

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

DISTRICT OF COLUMBIA  
OFFICE OF  
ADMINISTRATIVE HEARINGS

2009 APR 24 A 10: 31

FRENIKA MUDD,  
Tenant/Petitioner,

v.

KILOLO KIJAKAZI,  
Housing Provider/Respondent.

Case No.: RH-TP-08-29383  
*In re:* 6509 16<sup>th</sup> Street NW

---

**FINAL ORDER**

**I. Introduction**

On August 7, 2008, Tenant/Petitioner Frenika Mudd filed Tenant Petition (TP) 29,283, with the Rental Accommodations Division (RAD) of the District of Columbia Department of Housing and Community Development, complaining of violations of the Rental Housing Act of 1985 (the "Rental Housing Act" or the "Act"), D.C. Official Code § 42-3501.01 *et seq.*, at the Housing Accommodation, 6509 16<sup>th</sup> Street NW. The petition asserted two allegations: (1) that the Housing Accommodation was not properly registered with the RAD; and (2) that Housing Provider Kilolo Kijakazi implemented a rent increase while the Housing Accommodation was not in substantial compliance with the District of Columbia Housing Regulations. At the hearing, Tenant withdrew the second claim, leaving only the allegation that the Housing Accommodation was not properly registered.

The Office of Administrative Hearings (OAH) set the case for hearing on October 20, 2008. Tenant appeared at the hearing *pro se*, and testified on her behalf. Housing Provider appeared, together with counsel, and testified. Eight Tenant exhibits and eight Housing Provider exhibits were received in evidence.<sup>1</sup> Based on the testimony of the witnesses, the exhibits in evidence, and the record as a whole, I conclude that Tenant proved that the Housing Accommodation was not properly registered, but, because I conclude that Housing Provider's violation of the registration requirements was not willful, I will impose no fine.

## II. Findings of Fact

Housing Provider Kilolo Kijakazi purchased the Housing Accommodation, a single-family house, in 1995, and lived there for five years until she was offered a job in New York. She then moved to Brooklyn, New York, and rented the Housing Accommodation to tenants.

Housing Provider filed a Registration/Claim of Exemption Form with the Department of Consumer and Regulatory Housing Regulation Administration on January 12, 2004, claiming an exemption from the rent stabilization provisions of the Rental Housing Act because Housing Provider operated four or fewer rental units.<sup>2</sup> Petitioner's Exhibit (PX) 101, D.C. Official Code § 42-3502.05(a)(3). The registration form listed Long & Foster as the management agent for the property. PX 101.

---

<sup>1</sup> Appendix A is a list of the exhibits received in evidence.

<sup>2</sup> On October 1, 2007, the rental housing functions of the Department of Consumer and Regulatory Affairs were transferred to the Department of Housing and Community Development ("DCHD"). The RACD functions were assumed by the Rental Accommodations Division of DCHD. The transfer does not affect any of the issues in this case.

On November 1, 2006, Housing Provider rented the Housing Accommodation to Tenant and to Joral Robinson, both of whose names were on the lease. PX 104 at 1. The lease identified Gregory Gaines as property manager. *Id.* Gregory Gaines, a friend of Housing Provider, was not licensed as a property manager in the District of Columbia. PX 102. Housing Provider was not aware of any requirement for filing an amended Registration/Claim of Exemption Form with the Rent Administrator to record the change in property managers. It was not until October, 2007, after Housing Provider discharged Mr. Gaines and decided to manage the property herself, that Housing Provider filed an amended Registration/Claim of Exemption Form with the Rent Administrator.

At the time Housing Provider leased the Housing Accommodation to Tenant, Housing Provider did not have a current business license. Housing Provider did not obtain a business license for the property until January 1, 2008. PX 108, RX 203.

Although Tenant was a co-signatory on the lease, Tenant never lived in the Housing Accommodation. The co-tenant, Joral Robinson, was remiss in paying the rent, leading Housing Provider to file an action for possession in the Superior Court of the District of Columbia Landlord and Tenant Branch. In August 2007, Tenant informed Housing Provider that she no longer wished to be on the lease. RX 200.

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

This matter is governed by the District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-501 *et seq.*) (DCAPA); the Rental Housing Act of 1985 (D.C. Official Code §§ 42-3501.01 *et seq.*); substantive rules implementing the Rental Housing Act at 14 District of Columbia Municipal Regulations (DCMR) 4100 - 4399; the Office of Administrative Hearings

Establishment Act at D.C. Official Code § 2-1831.03(b-1)(1), which authorizes OAH to adjudicate rental housing cases; and OAH procedural rules at 1 DCMR 2800 *et seq.* and 1 DCMR 2920 *et seq.*

Tenant's sole claim in this case is her allegation that the Housing Accommodation was not properly registered with the Rent Administrator. I conclude that Tenant has proven this claim. All housing providers are required to register any housing accommodation with the Rent Administrator. D.C. Official Code § 42-3502.05(f). Moreover, the Rental Housing Regulations require that a housing provider who has registered a housing accommodation file an amendment to the Registration/Claim of Exemption Form "[w]ithin thirty (30) days after any change in the ownership or management of a registered housing accommodation." 14 DCMR 4103.1(c). Failure to file a timely amended registration may result in the denial of a claim of exemption and the imposition of other penalties and sanctions. 14 DCMR 4106.6. Specifically, the Administrative Law Judge may impose fines for violations of the Rental Housing Act. D.C. Official Code § 42-3509.01(b). *See Majorle Mgmt. v. District of Columbia Rental Hous. Comm'n*, 768 A.2d 1003, 1009 n.14 (D.C. 2001); *Hammer v. Manor Mgmt. Corp.*, TP 28,006 (RHC May 17, 2006) at 13-16.

Notwithstanding, a fine may only be imposed under the Act when a Housing Provider's violation is willful. D.C. Official Code § 42-3502.09(b). Willfulness is a factual determination that arises out of a defined legal standard. To prove willful misconduct a tenant must prove that a housing provider intentionally violated the law. *See Miller v. D.C. Rental Hous. Comm'n*, 870 A.2d 556, 558 (D.C. 2005) (holding that a fine may be imposed where the Housing Provider "intended to violate or was aware that it was violating a provision of the Rental Housing Act"); *Quality Mgmt., Inc. v. D.C. Rental Hous. Comm'n*, 505 A.2d 73, 76 n.6 (D.C. 1986) (holding

that “willfully” implies intent to violate the law and a culpable mental state); *Hoskinson v. Solem*, TP 27,673 (RHC July 20, 2005) at 5 (“‘willfully’ in § 42-3509.1(b) relates to whether or not the person committing the act intended to violate the law”); *Recap – Bradley Gillian v. Powell*, TP 27,042 (RHC Dec. 19, 2002) at 9 (quoting *Ratner Mgmt. Co. v. Tenants of Shipley Park*, TP 11,613 (RHC Nov. 4, 1988) at 4-5, holding that a finding of willfulness requires a showing that “the landlord’s conduct was intentional, or deliberate or the product of a conscious choice”).


Here there is no evidence that Housing Provider intended to violate the law or was conscious of any wrongdoing. I credit Ms. Kijakazi’s testimony that she was not aware of the requirement that housing providers file an amended Registration/Claim of Exemption Form whenever there is a change of property managers. The record indicates that Housing Provider registered the property properly in 2004, and then sought to comply with the registration requirements in 2007 when she realized that the registration was defective. Tenant has not proved that Housing Provider’s failure to comply with the technicalities of the District’s registration requirements amounted to an intentional violation of the law. Therefore, I will not impose any fine.

**IV. Order**

Accordingly, it is this 24<sup>th</sup> day of **April, 2009**,

**ORDERED**, that this case be **DISMISSED WITH PREJUDICE**; and it is further

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

  
\_\_\_\_\_  
Nicholas H. Cobbs  
Administrative Law Judge

**APPENDIX****Exhibits in Evidence**

<b>Exhibit No.</b>	<b>Pages</b>	<b>Description</b>
<b>Petitioner</b>		
100	1	Email from Jody Beal to Frenika Mudd dated 8/15/08
101	4	Registration/Claim of Exemption Form filed 1/12/04 re 6509 16 <sup>th</sup> Street NW
102	1	Department of Consumer and Regulatory Affairs Certificate dated 8/7/09
103	1	Department of Consumer and Regulatory Affairs Certificate dated 8/14/08
104	10	Lease dated 11/1/06 re 6509 16 <sup>th</sup> Street NW
105	1	Request for Record Certification dated 8/7/08
107	1	Property detail sheet for 6509 16 <sup>th</sup> Street NW
108	1	Department of Consumer and Regulatory Affairs Certificate dated 8/14/08
<b>Respondent</b>		
200	1	Letter from Frenika Mudd to Kilolo Kijakazi c/o Gregory Gaines dated 8/1/07
201	1	Check from Kilolo Kijakazi to D.C. Treasurer dated 10/26/07
202	1	Email from Kilolo Kijakazi to Selina James dated 9/21/05 and email from Jody Beal to Kilolo Kijakazi dated 9/23/05
203	1	Basic Business License for Kilolo Kijakazi re 6509 16 <sup>th</sup> Street NW
204	1	Notice of Business Tax Registration to Kilolo Kijakazi dated 1/16/08
205	2	Invoice from Long and Foster to Kilolo Kijakazi dated 12/20/04 and attached invoice from Vito Construction dated 11/24/04
206	16	Handwritten list of repairs to 6509 16 <sup>th</sup> Street NW and attached invoices
207	1	Email from Frenika Mudd to Kilolo Kijakazi dated 8/7/08

## **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



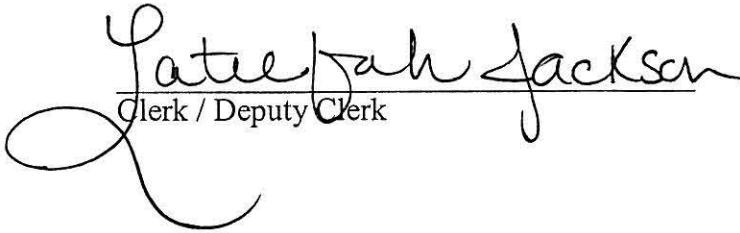
**Certificate of Service:**

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

Frenika Mudd  
3336 DuBois Place SE, Unit 1  
Washington, DC 20019

Pamela Copeland, Esq.  
1237 Franklin Street NE  
Washington, DC 20017

I hereby certify that on 4-24,  
2009, this document was caused to be served  
upon the above-named parties at the  
addresses and by the means stated.

  
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 Housing  
and Community Development  
Housing Regulation Administration  
1800 Martin Luther King Jr. Avenue SE  
Washington, DC 20020

