

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 24,593

FLC DESIGN BUILD, LTD
Housing Provider/Appellant

v.

MARGARET B. PROCTOR
Tenant/Appellee

ORDER DISMISSING APPEAL FOR LACK OF JURISDICTION

May 26, 1999

BANKS, CHAIRPERSON. This appeal is from the District of Columbia Department of Consumer and Regulatory Affairs (DCRA), Office of Adjudication (OAD), to the Rental Housing Commission (Commission), pursuant to the Rental Housing Act of 1985, "the Act," ~~D.C. Law 6-10, D.C. Code § 45-2501 et seq.~~, and the District of Columbia Administrative Procedure Act (DCAPA), D.C. Code § 1-1501, et seq. The regulations, 14 DCMR 3800 et seq., also apply.

I. The OAD Proceedings

Margaret B. Proctor, the tenant, filed the tenant petition in this case on September 29, 1998. It stated that on July 10, 1998, the housing accommodation at 1101 Euclid Street, N.W., where the tenant lived for 41 years, was condemned by the Fire Marshall. The petition also stated that FLC Design Build, LTD, the housing provider, "was made

responsible for relocating the tenants." (Petition at 3.) On July 11, 1998, the tenant moved to 6805 Georgia Avenue, N.W., which was another property owned by the housing provider. The tenant complained that her rent was increased from \$153.00 on Euclid Street to \$450.00 per month at the Georgia Avenue property. In addition, the housing accommodation was not properly registered.

Hearing Examiner Carl Bradford held the hearing on December 1, 1998 and issued his decision on February 23, 1999. The hearing examiner held the housing accommodation was properly registered, and no rent increase violations occurred. He also denied treble damages. Finally, the hearing examiner determined that "the Petitioner in this case is entitled to relocation assistance because she was displaced by order of the D.C. Fire Departments [sic] based upon conditions in the building which were a threat to the health, safety and welfare of the tenants." (Decision at 5.) The hearing examiner cited the Act, D.C. Code § 45-2573, as authority for ordering relocation assistance to the tenant.¹ No specified amount of relocation assistance was awarded. (Decision at 10.)

¹ D.C. Code § 45-2573, in part, states:

"(a) The amount of relocation assistance payable to a displaced tenant shall be calculated as follows:

(1) Except as provided in paragraph (2) of this subsection, relocation assistance in the amount of \$150 for each room in the rental unit shall be payable to the tenants or subtenants bearing the cost of removing the majority of the furnishings..

The housing provider filed a motion for reconsideration on March 11, 1999. That motion requested reconsideration of the award of relocation assistance. On March 12, 1999, the tenant filed a motion for reconsideration, which requested the reversal of the finding of no improper rent increase. There was no ruling on the motions by the hearing examiner.

II. The Commission Proceedings

The housing provider filed its notice of appeal on April 6, 1999. It stated only one issue for appeal. That issue was whether the hearing examiner properly awarded moving or relocation assistance (expenses) to the tenant, when there was no evidence in the hearing record about the tenant's move between the two properties owned by the housing provider. The housing provider also asserted the tenant did not request relocation assistance in the tenant petition or at the OAD hearing.

On April 26, 1999, Margaret B. Proctor, the tenant, filed a response to the notice of appeal. The tenant's response was a proffer of facts, which indicated that "the bulk of [the tenant's] possessions including furniture, ... were packed and transported by [the tenant's] family members ..." (Response at 1.) The response also gave a history of the move, including descriptions of the problems at the two housing accommodations. The tenant requested consideration of the

response and her motion for reconsideration. However, the tenant did not file an appeal from the hearing examiner's decision, and consequently, no errors by the hearing examiner that might be perceived by the tenants are before the Commission.

The Commission scheduled the hearing on the housing provider's appeal for May 18, 1999. The housing provider filed its brief on May 13, 1999. At the hearing the housing provider stated that the only appeal issue was whether the award of relocation assistance was proper under the Act.

III. The Commission's Order

The preliminary issue before the Commission is whether the hearing examiner in OAD, an agency of DCRA, had jurisdiction and power to award relocation assistance to the tenant, Margaret B. Proctor.

Court's may, sua sponte, without request by the parties, consider whether there is proper jurisdiction over the subject of an appeal. Brandywine Limited Partnership v. Rental Housing Commission, 631 A.2d 415, 416 (D.C. 1993). This case raised the issue of whether the Rent Administrator, through delegation of his powers to the hearing examiner, had jurisdiction and power to award relocation assistance to the tenant. The jurisdiction of the Rent Administrator is limited by D.C. Code § 45-2514(c), which states:

The Rent Administrator shall have jurisdiction over those complaints and petitions arising under subchapter II, IV, V, VI, and IX of this chapter and Title V of the Rental Housing Act of 1980 which may be disposed of through administrative proceedings.

In this case, for the authority to award relocation assistance, the hearing examiner relied upon D.C. Code § 45-2573. (Decision 5-6.) However, that code section is in Chapter VII of the Act. Chapter VII of the Act is not within the jurisdiction or statutory authority of the Rent Administrator, and consequently, not within the authority of the hearing examiner.

Similarly, the Commission's jurisdiction is no larger than the jurisdiction of the Rent Administrator. The Commission's jurisdiction over appeals cases is limited to "[d]ecide appeals brought to it from decisions of the Rent Administrator..." D.C. Code § 45-2512(a)(2). Obviously, the appeals from the Rent Administrator must be within the authority and jurisdiction of the Rent Administrator. Here, the hearing examiner exceeded the authority and jurisdiction of the Rent Administrator by awarding relocation assistance, which is within the authority of "the Relocation Assistance Office of the Department of Housing and Community Development [DCHC]." D.C. Code § 45-2574. Therefore, the hearing examiner in DCRA had no jurisdiction or power to award relocation assistance, which by law is within the jurisdiction

of another government agency, DCHD.² Accordingly, the hearing examiner is reversed in the award of relocation assistance to the tenant, because he had no jurisdiction to make the award. Further, this appeal is dismissed for lack of jurisdiction over the subject matter of the appeal, relocation assistance. SO ORDERED.




Ruth R. Banks
Chairperson

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Order Dismissing Appeal for Lack of Jurisdiction was mailed the 21st day of May, 1999 to:

FLC Design Build, Ltd.
1801 Connecticut Avenue, N.W.
Washington, D.C. 20009

Margaret B. Proctor
6805 Georgia Avenue, N.W.
Unit 3
Washington, D.C.



Maurice Jackson, Clerk

² The Rent Administrator has limited power to enforce the notice section of the Act, which requires the housing provider to give the tenant a 120 day notice to vacate and notify the tenant of the tenant's right to relocation assistance under the provisions of subchapter VII of [the Act]. D.C. Code § 45-2551(f)(1), (h)(1). See Horne v. Edgewood Management Corporation, TP 24,119 (Mar. 5, 1997).