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DISTRICT OF COLUMBIA  
OFFICE OF  
ADMINISTRATIVE HEARINGS

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SONIA ATKINS,  
Petitioner,

v.

WILLIAMS & CUNNINGHAM AND  
KATIE GASKINS  
Respondents.

Case No.: RH-TP-08-29364

*In re:* 301 Jefferson Street, NW, Unit 2

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**FINAL ORDER**

**I. Introduction**

At the evidentiary hearing on September 23, 2008, Petitioner Sonia Atkins presented evidence on the claims alleged in the tenant petition she had filed on July 14, 2008, against Respondent Williams & Cunningham. On the Tenant Petitioner at issue, under Part 2, Landlord Information, is written, "c/o Mary Williams, Williams & Cunningham." Petitioner clearly stated on the record that she seeks relief in this action from Katie Gaskins, a statement I construe as a motion to amend to add Katie Gaskin as Respondent in the action. OAH Rule 2925.2, 1 District of Columbia Municipal Regulations (DCMR) 2925.2, provides that an Administrative Law Judge may "substitute or add the correct parties upon the motion of a party." Hence, the motion to amend to add Katie Gaskins as a party is granted.

Petitioner Sonia Atkins alleges that: 1) services and facilities in her rental unit had been substantially reduced; and 2) her landlord took retaliatory action against her by serving an unlawful Notice to Vacate.

## **II. Procedural History**

On February 7, 2008, I issued a Final Order after an evidentiary hearing held on September 26, 2007, at which Sonia Atkins alleged that Katie and Herbert Gaskins, G & G Apartments, reduced services and facilities in her unit, and served on her an unlawful notice to vacate. Case No. RH-TP-07-28986 (Feb. 7, 2008). In that Order, I held that Housing Providers violated the Act with an unlawful Notice to Vacate and assessed a fine. However, the reduction in services and facilities claim was denied because Tenant failed to cooperate and permit workers to enter her unit for the necessary repairs.

Before testimony in the instant matter began, Ms. Atkins and Ms. Williams both stated on the record that they had no objection to my hearing this case, even though I also had heard Case No. RH-TP-07-28986.

## **III. Findings of Fact**

1. A Tenant Advocate, not Sonia Atkins, completed the Tenant Petition at issue, which names Williams & Cunningham as Property owner.
2. Katie and Herbert Gaskins, G & G Apartments, are the Housing Providers for the Property at issue.

3. Mary C. Williams and the firm Williams and Cunningham are lawyers who represent G & G Apartments.
4. Petitioner Sonia Atkins has rented Apartment 2 at 301 Jefferson Street, NW from G & G Apartments since August 2006. Signatories on the lease are Sonia Atkins and Katie Gaskins. RX 202.
5. Petitioner Atkins believes that people have been stalking her from the roof of her building in the middle of the night since October 2007, which in her opinion caused the roof to leak. Petitioner called the police about the alleged stalkers. She holds Mr. and Ms. Gaskins and a tenant on the first floor of the building responsible for the stalking.
6. With a letter sent to Katie Gaskins on April 7, 2008, Sonia Atkins enclosed a money order for the rent for March. In that letter, Petitioner complained about a leak on her porch in the ceiling. She asked that she be notified in writing when someone is sent to look at the ceiling. RX 204.
7. Mary C. Williams, Esq., in writing, offered several dates when workers could make needed repairs in Petitioner's unit. No date offered was ever considered reasonable to Sonia Atkins.
8. On May 6, 2008, Housing Provider, through Attorney Williams, sent Sonia Atkins a letter informing her that counsel had been retained and listing several lease violations, including delinquent rent for April and May, and keeping hazardous materials in the building. Ms. Williams promised to send a roof repair

person on May 9, 2008, but cautioned that written notice for each repair was not realistic. Ms. Williams agreed to “attempt to telephone you in advance” for repairs. RX 205.

9. On May 10, 2008, Sonia Atkins sent a letter to Attorney Williams. RX 206. Ms. Atkins referred to a letter received on May 9 and messages on her telephone. She accused Ms. Williams of invading her privacy by leaving voice mail messages and harassing her by sending a letter. Petitioner expressed the belief that only her landlord, Katie Gaskins, had any right to contact her.
10. When a worker arrived on May 9, 2008, Sonia Atkins said she was on her way out the door. She did not permit the worker’s entry.
11. On June 9, 2008, Attorney Williams sent a “second written notice . . . regarding delinquent rental payments and our third verbal notice regarding maintenance violations.” RX 207.
12. On June 29, 2008, Petitioner Atkins received a Notice to Vacate the premises by August 1, 2008. Reasons set out in the Notice included: violations of terms of a written lease, refusal to permit workers to enter her unit to make repairs, and delinquent rent payments. The written notice included a registration number and a statement that the Notice would be filed with the Rent Administrator within five days. The Notice appeared on Williams & Cunningham letterhead, signed by Mary C. Williams, Esq. PX 102. The Notice was filed with the Rent Administrator on July 2, 2008. RX 208.

### **III. Conclusions of Law**

#### **A. Jurisdiction**

This matter is governed by the Rental Housing Act of 1985, D.C. Official Code §§ 42-3501.01-3509.07 (Act), the District of Columbia Administrative Procedure Act (DCAPA), D.C. Official Code §§ 2-501-511, and the District of Columbia Municipal Regulations (DCMR), 1 DCMR 2801-2899, 1 DCMR 2920-2941, and 14 DCMR 4100-4399.

#### **B. Respondents**

Attorney Williams moved that the action against her be dismissed because she is not a Housing Provider. Under the Act, “‘Housing Provider’ means a landlord, an owner, lessor, sublessor, assignee, or their agent, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any rental unit within a housing accommodation within the District.” D. C. Official Code § 42-3501.03 (15).

The record indicates that Attorney Williams functioned only as the legal representative for the Gaskins. She did not receive nor was she entitled to receive rents. Hence, Attorney Williams’s motion to dismiss the action against her and her law firm is granted.

Katie Gaskins, in contrast, entered into a lease with Sonia Atkins. RX 202. She is a housing provider under the Act.

### **C. Reduction in Services and Facilities Claim**

Petitioner presented evidence against Katie Gaskins for reduction in services and facilities. The Rental Housing Act provides that if “ related services or related facilities supplied by a housing provider for a housing accommodation or for any rental unit in the housing accommodation are substantially increased or decreased, the Rent Administrator may increase or decrease the rent charged, as applicable, to reflect proportionally the value of the change in services or facilities.” D.C. Official Code § 42-3502.11. As the party seeking relief, Sonia Atkins has the burden of proving a reduction in services and facilities by a preponderance of the evidence. D.C. Official Code §2-509(b); OAH Rule, 2932.1, 1 DCMR 2932.1.

Ms. Atkins testified that there was a leak in her roof, caused by stalkers in the middle of the night, with water evident on her living room ceiling. Because she did not permit anyone to enter her unit to assess damage and make needed repairs, Sonia Atkins is not entitled to recovery. *Russell v. Smithy Braedon Prop. Co.*, TP 22,361 (RHC July 20, 1995) at 7; *Offund v. American Security Bank*, TP 21,087 (RHC Jan. 11, 1990) at 6; Cf. D.C. Official Code § 42-3502.08(c).

### **D. Retaliation**

Finally, Sonia Atkins alleges that Housing Provider retaliated against her by serving a Notice to Vacate after the hearing in Case No. RH-TP-07-28986. “‘Retaliatory action,’ is action intentionally taken against a tenant by a housing provider to injure or get back at the tenant for having exercised rights protected by §502 of the Act.” 14 DCMR § 4303. 1. If within six months of engaging in a “protected act,” a housing provider takes

certain statutorily defined “housing provider action,” a tenant benefits from a presumption of retaliation, including that the housing provider took “an action not otherwise permitted by law,” unless Housing Provider “comes forward with clear and convincing evidence to rebut this presumption.” D.C. Official Code § 42-3505.02 (b); *DeSzunyogh v. Smith*, 604 A.2d 1, 4 (1992); *Twyman v. Johnson*, 655 A.2d 850, 858 (D.C. 1995).

I begin the analysis with Tenant’s exercise of a right, including a request for repairs. D.C. Official Code § 42-3505.02(b)(1). On April 7, 2008, Tenant wrote letter to Katie Gaskins with a complaint about a leak, an exercise of a right. Next is “housing provider action,” which includes seeking “to recover possession of a rental unit.” D.C. Official Code § 42-3505.02(a). On June 29, 2008, Housing Provider, through counsel, served a Notice to Vacate. The Notice qualifies as housing provider action. Because the housing provider action was taken within six months of Tenant’s exercise of a right, Sonia Atkins benefits from the presumption of retaliation, which Housing Provider can rebut with clear and convincing evidence. D.C. Official Code § 42-42-3505.02 (b).

Housing Provider has met that heightened burden of proof with evidence from Tenant/Petitioner who was delinquent in her rent; accused Katie and Herbert Gaskins and another tenant of stalking her; set unreasonable restrictions on when workers could enter her unit, essentially never permitting such entry; and refused to honor the request that she deal with an attorney, not Katie Gaskins directly. The evidence supports the defense that the Notice to Vacate was served on Sonia Atkins for lawful reasons not associated with her complaints about a leak in her apartment or with the Order in Case No. RH-TP-07-28986. The Notice was not a retaliatory act pursuant to D.C. Official Code § 42-3505.02.

**IV. Order**

Therefore, it is this 24<sup>th</sup> day of March 2009:

**ORDERED**, that the Tenant Petition against Williams and Cunningham is **DISMISSED WITH PREJUDICE**; and it is further

**ORDERED**, that the claims against Katie Gaskins for reduction in services and facilities and for retaliation are **DISMISSED WITH PREJUDICE**; and it is further

**ORDERED**, that the reconsideration and appeal rights on any party aggrieved by this Order appear below.

  
Margaret A. Mangan  
Administrative Law Judge



EXHIBITS

Tenant/Petitioner Exhibits (PX):

- PX 100: Letter dated June 17, 2008
- PX 101 Letter from Mary C. Williams, Esq. to Sonia Atkins dated June 9, 2008
- PX 102 Letter from Sonia Atkins to Ms. Williams dated June 29, 2008
- PX 103 Initial Order and Addendum Superior Court, Civil Division 5/28/08
- PX 104 Initial Order and Addendum Superior Court Civil Division 6/26/08

Housing Providers/Respondents Exhibits (RX):

- RX 201 Copy of Tenant Petition 29,364
- RX 202 Deed between Sonia Atkins and G & G Apartments, Aug. 11, 2006
- RX 203 Final Order Case No. RH-TP-07-28986 (Feb. 7, 2008)
- RX 204 Letter from Sonia Atkins to Mrs. Gaskins dated Apr. 7, 2008
- RX 205 Letter from Mary C. Williams, Esq. to Sonia Atkins dated May 6, 2008
- RX 206 Letter from Sonia Atkins to Ms. Williams dated May 10, 2008
- RX 207 Letter from Mary C. Williams, Esq. to Sonia Atkins dated June 9, 2008
- RX 208 Certification of Records from Keith Anderson, Acting Rent Administrator:  
"30-Day Notice to Vacate (Quit) The Premises" with file stamp of July 2,  
2008
- RX 209 Letter from Community Connections Housing Authority to Sonia Atkins  
dated Sept. 12, 2008

## **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, NE  
Suite 9200  
Washington, DC 20002  
(202) 442-8949

**Certificate of Service:**

**By Priority Mail with Delivery Confirmation (Postage Paid):**

Sonia Atkins  
301 Jefferson Street, NW, Apt. 2  
Washington, DC 20011

Mary C. Williams, Esq.  
Williams & Cunningham  
1629 K Street, NW, Suite 300  
Washington, DC 20036

**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  
Rental Accommodations Division  
Department of Housing and Community Development  
1800 Martin Luther King Jr. Ave., SE  
Washington, DC 20020

I hereby certify that on 3-24, 2009, this document was caused to be served upon the above-named parties at the addresses and by the means stated.

  
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