

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,850

In re: 1835 3rd Street, N.E., Unit 6

Ward Five (5)

GARY ROSS
Tenant/Appellant

v.

GLENMONT CORPORATION
Housing Provider/Appellee

ORDER ON REMAND

February 20, 2004

YOUNG, COMMISSIONER. Gary Ross filed tenant petition (TP) 27,850 with the Rental Accommodations and Conversion Division (RACD) on May 21, 2003. Hearing Examiner Sandra M. McNair, Esq., held the adjudicatory hearing on July 21, 2003. Following the hearing, the hearing examiner issued a decision and order on October 6, 2003. The Certificate of Service states that copies of the decision and order were mailed by United States Postal Service Priority Mail on October 6, 2003 to:

Gary Ross
1835 – 3rd Street, N.E.
Apartment #6
Washington, D.C. 20002

Glenmont Corporation
1835 – 3rd Street, N.E.
Apartment # 4
Washington, D.C. 20002

However, the certified record does not contain a return receipt nor any other documents issued by the United States Postal Service for use in priority mailing.

DISCUSSION

The Rental Housing Act of 1985 (Act), D.C. OFFICIAL CODE §§ 42-3501.01-3509.07 (2001), requires the Rent Administrator to mail all decisions by certified mail or

another form of service that assures delivery of the decision to the parties. See D.C. OFFICIAL CODE § 42-3502.16(j) (2001). In Joyce v. District of Columbia Rental Hous. Comm'n, 741 A.2d 24, 26 (D.C. 1999), the Court observed that the “statute’s specification of ‘certified mail’ is obviously important, because that form of mailing – permitting the agency to obtain a return receipt – is calculated to ‘assure delivery,’ as the statute requires.” (emphasis added). The use of certified mail or another form of service that assures delivery, priority mail with delivery confirmation in the instant case, of the decision is vital, because the time period for filing a notice of appeal begins when the agency mails the decision. Joyce, 741 A.2d at 27 (citation omitted).

When the Commission convened the hearing in this case, the tenant informed the Commission that he received the Rent Administrator’s decision and order. The representative of the housing provider, however, stated that he did not receive the decision and order issued by the Rent Administrator. The Rent Administrator’s “obligation was to use certified mail or another form of delivery designed to guarantee, if possible, receipt of the decision in time for petitioner to pursue her further rights as an aggrieved party.” Joyce, 741 A.2d at 26.

Since the record contains neither a certified mail return receipt nor proof that the Rent Administrator issued the decision and order by another form of service that assured delivery of the decision to the parties, the Commission remands the decision to the Rent Administrator. The Commission remands this case to OAD for re-issuance of the decision and order in accordance with Joyce.

SO ORDERED.


RONALD A. YOUNG, COMMISSIONER

MOTIONS FOR RECONSIDERATION

Pursuant to 14 DCMR § 3823 (1991), final decisions of the Commission are subject to reconsideration or modification. The Commission's rule, 14 DCMR § 3823.1 (1991), provides, "[a]ny 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."

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's Rule, D.C. App. R. 15(a), provides in part: "Review of orders and decisions of an agency shall be obtained by filing with the clerk of this court a petition for review within thirty days after notice is given, in conformance with the rules or regulations of the agency, of the order or decision sought to be reviewed ... and by tendering the prescribed docketing fee to the clerk." The Court may be contacted at the following address and telephone number:

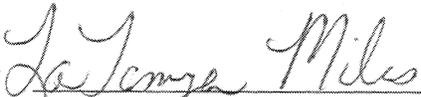
D.C. Court of Appeals
Office of the Clerk
500 Indiana Avenue, N.W., 6th Floor
Washington, D.C. 20001
(202) 879-2700

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Order on Remand in TP 27,850 was mailed postage prepaid by priority mail, with delivery confirmation on this 20th day of **February, 2004** to:

Gary Ross
1835 - 3rd Street, N.E.
Apartment #6
Washington, D.C. 20002

Glenmont Corporation
c/o Braxton Young
1835 - 3rd Street, N.E.
Apartment #4
Washington, D.C. 20002



LaTonya Miles
Contact Representative
(202) 442-8949