

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 23,909

Re: 1515 Ogden Street, N.W., # 524

BORGER MANAGEMENT, INC.
Housing Provider/Appellant

v.

ROBERT WARREN, JR.
Tenant/Appellee

**ORDER ON MOTION FOR RECONSIDERATION OF ORDER TO APPLY STATUTE
OF LIMITATIONS**

June 1, 1999

Banks, Chairperson. This case is on appeal to the Commission from the February 13, 1996, decision of the Office of Adjudication. On July 22, 1998, the Commission issued an order, which granted the housing provider's motion to apply the statute of limitations to two of the tenant's claims. On August 11, 1998, the tenant filed a letter with the Commission, which treated the letter as a motion for reconsideration. The housing provider also deemed the letter to be a motion for reconsideration in its opposition to the letter filed on August 13, 1998.

I. The Motion for Reconsideration

The tenant's motion stated that he was out of town

from July 9, 1998 through August 4, 1998. It stated that he had earlier notified the Commission he would be out of town on those dates and the hearing on his appeal was rescheduled to July 7, 1998, to accommodate his schedule. Enclosed with the letter was a copy of the airline's notice of his electronic ticket. The tenant requested in his letter an opportunity to respond to the housing provider's motion to apply the statute of limitations to two of his claims, because he did not have the opportunity to oppose the motion while he was out of town.

II. The Commission's Order

The Commission grants the tenant the opportunity to oppose the housing provider's motion, by treating his August 11, 1998 letter as a motion for reconsideration of the Commission's July 22, 1998 order, because the tenant documented that he was out of town at the time the housing provider's motion was filed.

The content of the tenant's letter does not refer to any legal authority to preclude the application of the statute of limitations to two of his claims, for lack of laundry room access and lack of hot water, as stated in the July 22, 1998 order. That order stated:

The Commission agrees with the housing provider's analysis that the statute of limitations and the principles of Peerless¹ and Kennedy² are

¹ Peerless Properties v. Hashim, TP 21,159 (RHC Oct. 26, 1992).

applicable to two of the tenant's reduction of services and facilities claims. In this case, the tenant relied on the loss of services and facilities that began on February 13, 1992, which was more than three years prior to March 22, 1995, when he filed the tenant petition seeking a refund (an adjustment in rent) for lack of services and facilities (laundry room and hot water). Therefore, the tenant did not file his tenant petition within the three year period in the statute of limitations, which allowed the filing of tenant petitions for rent adjustments based on reduced services and facilities.

Accordingly, the Commission GRANTS the housing provider's motion and dismisses the claims for reduction of services and facilities for lack of laundry room access and lack of hot water, for the period February 13, 1992 through May 17, 1995. Also, the tenant cannot recover rent adjustments for those reductions of services, because he did not timely file his claims in the tenant petition.

In the letter filed with the Commission on August 11, 1998, ~~the tenant did not present legal authority to~~ demonstrate that neither Peerless nor Kennedy was applicable to the two claims, which the Commission dismissed in its order dated July 22, 1998, because those claims commenced more than three years prior to the date the petition was filed.

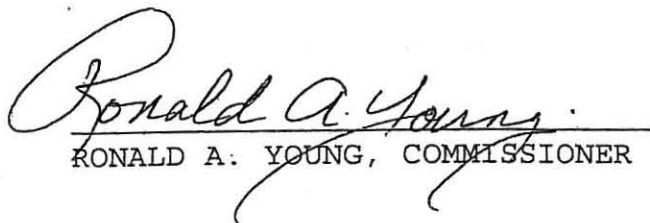
² Kennedy v. District of Columbia Rental Housing Commission, 709 A.2d 94 (D.C. 1998).

Therefore, the tenant failed to carry his burden in the motion for reconsideration (letter) and that motion is denied.

SO ORDERED.



RUTH R. BANKS, CHAIRPERSON



RONALD A. YOUNG, COMMISSIONER

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing ORDER ON MOTION FOR RECONSIDERATION TO APPLY STATUTE OF LIMITATIONS was mailed postage prepaid this *1st day of June, 1999* to:

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