

DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
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DISTRICT OF COLUMBIA
OFFICE OF
ADMINISTRATIVE HEARINGS

JAN 30 P 2:09

DONNA SANDERS
Tenant/Petitioner,

v.

BERHANU MOLLA
Housing Provider/Respondent.

Case No.: RH-TP-08-29229
In re 2626 Georgia Avenue, NW,
Upstairs Unit

FINAL ORDER

I. Introduction

On March 28, 2008, Donna Sanders filed Tenant Petition ("TP") 29,229 with the Rent Administrator, who heads the Rental Accommodations Division ("RAD") within the Department of Housing and Community Development ("DCHD"), alleging violations of the Rental Housing Act of 1985 by Housing Provider/Respondent Berhanu Molla.

Beginning October 1, 2006, the Council of the District of Columbia authorized the Office of Administrative Hearings ("OAH") to hold hearings and issue decisions in cases previously heard and decided by the Rent Administrator. D.C. Official Code § 2-1831.03(b-1)(1). Accordingly, the Rent Administrator transmitted this petition to this administrative court for all proceedings.

After continuances, the parties appeared at a rescheduled status conference on June 6, 2008. Based on that status conference, I issued a Prehearing Order on June 6, 2008, setting a

motions schedule and an evidentiary hearing for August 26, 2008. Subsequent Consent Motions for Continuance resulted in the rescheduling of the evidentiary hearing to November 13, 2008, and again to December 16, 2008.

Petitioner Sanders appeared at the time scheduled for the evidentiary hearing with counsel Hugie D. Hunt, Esquire. Respondent Berhanu Molla appeared on December 16, 2008 with counsel, Timothy Cole, Esquire.

At the start of the evidentiary hearing, the parties agreed to mediate the dispute, with another Administrative Law Judge serving as the mediator. The subsequent mediation was successful, with the parties reaching resolution of the issues raised in the Tenant Petition. The parties put the agreement on the record, but requested additional time to reduce the agreement to writing. The parties were ordered to file the written agreement and a stipulation of dismissal no later than January 13, 2009. To date, no agreement or stipulation of dismissal has been filed.

Because the parties have failed to comply with this administrative court's order, I will dismiss this case for failure to prosecute in accordance with the following Findings of Fact and Conclusions of Law.

II. Findings of Fact

The housing accommodation at issue is located at 2626 Georgia Avenue, N.W., Upstairs Unit.

On March 28, 2008, Tenant/Petitioner Sanders filed TP 29,229 alleging violations of the laws governing rental housing including those addressing rent increases, rent ceiling increases, services and facilities deficiencies and retaliatory action by Housing Provider against Petitioner.

The parties appeared with counsel on June 6, 2008, and on December 16, 2008, at which time the parties participated in a mediation, which resolved successfully the issues raised in the Tenant Petition. After putting the agreement on the record, the parties requested and were granted 30 days to file the agreement in writing and a stipulation of dismissal. That time period has passed, and despite reminders to the parties that the deadline had come and gone, no written agreement or stipulation of dismissal has been filed to date. Nor have the parties filed any document advising this tribunal that the matter is not settled.

III. Conclusions of Law

This Petition is dismissed based on the parties' failure to file the written agreement or stipulation of dismissal – a failure to prosecute.

This matter is governed by the Rental Housing Act of 1985, D.C. Official Code §§ 42-3501.01-3509.07, the District of Columbia Administrative Procedure Act (“DCAPA”), D.C. Official Code §§ 2-501-510, the District of Columbia Municipal Regulations (“DCMR”), 1 DCMR 2800-2899, 1 DCMR 2920-2941, and 14 DCMR 4100-4399.

The parties received proper notice of the due date for the filing as they were present in person on December 16, 2008, and agreed to file the documents within 30 days. Chapter 28 of Title 1 of the District of Columbia Code of Municipal Regulations, 1 DCMR 2801-2899 (“OAH Rules”) contains the applicable OAH rules governing a party's failure to comply with a court order or to appear at a court-ordered proceeding at OAH Rule 2818.1, 1 DCMR 2818.1, and OAH Rule 2818.2, 1 DCMR 2818.2 which provide:

For failure of the Petitioner to prosecute or to comply with these Rules or any order of this administrative court, a Respondent may move for

dismissal of an action or any claim against the Respondent, *or the presiding Administrative Law Judge may order such dismissal on his or her own motion.*

OAH Rule 2818.1. (Emphasis added).

Any order of involuntary dismissal entered pursuant to Section 2818.1 or on the presiding Administrative Law Judge's own motion shall not take effect until fourteen (14) days after the date on which it is served, and shall be vacated upon the granting of a motion filed by Petitioner within such fourteen (14) day period showing good cause why the case should not be dismissed.

OAH Rule 2818.2

The parties' unexplained failure to file the required documents, is a clear "failure . . . to prosecute" this case. 1 DCMR 2818.1; *DOH v. Agape Cabbage Patch/Le Mae Early Child Dev. Ctr.*, 2001 D.C. Ofc. Adj. Hear. LEXIS 36 at *5 (May 24, 2001) (dismissal for want of prosecution appropriate). For these reasons, this case shall be dismissed with prejudice pursuant to OAH Rule 2818, for failure to prosecute.

This Final Order will not take effect until fourteen days after the date of service. Within that time Tenant/Petitioner may file a motion to vacate this Final Order upon a showing of good cause why the case should not be dismissed. 1 DCMR 2818.2.

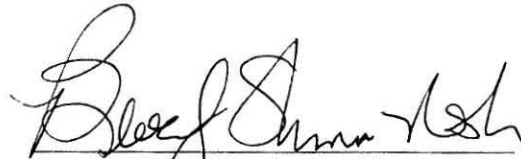
IV. ORDER

Therefore, it is, this 30th day of January 2009:

ORDERED that OAH Case No.RH-TP-08-29229 is **DISMISSED WITH PREJUDICE** for want of prosecution; and it is further

ORDERED, that the dismissal will take effect fourteen (14) days after service of this Final Order unless Tenant/Petitioner files a motion to vacate this Final Order within that period upon a showing of good cause: and it is further

ORDERED, that the appeal rights of any person aggrieved by this Order are stated below.



Beverly Sherman Nash
Administrative Law Judge

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, in accordance with the Commission's rule, 14 DCMR 3802. The ten (10) day limit shall begin to run when the order becomes final. 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 Facsimile Transmission and First
Class Mail (Postage Paid) to:**

Hughie D. Hunt, Esquire
Kemet & Hunt, P.L.L.C.
4920 Niagara Road
Suite 206
College Park, MD 20740
FAX: (301) 542-0005

Timothy P. Cole, Esquire
Schuman & Felts, Chartered
4804 Moorland Lane
Bethesda, Maryland 20814
FAX: (301) 986-7960

I hereby certify that on 1-30,
2009, this document was caused to be served
upon the above-named parties at the
addresses and by the means stated.


Clerk / Deputy Clerk