

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 24,841

In re: 1702 West Virginia Avenue, N.E.

HERBERT GRANT LANE
Tenant/Appellant

v.

REGINA R. DAVIS
Housing Provider/Appellee

**ORDER ON MOTION TO CORRECT NOTICE OF APPEAL
AND
MOTION TO RECONSIDER**

March 13, 2002

BANKS, Chairperson. This case is on appeal to the Rental Housing Commission from a decision and order issued by the Rent Administrator, through the Office of Adjudication (OAD). The applicable provisions of the Rental Housing Act of 1985 (Act), D.C. OFFICIAL CODE §§ 42-3501.01-3509.07 (2001), the District of Columbia Administrative Procedure Act (DCAPA), D.C. OFFICIAL CODE §§ 2-501-510 (2001), and the District of Columbia Municipal Regulations (DCMR), 14 DCMR §§ 3800-4399 (1991) govern the proceedings.

Administrative Law Judge Henry McCoy issued the decision and order on November 5, 2001. Herbert Grant Lane, Tenant/Appellant, filed a notice of appeal on November 26, 2001, and on December 4, 2002, he filed a combined motion to correct the notice of appeal and motion to reconsider. On March 13, 2002, the Commission held the hearing on the notice of appeal.

The combined motion requested that the letter dated February 2, 2000, referred to in his notice of appeal and motion for reconsideration be changed to refer to the Settlement Proposal dated January 13, 2000. The second issue was that the denial of the motion for reconsideration did not consider the March 10, 2000 letter from Washington Gas to the Tenant, and the Tenant desired it be considered in the Commission's decision.

THE COMMISSION'S ORDER

The OAD decision and order states the following documents were considered:

- 1) Settlement Proposal dated January 13, 2000 (Petitioner's Exhibit 1)
- 2) March 10, 2000 letter from Washington Gas to Petitioner. (Petitioner's Ex. #2)[.]
- 3) Photograph purporting to show nonfunctioning toilet. (Petitioner's Ex. #3)[.]

Decision at 3.¹

The Commission's rule, 14 DCMR § 3804.3, provides:

The record on appeal shall consist of the following:

...

(c) All documents and exhibits offered into evidence at the hearing;

...

(f) Landlord registration files and any other documents found in the public record of which the Rent Administrator took official notice; and

(g) All pleadings filed with the Rent Administrator.


Since the decision and order shows that the Settlement Proposal dated January 13, 2000 was considered and that document is found in the record (R.) at 52, the Tenant's motion to substitute the Settlement Proposal for the letter is denied. However, when deciding this appeal, the Commission is mandated to consider the whole record and the substantial evidence in the record. Therefore, the Commission will consider the Settlement Proposal document. See D.C. OFFICIAL CODE §§ 2-509(c), 42-3502.16(h).

The rules governing the Rent Administrator's procedures provide that an order on

¹ Lane v. Davis/J.E.S. Enterprise, TP 24,841 (OAD Nov. 5, 2001).

a motion for reconsideration is not subject to appeal to the Commission, 14 DCMR § 4013.3. Accordingly, the Tenant's issue related to the order on reconsideration is denied. However, when the Commission makes its decision it will consider the March 10, 2000 letter from Washington Gas, because it is also evidence in the record (R. 45-47), and listed in the decision as an exhibit that was considered by the administrative law judge.

SO ORDERED.


RUTH R. BANKS, CHAIRPERSON


CERTIFICATE OF SERVICE

I certify that a copy of the foregoing ORDER ON MOTION TO CORRECT NOTICE OF APPEAL AND MOTION TO RECONSIDER was served by priority mail with confirmation of delivery on the 13th day of March 2002 on:

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LaTonya Miles
Contact Representative

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 24,841

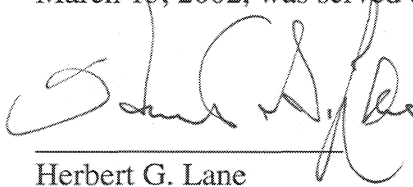
In re: 1702 West Virginia Avenue, N.E.

HERBERT GRANT LANE
Tenant/Appellant

v.

REGINA R. DAVIS
Housing Provider/Appellee

The Order on Motion to Correct Notice of Appeal and Motion to Reconsider, dated March 13, 2002, was served by hand to the following party:

 3/13/02

Herbert G. Lane Date
2801 14th Street, N.W.
Apt. 809
Washington, D.C. 20009


LaTonya Miles
Contact Representative