

MILLER v. D.C. RENTAL HOUSING COMMISSION, 870 A.2nd 556 (2005)

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

Judicial History: Residential tenant brought statutory claim of retaliation, alleging housing provider sought to enforce lease provision forbidding possession of dogs less than six months after tenant joined tenant organization. An administrative law judge (ALJ) found retaliation and imposed a fine of \$2,090. The D.C. Rental Housing Commission (RHC) upheld the finding of retaliation but vacated the fine. Tenant sought judicial review.

Facts: The RHC upheld a finding of statutory retaliation by a housing provider against tenant-petitioner. The RHC went on, however, to vacate a fine of \$2,090 which the ALJ had imposed as a sanction because, in the RHC's view, the ALJ had "failed to make findings of fact or conclusions of law on whether the housing provider acted willfully as is required by the [fine provision] of the Rental Housing Act." Tenant petitioned for review of that decision, contending that the RHC erred in concluding that the statutory adverb "willfully" – denoting the mental state necessary to permit imposition of a fine – required proof and related findings beyond what the ALJ found in determining that the housing provider had engaged in retaliation.

Holdings: The Court of Appeals held that:

- 1.) housing provider acted "willfully", as basis for imposing civil fine under Rental Housing Act, only if housing provider intended to violate the Act or was aware that it was violating a provision of the Act, and
- 2.) proper remedy for ALJ's failure to make findings of fact on willfulness was to remand, rather than to vacate the civil fine.

Reasoning:

- 1.) Mere failure of housing provider to rebut Rental Housing Act's presumption of retaliation, which presumption is based on conduct by a housing provider that takes place within six months after a tenant has done certain acts, does not establish that housing provider acts willfully, as is required under Act for imposition of civil fine of up to \$5,000.
- 2.) Proper remedy, upon determination by RHC that ALJ had not made necessary finding, for imposition of civil fine under Rental Housing Act for housing provider's retaliation against tenant for joining tenant organization, that housing provider had acted willfully was for RHC to remand to ALJ for necessary findings of fact, rather than to vacate the civil fine imposed by ALJ, where RHC had not found the record would not support a finding of willfulness.

Decision: Vacated in part and remanded.