

DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
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JAN 28 P 3 00

RICHARD COPELAND,
Tenant/Petitioner

v.

LAVERN ARRINGTON,
Housing Provider/Respondent.

Case No.: RH-TP-07-29109
Re: 1402 T St., SE, Unit #1

FINAL ORDER

I. Introduction

On October 31, 2007, Tenant/Petitioner Richard Copeland filed a tenant petition with the Rent Administrator alleging (1) a proper 30-day notice of rent increase was not served before the rent increase for his unit became effective; (2) services and/or facilities have been permanently eliminated, substantially reduced, and are not being provided in accordance with a voluntary agreement; and (3) the Housing Provider took retaliatory action. The parties have reached a settlement in this matter and on December 12, 2008, Tenant requested that this matter be dismissed.

II. Findings of Fact

1. The housing accommodation at issue in this petition is located at 1402 T Street, SE, Apt. 1, in the District of Columbia.
2. On October 31, 2007, Tenant/Petitioner Richard Copeland filed TP 29,109.

3. Status hearings were held in this matter on February 5, April 9, June 19, August 19, and December 12, 2008, and the parties attended mediation on February 5, 2008, with Administrative Law Judge Nicholas Cobbs.
4. A hearing was held on December 12, 2008. Counsel for Tenant appeared at the hearing and requested the case be dismissed with prejudice because the parties had reached a settlement agreement, the terms of which had already been fulfilled. Housing Provider did not appear at the hearing although the U.S. Postal Service website reflects, counsel for Housing Provider was served with the Order scheduling the hearing on December 1, 2008 (Receipt No. 0303-2460-0001-2370-5055). Counsel for Tenant stated that he had spoken with counsel for Housing Provider, who agreed to the dismissal with prejudice.

III. Conclusions of Law

This matter is governed by the Rental Housing Act of 1985 (D.C. Official Code §§ 42-3501.01 *et. seq.*) (“Rental Housing Act”), Chapters 41-43 of 14 District of Columbia Municipal Regulations (“DCMR”), the District of Columbia Administrative Procedures Act (D.C. Official Code §§ 2-501 *et. seq.*) (“DCAPA”), and OAH Rules (1 DCMR 2800 *et. seq.* and 1 DCMR 2920 *et. seq.*).

OAH Rules at 1 DCMR 2817.1, 2817.3, and 2817.4 provide that:

A petitioner may file a summary motion for voluntary dismissal of any action, or any claim asserted in an action, at any time . . . and the presiding Administrative Law Judge may grant a summary motion for voluntary dismissal without awaiting a response from the respondent.

* * *

The parties, or their authorized agents or representatives, also may file a stipulation of voluntary dismissal with prejudice, signed by all parties, their authorized agents or representatives, who have appeared in the action to dismiss an action.

* * *

Unless otherwise provided by statute, these rules or an order of this administrative court, a dismissal under this rule is without prejudice unless otherwise stipulated by the parties

Tenant has moved, voluntarily, to dismiss this matter with prejudice. Although Housing Provider did not sign the Praeceptum requesting dismissal with prejudice, the rules of this administrative court provided that “nothing in this rule shall preclude the presiding Administrative Law Judge from ordering that a dismissal shall be with prejudice in order to prevent unfair prejudice, inequity, or undue delay.” OAH Rule 2817.6. Accordingly, Tenant’s motion to dismiss is granted with prejudice. 1 DCMR 2817.1, 2817.4, 2817.6.

IV. Order

Therefore, it is this 28th day of January 2009:

ORDERED, that Tenant/Petitioners’ motion for voluntary dismissal is hereby **GRANTED**; and it is further

ORDERED, that Case No. RH-TP-08-29109 is hereby **DISMISSED WITH PREJUDICE**; and it is further

ORDERED, that the appeal rights of any party aggrieved by this Order are set forth below.



Erika L. Pierson
Administrative Law Judge

MOTIONS FOR RECONSIDERATION

Any party served with a final order may file a motion for reconsideration within ten (10) days of service of the final order in accordance with 1 DCMR 2937. When the final order is served by mail, five (5) days are added to the 10 day period in accordance with 1 DCMR 2811.5.

A motion for reconsideration shall be granted only if there has been an intervening change in the law; if new evidence has been discovered that previously was not reasonably available to the party seeking reconsideration; if there is a clear error of law in the final order; if the final order contains typographical, numerical, or technical errors; or if a party shows that there was a good reason for not attending the hearing.

The Administrative Law Judge has thirty (30) days to decide a motion for reconsideration. If a timely motion for reconsideration of a final order is filed, the time to appeal shall not begin to run until the motion for reconsideration is decided or denied by operation of law. If the Judge has not ruled on the motion for reconsideration and 30 days have passed, the motion is automatically denied and the 10 day period for filing an appeal to the Rental Housing Commission begins to run.

APPEAL RIGHTS

Pursuant to D.C. Official Code §§ 2-1831.16(b) and 42-3502.16(h), any party aggrieved by a Final Order issued by the Office of Administrative Hearings may appeal the Final Order to the District of Columbia Rental Housing Commission within ten (10) business days after service of the final order, in accordance with the Commission's rule, 14 DCMR 3802. If the Final Order is served on the parties by mail, an additional three (3) days shall be allowed, in accordance with 14 DCMR 3802.2.

Additional important information about appeals to the Rental Housing Commission may be found in the Commission's rules, 14 DCMR 3800 et seq., or you may contact the Commission at the following address:

District of Columbia Rental Housing Commission
941 North Capitol Street, N.E.
Suite 9200
Washington, D.C. 20002
(202) 442-8949

Certificate of Service:

**By Priority Mail/ Delivery Confirmation
(Postage Paid)**

Lolita Martin, Esquire
888 16th Street, NW, Suite 520
Washington, DC 20006

Bernard A. Gray, Sr., Esquire
2008 18th Street, SE
Washington, DC 20020-4201

I hereby certify that on Jan. 28,
2009, this document was caused to be served
upon the above-named parties at the
address(es) and by the means stated.

By Inter-Agency Mail:

District of Columbia Rental Housing
Commission
941 North Capitol Street, NE, Suite 9200
Washington, DC 20002

Keith Anderson, Acting Rent Administrator
District of Columbia Department of
Consumer and Regulatory Affairs
Rental Housing Administration
941 North Capitol Street, NE, Suite 7100
Washington, DC 20002

Benedetta Rhamis
Clerk / Deputy Clerk