

TEMPLE V. D.C. RENTAL HOUSING COMMISSION, 536 A.2<sup>nd</sup> 1024 (1987)

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

Judicial History: Landlord filed petition for review of the decisions of the Rental Housing Commission (RHC) penalizing him for failure to register his housing accommodation.

Facts: In consolidated petitions, landlord sought review of two RHC decisions which penalized him for failure to register his housing accommodation. The decisions resulted from separate tenant petitions filed by two tenant-intervenors. In the both cases, the RHC ordered landlord to refund to tenant-intervenor trebled rent overcharges and awarded attorney's fees in the first decision. The RHC also ordered refunds of trebled rent overcharges to the three other tenants who lived in landlord's house but did not officially join the second tenant petition.

Holding: The Court of Appeals held that:

- 1.) Commission was not estopped from imposing damages on landlord for failure to register;
- 2.) landlord did not "constructively register" his building;
- 3.) in computing base rent, invalidation of landlord's claim of exemption based solely on erroneous interpretation of small landlord exemption was erroneous as matter of law;
- 4.) rent ceiling as to one tenant was properly determined to be equal to base rent;
- 5.) remand was required for determination of what automatic or voluntary vacancy base rent increases landlord might be entitled to as to remaining tenants;
- 6.) tenants' voluntary agreement to rent ceiling adjustment was invalid;
- 7.) trebled rent ceiling overcharges were justified;
- 8.) amnesty provision of subsequent Rental Housing Act was not available to landlord; and,
- 9.) landlord lacked standing to assert due process claims on behalf of tenants who had been formally joined in proceeding.

Reasoning:

- 1.) Tenant was obligated to present himself for registration with the Rental Accommodations and Conversion Division (RACD); since he did not do so for eight years, RACD is not stopped from imposing damages.
- 2.) The RACD is not required to "constructively register" a housing accommodation when the agency had no proof of the legality of the use of the property.
- 3.) A unit occupied by an owner is not "rented or offered for rent" and thus cannot be included in the aggregate number of units under the control of an owner for so long as the owner occupies the unit, therefore RHC's determination that landlord rented five units, thereby rendering him ineligible for small owner exemption, was erroneous as a matter of law.

- 4.) Since the rent of a unit may not be increased above the base rent unless the unit is properly registered, and the unit had not yet been registered, the RHC had properly determined that the rent ceiling for the unit was equal to the base rent.
- 5.) RHC cannot penalize landlord for his failure to comply with the procedures necessary for implementing rent increases when the agency refused to assist in the establishment of the pre-requisite to taking lawful rent increases, namely, in the establishment of the appropriate rent ceilings.
- 6.) Tenant whose lease was still in effect when fire broke out and who was not alleged to have caused or occasioned fire continued as "tenant" for purposes of determining number of tenants needed to voluntarily agree to adjustment of rent ceiling; therefore, in view of fact that tenant's inclusion meant that only 60% rather than 70% of tenants had signed agreement, agreement was properly invalidated.
- 7.) RHC's award of trebled rent overcharges was justified, due to landlord's failure to timely register his housing accommodation.
- 8.) Amnesty provision of Rental Housing Act of 1985 was unavailable to landlord in proceeding which were initiated by petitions filed under 1980 version of the Act.
- 9.) Landlord whose interests were adverse to those of two tenants lacked standing to challenge proceeding involving rent overcharges on ground that those tenants' due process rights were violated because they were not formally joined.

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