

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

2009 MAR -5 A 9:32

WILLIAM A. VAN CROFT  
AND ERIKA LAWS,  
Tenants/Petitioners,

v.

RUBY VAN CROFT,  
Housing Provider/Respondent.

Case No.: RH-TP-08-29422  
*In re* 1375 Locust Road NW

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**FINAL ORDER**

Tenants/Petitioners, William A. Van Croft and Erika Laws failed to appear for a scheduled hearing on January 8, 2009, after receiving notice at the address Tenant Erika Laws filed at this administrative court on November 18, 2008.<sup>1</sup> Housing Provider, counsel for Housing Provider and a witness for Housing Provider appeared for the evidentiary hearing. At the hearing, Housing Provider, through counsel Shelby Hamilton, Esquire moved to dismiss this matter with prejudice which I took under consideration. This administrative court issued to Tenants on February 12, 2009, an order directing them to file by February 23, 2009, a statement as to why this case should not be dismissed with prejudice for Tenants' failure to prosecute. This administrative court has received no statement filed by Tenants. Tenant William Van Croft is deceased. However, Tenant Erika Laws failed to appear to prosecute this matter and I will grant

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<sup>1</sup> Documents in the record indicate that Tenant/Petitioner William Van Croft is deceased and died on or about January 31, 2008, which is before the tenant petition was filed.

Housing Provider's motion to dismiss the tenant petition with prejudice in accord with the following Findings of Fact and Conclusions of Law.

**I. Findings of Fact**

1. On September 5, 2008, Tenants filed TP 29,422 with the Rental Accommodations Division of the Department of Housing and Community Development asserting violations of the Rental Housing Act of 1985 against Housing Provider Ruby Van Croft, alleging that retaliatory action has been directed against them by Housing Provider in violation of section 502.

2. Tenants' housing accommodation is located at 1375 Locust Road NW.

3. The Case Management Order ("CMO") issued on October 14, 2008, scheduled a hearing in this matter for November 19, 2008. The CMO was sent to the address Tenants listed in their tenant petition and was returned to the Office of Administrative Hearings ("OAH") on October 31, 2008. Tenant Erika Law was contacted by legal assistants at OAH and she provided a new address to which the CMO was sent.

4. On November 10, 2008, Housing Provider, through counsel filed Respondent's Motion for Continuance. In Housing Provider's motion, she indicates that she was unsuccessful in her attempts to contact Tenant Erika Laws to obtain her consent. OAH legal assistants were also unsuccessful in contacting Tenant Erika Laws to confirm alternative dates for a hearing.

5. On November 19, 2008, Tenant Erika Laws filed a change of address with this administrative court.

6. On November 20, 2008, this administrative court granted Housing Provider's motion to continue and set this matter for a hearing on January 8, 2009. A copy of the order

scheduling the hearing was confirmed by the U.S. Postal Service to have been delivered on November 21, 2009 at 11:10 a.m. to the address Tenant Erika Laws provided in the change of address.

7. On January 8, 2009, Housing Provider, counsel for Housing Provider, and a witness for Housing Provider appeared for the evidentiary hearing. Tenant Erika Laws did not appear.

8. On January 8, 2009, Tenant Erika Laws filed a request for continuance until after January 21, 2009. On January 9, 2009, this administrative court rejected the request because the request did not have a Certificate of Service that identifies the individual serving the document as well as the party served, the manner of service, and the date of service.

9. On February 12, 2009, this administrative court ordered Tenant Erika Laws to file a statement by February 23, 2009, as to why the tenant petition should not be dismissed for failure to prosecute. The order was sent to every address that Tenant Erika Laws has provided. All three orders with the addresses that Tenant Erika Laws provided were returned to this administrative court.<sup>2</sup>

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<sup>2</sup> US Postal Service indicates that the 8810 Colesville Road #510, Silver Spring ,MD 20910 address was “not deliverable as addressed” and “unable to forward” and “return to sender.” The P.O. Box 5554 Washington, DC 20027 address and the c/o Clarissa Edwards, Esquire, 403-405 8<sup>th</sup> Street, NE Washington, DC 20002 addresses were returned to OAH and the US Postal Service indicates “moved left no address.”

## 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).

On February 12, 2009, this administrative court ordered Tenants to file a statement by February 23, 2009, as to why the tenant petition should not be dismissed for failure of Tenants to prosecute this matter. The order was sent to every address that Tenant Erika Laws provided. The orders with the addresses that Tenant Erika Laws provided were returned to this administrative court. It is Tenants' obligation to file with this administrative court and serve upon Housing Provider a change of address.

OAH Rule 2807.4, 1 DCMR 2807.4, provides:

It is solely the obligation of a party, an authorized representative, or an attorney whose address, telephone number(s), or fax number(s), if any, have changed to promptly notify the Clerk and all other parties. Any change of address shall be filed with this administrative court and served upon all parties within three (3) business days of its occurrence. The information provided to this administrative court pursuant to this Rule shall be conclusively deemed to be correct and current.

Because the CMO setting the hearing date was mailed to Tenants' last known address, Tenant Erika Laws received proper notice of the hearing date. Tenant Erika Laws also received

proper notice of the February 12, 2009 order directing her to file a statement as to why the tenant petition should not be dismissed. *Dusenbery v. United States*, 534 U.S. 161, 167-71 (2002); *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 800 (1983); *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).

In order to prosecute the tenant petition, Tenant Erika Laws must appear at the scheduled hearings and comply with orders of this administrative court. In the order issued February 12, 2009, Tenant Erika Laws was given until February 23, 2009 to file a statement as to why this matter should not be dismissed for failure to prosecute. Tenant Erika Laws failed to appear at the hearing after receiving proper notice.

OAH rules at 1 DCMR 2818.3 provide that:

Unless otherwise required by statute, these Rules or an order of this administrative court, where counsel, an authorized representative, or an unrepresented party fails, without good cause, to appear at a hearing ..., the presiding Administrative Law Judge may dismiss the case or enter an order of default in accordance with D.C. Superior Court Civil Rule 39-I.<sup>3</sup> Any order of dismissal or default entered pursuant to this Section 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 the party within such fourteen (14) day period showing good cause why the case should not be dismissed or defaulted.

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<sup>3</sup> D.C. Super. Ct. Civ. R. 39-I(b) provides that, “[w]hen an action is called for trial and the party seeking affirmative relief fails to respond, an adversary may have the claim dismissed, with or without prejudice as the court may decide, or the court may, in a proper case, conduct a trial or other proceeding.

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 the party within such fourteen (14) day period showing good cause why the case should not be dismissed or defaulted.

This administrative court has received no statement from Tenant Erika Laws showing good cause why this case should not be dismissed. Therefore, this matter is involuntarily dismissed with prejudice pursuant to OAH rule 1 DCMR 2818.3 for Tenant's failure to prosecute.

**III. Order**

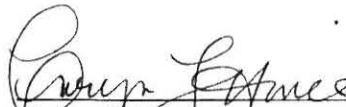
Accordingly, it is this **5<sup>th</sup>** day of **March, 2009**,

**ORDERED** that Housing Provider's motion to dismiss the tenant petition is **GRANTED**; 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.

**ORDERED**, that TP 29,422 is **DISMISSED WITH PREJUDICE**; and it is further

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

  
Caryn L. Hines  
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, NE  
Suite 9200  
Washington, D.C. 20002  
(202) 442-8949

**Certificate of Service:**

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

Erika Laws  
c/o Clarissa T. Edwards, Esq.  
403-405 8<sup>th</sup> Street, NE  
Washington, DC 20002

Erika Laws  
P.O. Box 25554  
Washington, DC 20027

Erika Laws  
8810 Colesville Road  
Unit 510  
Silver Spring, MD 20910

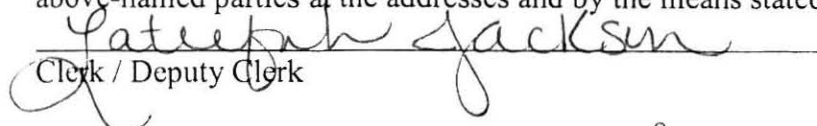
Shelby Hamilton, Esquire  
1907 Barrington Court  
Mitchellville, MD 20721

**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

I hereby certify that on 3-5, 2009,  
this document was caused to be served upon the  
above-named parties at the addresses and by the means stated.

  
Clerk / Deputy Clerk