

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

2009 APR -3 A 11: 10

CLIFTON MAKELL
Tenant/Petitioner,

v.

WILLIAM J. DAVIS, INC.
Housing Provider/Respondent

Case No.: RH-TP-09-29510
In re 1128 - 16th Street NE,
Unit 2

FINAL ORDER

The housing accommodation at issue is located at 1128 - 16th Street NE, Unit 2. On January 2, 2009, Tenant/Petitioner Clifton Makell filed Tenant Petition 29,510 against Housing Provider/Respondent William J. Davis, Inc., alleging that Housing Provider violated the Rental Housing Act of 1985¹ by reducing services and facilities provided in connection with Tenant's rental unit. Voluntary mediation with the assistance of an Office of Administrative Hearings (OAH) mediator was scheduled for March 20, 2009. At the conclusion of mediation on March 20, 2009, Tenant filed a motion to dismiss this matter because the parties settled the issues during mediation.

This matter is governed by the District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-501 *et seq.*) (DCAPA) and OAH procedural Rules at 1 DCMR 2800 *et seq.*

¹ Rental Housing Act of 1985 (D.C. Official Code §§ 42-3501.01 *et seq.*) ("Rental Housing Act" or "Act").

and 1 DCMR 2920 *et seq.* The DCAPA at D.C. Official Code § 2-509(a) provides that a contested case may be disposed of by agreed settlement. OAH Rules provides that:

A petitioner may file a summary motion for voluntary dismissal of any action, or of any claim asserted in an action, at any time . . . and the presiding Administrative Law Judge may grant a summary motion for voluntary dismissal without awaiting a response from the respondent. 1 District of Columbia Municipal Regulations (DCMR) 2817.1

Unless otherwise provided by statute, these Rules or an order of this administrative court, a dismissal under this Rule is without prejudice unless otherwise stipulated by the parties 1 DCMR 2817.4

Tenant has moved, voluntarily, to dismiss this case because the parties have settled the issues. The parties have not stipulated to dismissal with prejudice. There is no statute or rule of this administrative court prohibiting voluntary dismissal of this matter without prejudice. Therefore, I am granting Tenant's motion to dismiss. 1 DCMR 2817.1 and 2817.4; D.C. Official Code § 2-509(a). If Housing Provider objects to any aspect of this Order granting Tenant's motion for voluntary dismissal without prejudice, Housing Provider may file a motion for reconsideration within ten days of the date of service of this Order. 1 DCMR 2817.2 and 2937.

Therefore, it is this 2nd day of April, 2009:

ORDERED, that Tenant's motion for voluntary dismissal is hereby **GRANTED**; and it is further

ORDERED, that Case No. RH-TP-09-29510 is hereby **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED, that if Housing Provider objects to any aspect of this Order granting Tenant's motion for voluntary dismissal without prejudice, Housing Provider may file a motion for reconsideration within ten (10) days of the date of this Order; and it is further

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

A handwritten signature in black ink, appearing to read "Wanda R. Tucker", written over a horizontal line.

Wanda R. Tucker
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/ Delivery Confirmation
(Postage Paid)**

Clifton Makell
1128 – 16th Street, NE
Unit 2
Washington, DC 20002

Anthony V. Bruno
William J. Davis, Inc.
c/o The Barac Company
6901 4th Street, NW
Washington, DC 20012

By Interagency Mail

District of Columbia Rental Housing Commission
941 North Capitol Street, N.E.
Suite 9200
Washington, DC 20002

Keith Anderson
Acting Rent Administrator
Rental Accommodations Division
Department of Housing and Community Development
1800 Martin Luther King Avenue, SE
Washington, DC 20020

I hereby certify that on 4-3, 2009 this document was caused to be served upon the above-named parties at the address(es) and by the means stated.

Beneddte Rhames
Clerk / Deputy Clerk

COPY

Clifton Makell

v.

William J. Davis, Inc.

Case No. RH-TP-09-2951

DISTRICT OF COLUMBIA
OFFICE OF
ADMINISTRATIVE HEARINGS
2009 MAR 20 P 3:27

Settlement Agreement

I AGREE TO

SEC DEPOSIT \$575-
1ST MO. RENT \$575-

\$290
\$580 April 290- CREDIT
2009

Water Bill - \$230.00 CREDIT
Co Army

VALIDATE BY 5/1/09

Anthony V. Bruno

Anthony V. Bruno

Clifton Makell

DISMISS CASE
RH-TP-09-2951