

SLABY v. D.C. RENTAL HOUSING COMMISSION, 685 A.2<sup>nd</sup> 1166 (1996)

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

Judicial History: Sublessor petitioned for review of Rental Housing Commission's (RHC) decision requiring sublessor to refund rent to subtenants which was found to be excessive.

Facts: Petitioner, who sublet two apartments in a building she was renting, challenged a decision of the RHC which sustained an order of a hearing examiner that required her to refund rent to the subtenants which was found to be excessive. The hearing examiner concluded that petitioner had violated the provision of D.C. Code Section 45-2516(a) (1996) which states : "No tenant may sublet a rental unit at a rent greater than that tenant pays the housing provider". The examiner found that for a two-month period, petitioner had charged the tenants a combined rent of \$1232 per month while paying her landlord a monthly rent of \$750; and that for a six-month period later that year she had collected the same monthly rent while paying her landlord a reduced rent of \$600 a month. After concluding that petitioner had charged the excessive rent "knowingly", the examiner ordered her to refund the difference, with statutory interest. Petitioner also contends that the hearing examiner erred in failing to dismiss the tenant petitions challenging the rent because she did not receive copies of the petitions before the hearing. The RHC ruled that service at the hearing together with a reasonable continuance overcame any earlier failure to serve her as required. The RHC sustained the order of refund and petitioner appealed.

Holding: The Court of Appeals held that:

- 1.) sublessor could not charge more rent to subtenants than she paid to landlord even though she paid utility and repair expenses associated with rental units; and
- 2.) service of subtenant petitions challenging rent made upon sublessor at hearing and continuance of hearing cured any problem of inadequate notice.

Reasoning:

- 1.) Sublessor was statutorily prohibited from charging subtenants more rent than she paid to her landlord even if she paid utility and repair expenses associated with rental units; sublessor could not bear those expenses and pass them on to subtenants in form of rent.
- 2.) Sublessor was subject to rent control and was required to register with Rent Administrator.

Decision: Affirmed.