

**DISTRICT OF COLUMBIA**  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
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DISTRICT OF COLUMBIA  
OFFICE OF  
ADMINISTRATIVE HEARINGS

2010 MAY 11 A 9:31

JUDY CRAWFORD,  
Tenant/Petitioner,

v.

CHARLENE CRAIG,  
Housing Provider/Respondent.

Case No.: 2009-OAH-DHCD-0000046  
Agency Number: 29,762

*In re:* 1662 West Virginia Avenue, NE,  
Unit 1

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**FINAL ORDER**

**I. Introduction**

In accord with the following findings of fact and conclusion of law, this case is dismissed with prejudice because Tenant/Petitioner did not appear for the scheduled evidentiary hearing on May 7, 2010.

**II. Findings of Fact**

On November 3, 2009, Tenant/Petitioner Judy Crawford filed tenant petition 29,762,<sup>1</sup> against Housing Provider/Respondent Charlene Craig, asserting violations of the Rental Housing Act of 1985 (Act).

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<sup>1</sup> The tenant petition was filed with the Rent Administrator who transmitted a copy of the petition to the Office of Administrative Hearings (OAH). D.C. Official Code § 2-1831.03(b-1)(1).

The housing accommodation at issue is located at 1662 West Virginia Avenue, NE, Unit 1.

On February 12, 2010, an Order was mailed to the parties at addresses provided in the tenant petition, for the parties to appear at the Office of Administrative Hearings for mediation on February 25, 2010. Housing Provider appeared for the mediation session; Tenant did not.

A Case Management Order (CMO) was issued on April 6, 2010, scheduling this matter for a hearing on May 7, 2010. The CMO was sent to the address Tenant listed in the tenant petition. It was returned by the post office as undeliverable, "unable to forward."

Neither party appeared for the scheduled hearing.

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

This matter is governed by the Rental Housing Act of 1985 (the Act), 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. OAH has jurisdiction of rental housing cases pursuant to the OAH Establishment Act, D.C. Official Code §2-1831.03(b-1)(1).

OAH Rule 2807.4, 1 DCMR 2807.4, provides:

It is solely the obligation of a party, an authorized representative, or an attorney whose address, telephone number(s), or fax number(s), if any, have changed to promptly notify the Clerk and all other parties. Any change of address shall be filed with this administrative court and served upon all parties within three (3) business days of its occurrence. The information provided to this

administrative court pursuant to this Rule shall be conclusively deemed to be correct and current.

Because the CMO setting the hearing date was mailed to the address Tenant provided in the tenant petition, Tenant received proper notice of the hearing date. *Dusenbery v. United States*, 534 U.S. 161, 167-71 (2002); *McCaskill v. District of Columbia Dep't of Employment Servs.*, 572 A.2d 443, 445 (D.C. 1990).

Pursuant to the DCAPA, in contested cases the proponent of a rule or order shall have the burden of proof. D.C. Official Code § 2-509(b). Tenant/Petitioner has the burden of proof in this case.

OAH rules at 1 DCMR 2818.3 provide that:

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>2</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.

To prosecute the tenant petition, Tenant must appear at the scheduled hearings and comply with orders of this administrative court. Because Tenant failed to appear at the hearing after receiving proper notice, this matter is involuntarily dismissed with prejudice pursuant to OAH Rule 1 DCMR 2818.3 for failure to prosecute. *See DOH v. Agape Cabbage Patch/Le Mae Early Child Dev. Ctr.*, 2001 D.C. Off. Adj. Hear. LEXIS 36 at \*4 (holding that, where neither

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<sup>2</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.

party appears at a hearing, a failure to appear by the party with the burden of proof justifies dismissal of the case with prejudice by analogy to D.C. Super. Ct. Civ. R. 41(b)); *Cf. McFadden v. Fullington*, TP 27,122 (RHC Sept. 18, 2002) (dismissing appeal where neither party appeared at a hearing because the appellant had the burden of proof).

Under OAH Rule 2818.2, 1 DCMR 2818.2, this order shall not take effect until 14 days after the date on which it is served, and shall be vacated upon the granting of a motion filed by Petitioner within that 14 day period, showing good cause why the case should not be dismissed.

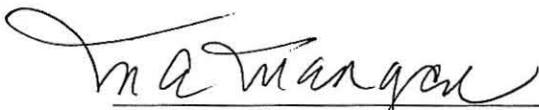
#### IV. Order

Accordingly, it is this 11<sup>th</sup> day of **May 2010**

**ORDERED**, that Case No. 2009-OAH-DHCD-0000046, TP 29,762, is **DISMISSED WITH PREJUDICE**; and it is further

**ORDERED**, that this order shall not take effect until 14 days after the date on which it is served, and shall be vacated upon the granting of a motion filed by Petitioner within that 14 day period, showing good cause why the case should not be dismissed; and it is further

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

  
Margaret A. Mangano  
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  
441 4<sup>th</sup> Street, NW  
Suite 1140 North  
Washington, DC 20001  
(202) 442-8949

### Certificate of Service:

#### By First Class Mail (Postage Pre-Paid):

Judy Crawford  
1662 West Virginia Avenue, NE  
Unit 1  
Washington, DC 20002

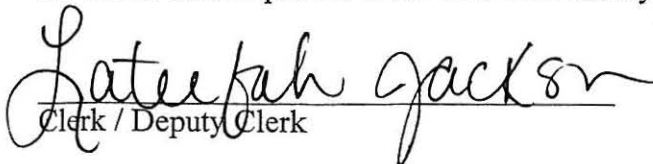
Charlene Craig  
P.O. Box 505  
Chaptico, MD 20621-0505

#### By Inter-Agency Mail:

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

Keith Anderson  
Acting Rent Administrator  
Rental Accommodations Division  
Department of Housing and Community  
Development  
1800 Martin Luther King Jr. Ave., SE  
Washington, DC 20020

I hereby certify that on 5-11, 2010, this document was caused to be served upon the above-named parties at the addresses and by the means stated.

  
Clerk / Deputy Clerk