

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

2009 MAR 10 A 11:38

AHMAD BRAXTON-JONES,  
Tenant/Petitioner,

v.

WILLIAM C. SMITH & COMPANY,  
Housing Provider/Respondent.

Case No.: RH-TP-08-29277  
*In re* 2342 24<sup>th</sup> Street SE  
Unit 1607

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**FINAL ORDER**

This administrative court issued an order on February 25, 2009 scheduling this matter for an evidentiary hearing on April 20, 2009. The order addressed to Tenant/Petitioner, Ahmad Braxton-Jones was returned to this administrative court on March 4, 2009, because of an insufficient address. This was the address that Tenant filed with this administrative court on December 8, 2008. Tenant has an obligation to provide a correct and current address to this administrative court for use in prosecuting this matter. Tenant has failed to do so, therefore, the tenant petition is dismissed for Tenant's failure to prosecute this matter in accord with the following Findings of Fact and Conclusions of Law.

**I. Findings of Fact**

1. On April 30, 2008, Tenant filed TP 29,277 with the Rental Accommodations Division of the Department of Housing and Community Development asserting violations of the Rental Housing Act of 1985, DC Official Code §42-3501 et seq ("The Act") against Housing Provider

William C. Smith & Company alleging that retaliatory action has been directed against him by Housing Provider in violation of the Act, DC Official Code §42-3505.02.

2. Tenant's housing accommodation is located at 2342 24<sup>th</sup> Street SE, Unit 1607.

3. A Case Management Order ("CMO") issued on June 2, 2008, scheduled a hearing in this matter for July 9, 2008. Housing Provider, through counsel Joanne Sgro, Esquire submitted a joint motion for continuance. This administrative court granted the continuance and this matter was rescheduled for July 30, 2008. On June 30, 2008, this administrative court issued a Notice of Rescheduling changing the hearing date to August 13, 2008.

4. On August 13, 2008, Tenant and Housing Provider appeared for the evidentiary hearing. Counsel for Housing Provider did not. Housing Provider requested a continuance because counsel for Housing Provider was unable to appear. Tenant consented and this administrative court granted the continuance until October 6, 2008.

5. On October 6, 2008, prior to the hearing, Tenant called the legal assistants of the Office of Administrative Hearings ("OAH") and indicated that due to an emergency he would be unable to appear at the hearing and requested a continuance. Housing Provider, counsel for Housing Provider, and a witness for Housing Provider appeared for the scheduled hearing. Tenant's request for a continuance was granted.

6. On December 8, 2008, Tenant filed alternative dates for a hearing, including February 2, 2009, and the hearing was rescheduled for that date. On February 2, 2009, Housing Provider, counsel for Housing Provider, and three witnesses for Housing Provider appeared. Tenant did

not.

7. Tenant's submission of alternative hearing dates on December 8, 2009, included a change of address, which is the last address Tenant provided to this administrative court.

8. On February 3, 2009, this administrative court issued an Order to Show Cause why the tenant petition should not be dismissed for lack of prosecution. The Order to Show Cause was returned to this administrative court because, according to the U.S. Postal Service, delivery was attempted but the address was not known. The Order to Show Cause was sent to the address Tenant listed in the tenant petition and not the address Tenant provided when he filed alternative hearing dates on dated December 8, 2008. OAH legal assistants unsuccessfully attempted to contact Tenant via telephone for alternative hearing dates, but service for the telephone number Tenant provided has been discontinued.

9. This administrative court issued an order on February 25, 2009 setting the hearing for April 20, 2009. The order was sent to Tenant at the last address Tenant provided, but was returned to this administrative court by the U.S. Postal Service because the address was insufficient.

## **II. Conclusions of Law**

This matter is governed by the Rental Housing Act of 1985 (the "Act"), 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. As of October 1, 2006, OAH has assumed jurisdiction of rental housing cases pursuant to the OAH Establishment Act, D.C. Official Code § 2-1831.03(b-1)(1).

Tenant failed to appear for a scheduled hearing on February 2, 2009, a date Tenant provided as an alternative hearing date. However, the order scheduling the hearing was not sent to the last address Tenant provided to this administrative court, which may be good cause for his failure to appear for the hearing.

This administrative court then properly served Tenant an order to show cause issued on February 3, 2009, why this case should not be dismissed. The show cause order was served at the last address Tenant provided, an address deemed to be correct and current. OAH Rule 2807.4, 1 DCMR 2807.4. *Also see McCaskill v. District of Columbia Dep't of Employment Servs.*, 572 A.2d 443, 445 (D.C. 1990); *Carroll v. District of Columbia Dep't of Employment Servs.*, 487 A.2d 622, 624 (D.C. 1985). The show cause order was returned to OAH by the U.S. Postal Service because the address Tenant provided was insufficient.

This administrative court then properly served Tenant notice of a new hearing date scheduling a hearing for April 20, 2009, at the last address Tenant provided.<sup>1</sup> The U.S. Postal Service returned the scheduling order to OAH because the address Tenant provided was insufficient. Moreover, OAH attempted to contact Tenant using the telephone number Tenant provided, but service to that number has been discontinued.

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<sup>1</sup> McCaskill v. D.C. Dep't of Emp. Servs., 572 A.2d 443, 445 (D.C. 1990) and Carroll v. D.C. Dep't of Emp. Servs., 487 A.2d 622, 624 (D.C. 1985).

Tenant is obligated to provide this administrative court accurate and current contact information to effectuate the prosecution of his case. OAH Rule 2807.4, 1 DCMR 2807.4. Given that Tenant has failed to do so, this case is dismissed for Tenant's failure to prosecute.

OAH rules at 1 DCMR 2818.1 provide that:

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 of any claim against the Respondent, or the presiding Administrative Law Judge may order such dismissal on his or her own motion. Subject to the limitations of Section 2818.2, and unless otherwise specified, a dismissal under this Section, other than a dismissal for lack of jurisdiction, constitutes an adjudication on the merits.

Accordingly, this case is dismissed for Tenant's failure to prosecute.

### **III. Order**


Accordingly, it is this 10<sup>th</sup> day of **March, 2009**,

**ORDERED**, that tenant petition 29,277 is **DISMISSED** for Tenant's failure to prosecute; and it is further

**ORDERED**, that this order shall not take effect until 14 days after the date on which it is served, and shall be vacated upon the granting of a motion filed by Petitioner within that 14 day period, showing good cause why the case should not be dismissed. 1 DCMR 2813.3. It is further

**ORDERED**, that the reconsideration and appeal rights of any party aggrieved by this

Final Order are set forth below.

  
Caryn L. Hines  
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) to:**

Ahmad Braxton Jones  
1730 7<sup>th</sup> Street NW  
Washington, DC 20001

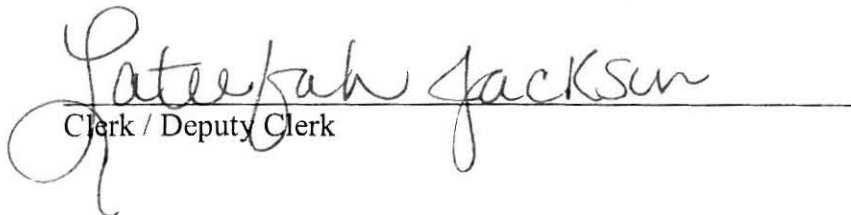
Joanne Sgro, Esquire  
1750 K Street NW  
Suite 800.  
Washington, DC 20006

**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  
Acting Rent Administrator  
District of Columbia Department of Housing and Community Development  
Housing Regulation Administration  
Rental Accommodations Division  
1800 Martin Luther King Jr. Avenue SE  
Washington, DC 20020

I hereby certify that on 3-10, 2009,  
this document was caused to be served upon the  
above-named parties at the addresses and by the means stated.

  
Clerk / Deputy Clerk