

KATES v. D.C. RENTAL HOUSING COMMISSION, 630 A.2nd 1131 (1993)

Court: D.C. Court of Appeals, Sullivan, A.J.

Judicial History: In consolidated appeals, property owner and two tenants in possession of premises sought review of decision and order of District of Columbia Rental Housing Commission ("RHC") which approved landlord's hardship petition and increased tenants' rent by 107%.

Facts: A landlord and two tenants seek review of the Decision and Order of the RHC which approved the landlord's hardship petition and increased the tenants' rent by 107%. The landlord contends that the RHC erred by affirming the Decision and Order of a Rental Accommodations and Conversion Division hearing examiner which precluded consideration of the prior property owner's equity in the property in determining the landlord's rate of return on its investment. The tenants contend that the RHC erred by affirming the examiner's order because the RHC (1.) failed to include an adjustment to the landlord's maximum possible rental income ("MPRI") for the year 1985; (2.) allowed credit for certain alleged unsubstantiated utility expenses and penalties; and (3.) allowed a vacancy loss deduction from the MPRI for a rental unit which was undergoing renovation and which had not been offered for rent during the relevant reporting period for the landlord's rent increase petition.

Holding: The Court of Appeals held that:

- 1.) RHC should have included adjustment to landlord's MPRI for the year 1985, and,
- 2.) RHC should not have allowed landlord a vacancy loss deduction from MPRI for rental unit which was undergoing renovation and which had not been offered for rent during relevant reporting period.

Reasoning:

- 1.) RHC erred in not including adjustment to MPRI for 1985, in determining whether landlord was entitled to hardship rent increase; RHC had previously recognized that MPRI could include altered rent adjustments landlord could have taken in prior years even if landlord did not take adjustments, and tenants argued before RHC and Court of Appeals and landlord conceded that there were three years of increases that could have been taken between time rent ceiling was established and hardship petition.
- 2.) Landlord has burden of proof on issue whether he is entitled to vacancy loss deduction from MPRI for unit which is vacant and offered for rent during reporting period.

Decision: Affirmed in part, and reversed and remanded in part.