

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,938

In re: 3517 13th Street, N.W., Unit 3

Ward One (1)

EVAN McANNEY
Tenant/Appellant

v.

LAURENCE SMITH
Housing Provider/Appellee

ORDER

December 30, 2005

LONG, COMMISSIONER. This matter is on appeal from the Department of Consumer and Regulatory Affairs (DCRA), Housing Regulation Administration (HRA), Rental Accommodations and Conversion Division (RACD), to the Rental Housing Commission (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 (DCMR), 14 DCMR §§ 3800-4399 (2004), govern the proceedings.

On August 23, 2005, Evan McAnney filed a notice of appeal from a decision and order issued by the Rent Administrator on August 4, 2005. The Rent Administrator certified and transmitted the record to the Commission on November 16, 2005. On November 28, 2005, the Commission issued the Notice of Scheduled Hearing and Notice

of Certification of Record. The Commission scheduled the matter for an appellate hearing on December 14, 2005.

On December 6, 2005, Mr. McAnney filed a motion to continue the Commission's hearing; however, he filed the motion in the Housing Regulation Administration. The Commission received the motion on December 12, 2005, just two days before the scheduled hearing. On December 12, 2005, the Commission issued an order denying the tenant's motion to continue the hearing, because the tenant did not serve the motion on the housing provider or his attorney as required by 14 DCMR § 3815.1 (2004). See McAnney v. Smith, TP 27,938 (RHC Dec. 12, 2005).

The Commission convened the hearing on December 14, 2005. The tenant, Evan McAnney, appeared pro se, and Attorney Vere Plummer appeared on behalf of the housing provider, Laurence Smith. Just moments before the Commission convened the hearing, the tenant filed a Notice of Withdrawal of Appeal. In the notice, the tenant asked Commissioner Ronald Young to recuse himself based on a December 12, 2005 telephone conversation, and the tenant asked the Commission to reconsider and grant the tenant's motion to continue the hearing, or in the alternative to permit the tenant to withdraw the appeal until he retained counsel and secured witnesses.

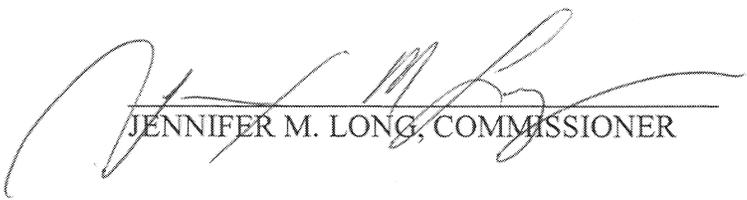
When the Commission convened the hearing, the tenant presented oral arguments in support of his request to continue the hearing. He stated that he was mentally ill, and he was unable to proceed without the assistance of counsel. The tenant recounted his efforts to retain counsel and argued that there was insufficient time between the hearing notice and the hearing date to secure an attorney. The housing provider's attorney, who

was not served with the initial motion to continue the hearing, vehemently objected to a continuance. He argued that the tenant had more than ample time to retain counsel.

After considering the parties' arguments, the Commission granted the tenant's motion to continue the hearing. While sitting on the bench and conferring with the tenant and the housing provider's attorney, the Commission rescheduled the hearing for Wednesday, January 25, 2006 at 2:00 p.m. The tenant raised concerns about his ability to retain counsel by that date. In response, the Commission advised the parties that if the tenant did not retain counsel by January 25, 2006, the Commission would not grant the tenant an additional continuance to retain counsel. On December 16, 2005, the Commission mailed the notice for the rescheduled hearing.

Since the Commission granted the tenant's motion to continue the hearing, the tenant's alternative motion to withdraw the appeal is moot. Commissioner Young will issue an order in response to the tenant's motion for recusal, in due course.

SO ORDERED.



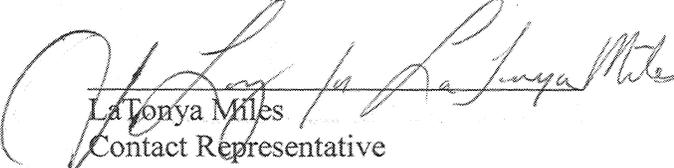
JENNIFER M. LONG, COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order in TP 27,938 was mailed by priority mail with delivery confirmation, postage prepaid, this 30th day of December 2005 to:

Evan McAnney
5415 Connecticut Avenue, N.W.
Unit 828
Washington, D.C. 20015

Vere Plummer, Esquire
1090 Vermont Avenue, NW
Suite 800
Washington, D.C. 20005


LaTonya Miles
Contact Representative
(202) 442-8949