

**DISTRICT OF COLUMBIA  
OFFICE OF ADMINISTRATIVE HEARINGS**

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DISTRICT OF COLUMBIA  
OFFICE OF  
ADMINISTRATIVE HEARINGS  
2010 MAY 17 A 9:45

MICHELLE CARTER-BELL,  
Tenant/Petitioner,

v.

MCCOTTRY MANAGEMENT, LLC,  
Housing Provider/Respondent.

Case No.: 2009-OAH-DHCD-0000013  
Agency No: TP 29,736

*In re:* 2621 30<sup>th</sup> Street SE  
Unit #2

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**FINAL ORDER**

**I. Introduction**

On October 7, 2009, Tenant/Petitioner Michelle Carter-Bell ("Tenant") filed Tenant Petition 29,736 with the Rent Administrator against Housing Provider/Respondent McCottry Management, LLC asserting that 1) the building where Tenant's unit is located is not properly registered with the Rental Accommodations Division ("RAD"); 2) Housing Provider permanently eliminated the services and/or facilities provided as part of rent and/or tenancy; 3) Housing Provider has taken retaliatory action against Tenant in violation of the Rental Housing Act of 1985 ("the Act"), and 3) Housing Provider served Tenant a Notice to Vacate that violates Section 501 of the Act.

On March 24, 2010, this administrative court issued a Case Management Order ("CMO") scheduling this matter for a hearing on April 15, 2010.

On April 15, 2010, Tenant/Petitioner appeared for the evidentiary hearing. Housing Provider/Respondent and counsel for Housing Provider appeared. Counsel for Tenant did not appear. At the evidentiary hearing, both parties requested and received a continuance for May 13, 2010. The parties agreed upon the date based on their schedules and were given a Notice of New Hearing Date setting this matter for May 13, 2010. On May 13, 2010, Housing Provider/Respondent and counsel for Housing Provider/Respondent appeared. Tenant/Petitioner and counsel for Tenant/Petitioner did not appear. Mr. Samad, counsel for Housing Provider/Respondent, made a motion to dismiss the tenant petition for Tenant/Petitioner's failure to prosecute.

Accordingly, I grant Housing Provider/Respondent's motion to dismiss.

## **II. Findings of Fact**

1. The housing accommodation is located at 2621 30<sup>th</sup> Street SE Unit 2.
2. This administrative court issued a CMO on March 24, 2010, scheduling this matter for a hearing on April 15, 2010.
3. On April 15, 2010, Tenant/Petitioner, Housing Provider/Respondent, and counsel for Housing Provider/Respondent appeared for an evidentiary hearing and requested a continuance. This administrative court granted the continuance until May 13, 2010, providing a Notice of New Hearing Date to the parties at the hearing.
4. On May 13, 2010, Tenant/Petitioner did not appear. Housing Provider/Respondent and counsel for Housing Provider/Respondent appeared.

5. At the hearing, counsel for Housing Provider/Respondent moved to dismiss the tenant petition for Tenant/Petitioner's failure to prosecute.

### **III. Conclusions of Law**

This matter is governed by the Rental Housing Act of 1985, D.C. Official Code §§ 42-3501.01-3509.07, the District of Columbia Administrative Procedure Act ("DCAPA"), D.C. Official Code §§ 2-501-510, the District of Columbia Municipal Regulations ("DCMR"), 1 DCMR 2800-2899, 1 DCMR 2920-2941, and 14 DCMR 4100-4399.

In order to prosecute the tenant petition, Tenant/Petitioner must appear at the scheduled hearings. At the hearing on April 15, 2010, the parties agreed upon the date and time setting the new hearing date for May 13, 2010 at 1:30 p.m. and were given a Notice of New Hearing setting this date. Tenant/Petitioner failed to appear at the hearing.

OAH Rule 2818.3, 1 DCMR 2818.3 provides:

Unless otherwise required by statute, these Rules or an order of this administrative court, where counsel, an authorized representative, or an unrepresented party fails, without good cause, to appear at a hearing ..., the presiding Administrative Law Judge may dismiss the case or enter an order of default in accordance with D.C. Superior Court Civil Rule 39-I.<sup>1</sup> Any order of dismissal or default entered pursuant to this Section shall not take effect until fourteen (14) days after the date on which it is served, and shall be vacated upon the granting of a motion filed by the party within such fourteen (14) day period showing good cause why the case should not be dismissed or defaulted.

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<sup>1</sup> D.C. Super. Ct. Civ. R. 39-I(b) provides that, "[w]hen an action is called for trial and the party seeking affirmative relief fails to respond, an adversary may have the claim dismissed, with or without prejudice as the court may decide, or the court may, in a proper case, conduct a trial or other proceeding."

Therefore, this matter is dismissed with prejudice pursuant to OAH rule, 1 DCMR 2818.3 for Tenant/Petitioner's failure to prosecute.

This Final Order will not take effect until fourteen days after the date of service. Within that time Tenant/Petitioner may file a motion to vacate this Final Order upon a showing of good cause why the case should not be dismissed. 1 DCMR 2818.3.


**IV. Order**

Accordingly, it is, this 14<sup>th</sup> day of May 2010:

**ORDERED**, that TP 29,736 is **DISMISSED WITH PREJUDICE**; and it is further

**ORDERED**, that the dismissal will take effect fourteen (14) days after service of this Final Order unless Tenant/Petitioner files a motion to vacate this Final Order within that period upon a showing of good cause; and it is further

**ORDERED** that the appeal rights of any party aggrieved by this order are set forth below.

  
Caryn L. Hines  
Administrative Law Judge

## **APPEAL RIGHTS**

Pursuant to D.C. Official Code §§ 2-1831.16(b) and 42-3502.16(h), any party aggrieved by a Final Order issued by the Office of Administrative Hearings may appeal the Final Order to the District of Columbia Rental Housing Commission within ten (10) business days, in accordance with the Commission's rule, 14 DCMR 3802. The ten (10) day limit shall begin to run when the order becomes final. If the Final Order is served on the parties by mail, an additional three (3) days shall be allowed, in accordance with 14 DCMR 3802.2.

Additional important information about appeals to the Rental Housing Commission may be found in the Commission's rules, 14 DCMR 3800 et seq., or you may contact the Commission at the following address:

District of Columbia Rental Housing Commission  
941 North Capitol Street NE  
Suite 9200  
Washington, DC 20002  
(202) 442-8949

**Certificate of Service:**

**By First-Class Mail (Postage Prepaid):**

Jeff Styles, Esq.  
1301 Pennsylvania Avenue SE  
Washington, DC 20003

Richard A. Samad, Esq.  
1629 K Street NW  
Washington, DC 20005

**By Inter-Agency Mail:**

District of Columbia Rental Housing Commission  
441 4<sup>th</sup> Street NW  
Suite 1140 N  
Washington, DC 20001

Keith Anderson, Acting Rent Administrator  
District of Columbia Department of Housing and Community Development  
Housing Regulation Administration  
1800 Martin Luther King Jr. Avenue SE  
Washington, DC 20020

I hereby certify that on 5-17, 2010 this document was caused to be served upon the above-named parties at the addresses and by the means stated.

  
Clerk / Deputy Clerk