

DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
941 North Capitol Street, NE, Suite 9100
Washington, DC 20002
TEL: (202) 442-8167
FAX: (202) 442-9451

OFFICE OF
ADMINISTRATIVE HEARINGS

JAN 28 3 10 PM

NELSON FLORES
Tenant/Petitioner,

v.

HORIZON PROPERTIES, LLC,
13th PLACE, LLC,
Housing Provider/Respondent.

Case No.: RH-TP-08-29208
In re: 6010 13th Place, NW, Unit 206

JULIO PEREZ
Tenant/Petitioner,

v.

HORIZON PROPERTIES, LLC,
13th PLACE, LLC,
Housing Provider/Respondent.

Case No.: RH-TP-08-29209
In re: 6010 13th Place, NW, Unit 106

(NOT CONSOLIDATED)

FINAL ORDER

I. Introduction

On January 8, 2009, Tenant/Petitioners Nelson Flores and Julio Perez filed Tenant Petitions (TP) 29,208 and 29,209, respectively, alleging violations of the Rental Housing Act of 1985. The parties have reached a settlement in his matter and on January 15, 2009, Tenants filed a stipulation of voluntary dismissal.

II. Findings of Fact

1. The housing accommodations at issue in this petition are located in the District of Columbia at 6010 13th Place, NW, Units 206 and 106.

2. On November 24, 2008, the parties attended mediation with Administrative Law Judge Jennifer Long. The parties reached a tentative settlement agreement.
3. On January 11, 2009, counsel for Tenants filed a stipulation of voluntary dismissal because the parties reached a final settlement. The stipulation requested the petition be dismissed with prejudice but was not signed by the Housing Provider.

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

Tenants have moved, voluntarily, to dismiss this matter with prejudice. Although Housing Provider did not sign the stipulation of dismissal, 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.

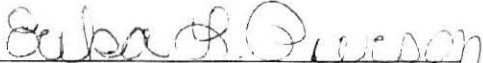
IV. Order

Therefore, it is this ____ day of **January 2009**:

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

ORDERED, that Case Nos. RH-TP-08-29208 and RH-TP-08-29209 are 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 with Delivery
Confirmation (Postage Paid):**

Rebecca Lindhurst, Esquire
Bread for the City
1525 7th Street, NW
Washington, DC 20001

Debra Leege, Esquire
Greenstein Delorme & Luchs, P.C.
1620 L Street, NW
Suite 900
Washington, DC 20036-1400

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

Benedetta Phames
Clerk/Deputy Clerk

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