdraw TPs 24,681 & 24,681A as moot, because the tenant's appeal in TPs 24,681 & 24,681A is not pending in the Commission.

SO ORDERED.



JENNIFER M. LONG, COMMISSIONER

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Order on Motions to Withdraw Appeals in TP 27,650 and TP 27,651 was sent by priority mail with delivery confirmation, postage prepaid, this 5th day of September 2003 to:

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