

KAMEROW v. D.C. RENTAL HOUSING COMMISSION, 891 A.2<sup>ND</sup> 253 (2006)

Court: D.C. Court of Appeals, opinion by Reid, J.

Judicial History: Tenants filed petitions with the Department of Consumer and Regulatory Affairs (DCRA) that alleged that landlord charged rent above the last registered rent ceiling. The DCRA hearing examiner found in favor of tenants. Landlord appealed. The Rental Housing Commission (RHC) vacated treble damages, imposed a fine, and remanded. Landlord petitioned for review. The Court of Appeals dismissed. On remand the DCRA hearing examiner issued findings in support of treble damages. Landlord appealed. The RHC dismissed landlord's appeal as untimely. Landlord petitioned for review.

Facts: Tenants filed petitions with the DCRA alleging that landlord had charged rent above the last registered rent ceiling. A DCRA hearing examiner found in their favor and landlord appealed. After additional agency proceedings, the RHC determined that it lacked jurisdiction to hear landlord's appeal because it had not been filed within the required time period. Landlord petitioned for review.

Holdings: The Court of Appeals held that:

- 1.) the Court of Appeals had jurisdiction to review landlord's appeal;
- 2.) the RHC requirement that a notice of appeal be filed with its office no later than 4:30 on the last day of the ten-day limitations period in order to be considered timely was not unreasonable or arbitrary.

Reasoning:

- 1.) The Rental Housing Commission's (RHC) requirement that a notice of appeal be filed with its office no later than 4:30 p.m. on the last day of the ten-day limitations period in order to be considered timely was not unreasonable or arbitrary, even though landlord argued that there was no after-hours filing system; the municipal regulations provided that the office of the commission would be open daily from 8:30 a.m. to 4:30 p.m. except Saturdays, Sundays, and legal holidays, and that the receipt of a pleading that was not timely filed did not constitute a waiver of the filing requirements.
- 2.) Landlord failed to preserve for appellate review his claim that he was lulled into believing that he could file his appeal of the RHC's dismissal order after business hours on the tenth and final day of the limitations period for filing an appeal and it would be considered timely, in tenant's action to recover rent charged in excess of lawful rent ceiling, where counsel for landlord failed to raise the lulling doctrine before the RHC, and the record did not contain a motion for reconsideration or affidavit that challenged the RHC's decision under the lulling doctrine.

Decision: Affirmed.