

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 28,586

In re: 37 Q Street, N.W., Level 2

Ward Five (5)

ANNE JONES
Tenant/Appellant

v.

MIKE AAZAMI
Housing Provider/Appellee

ORDER ON MOTION TO DISMISS APPEAL

December 14, 2007

YOUNG, CHAIRMAN. This case is on appeal from the District of Columbia Department of Consumer and Regulatory Affairs (DCRA), 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. Law 6-10, 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 August 17, 2007, RACD issued the decision and order in TP 28,586. On August 24, 2007, the tenant filed a notice of appeal of the RACD decision in the Office of Administrative Hearings. The Commission received and date stamped the tenant's appeal on October 2, 2007. The Commission notes that the Office of Administrative

Hearings transferred a “blue ink” stamped copy of the tenant’s notice of appeal, which the Commission accepted as timely filed.¹ On October 29, 2007, the Commission issued its Notice of Scheduled Hearing and Notice of Certification of Record. The Notice of Scheduled Hearing notified the tenant that the hearing on her appeal would occur at 2:00 p.m., Tuesday, November 20, 2007. The Commission’s hearing was convened at 2:12:34 p.m., present at the Commission’s hearing was Mike Aazami, the housing provider/appellee. The tenant/appellant, Anne Jones, did not appear at the Commission hearing at the time designated on the Notice of Hearing. At the commencement of the hearing, due to the absence of the tenant, the housing provider requested by oral motion that the tenant’s appeal be dismissed for lack of prosecution. The Commission took the housing provider’s Motion to Dismiss under advisement and adjourned the hearing at 2:16:16 p.m. At approximately 2:30 p.m., the tenant presented herself in the Commission, after the hearing had been adjourned, and after the housing provider had made an oral motion requesting that the appeal be dismissed.

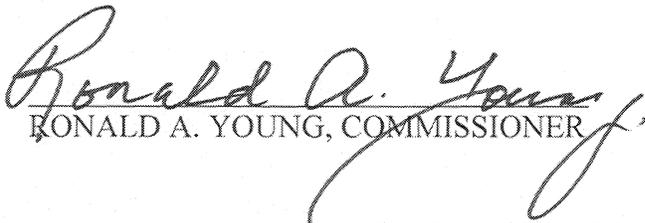
II. THE COMMISSION’S ORDER

Pursuant to the DCAPA, D.C. OFFICIAL CODE § 2-509(b) (2001), “[i]n contested cases, ...the proponent of a rule or order shall have the burden of proof.” In the instant case, the tenant/appellant was the proponent of the Notice of Appeal and therefore had the burden of proof to prosecute the appeal in the Commission. Further, the tenant/appellant received notice of the Commission’s hearing and failed to appear at 2:00 p.m., on Tuesday, November 20, 2007. The tenant/appellant did not contact the

¹ Cf. Thorpe v. Lynch, TP 24,460 (RHC Nov. 24, 1998), where the Commission accepted a “blue ink” stamped copy of a motion for reconsideration, that was not in the certified file, to hold that a notice of appeal was timely filed.

Commission to indicate that she would be delayed, or with a reason for her failure to appear at the scheduled time and date, nor did she request a continuance of the hearing date. The Commission's Notice of Scheduled Hearing on Appeal, page 1, warns the parties that failure to appear may result in the dismissal of the appeal. See Stancil v. District of Columbia Rental Hous. Comm'n., 806 A.2d 622 (D.C. 2002),² where the court affirmed the Commission's dismissal of an appeal due to the failure of a party to appear for the Commission's scheduled hearing) citing Tenants of 1755 N St., N.W. v. N St. Follies Ltd. P'ship., HP 20,746 (RHC June 21, 2000). Accordingly, the appeal of the tenant/appellant in TP 28,586 is dismissed.

SO ORDERED


RONALD A. YOUNG, COMMISSIONER

MOTIONS FOR RECONSIDERATION

Pursuant to 14 DCMR § 3823 (2004), final decisions of the Commission are subject to reconsideration or modification. The Commission's rule, 14 DCMR § 3823.1 (2004), 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."

² The Commission's regulations, 14 DCMR § 3828.1 (2004), provide:

When these rules are silent on a procedural issue before the Commission, that issue shall be decided by using as guidance the current rules of civil procedure published and followed by the Superior Court of the District of Columbia and the rules of the District of Columbia Court of Appeals.

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:

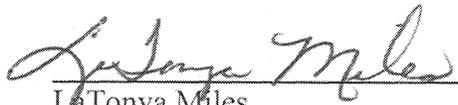
D.C. Court of Appeals
Office of the Clerk
500 Indiana Avenue, N.W., 6th Floor
Washington, D.C. 20001
(202) 879-2700

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing ORDER ON MOTION TO DISMISS APPEAL in TP 28,586 was mailed postage prepaid by priority mail with delivery confirmation this 14th day of December, 2007, to:

Anne Jones
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Level 2
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Mike Aazami
222 New Esplanade
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LaTonya Miles
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(202) 442-8949