

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

In re: 2324 Good Hope Road, S.E., Unit Two (2)

TP 24,901

MARBURY PLAZA, LLC
Housing Provider/Appellant

v.

VERGINIA BANKS-LOGAN
Tenant/Appellee

ORDER ON MOTION FOR DISPOSITION WITHOUT A HEARING

August 7, 2000

BANKS, CHAIRPERSON. The tenant petition was filed on February 8, 2000. The petition alleged: 1) violation of the Act, section 302.2, [sic] and 2) reduction of services and facilities. Hearing Examiner Thomas Word presided at the hearing held on March 27, 2000. The OAD decision and order was issued on June 16, 2000.

The Tenant testified that she moved into her rental unit on October 8, 1999. She testified that she told Emanuel Coleman, the Chief Engineer, about the water problems on the same day she moved into her rental unit. She also reported the water problems to Ms. Dixon, an administrative clerk. The Tenant introduced photographs of water damage through out the rental unit. (Tenant's Exhibits (Ten. Exhs.) 3-7). There was no contradictory testimony or other evidence by the Housing Provider at the hearing.

The hearing examiner found the Tenant gave the Housing Provider written notice of the reductions in services and facilities in a letter dated February 4, 2000. (Exhibit (Exh.) 1) The hearing examiner found reductions of services and facilities to be: 1) water damage to baseboards in the Tenant's bedroom; 2) water damage to baseboards in Tenant's son's bedroom; 3) water damage to bathroom floor tiles; 4) water damage to tiles in Tenant's son's bedroom, 5) water damage to the floor in the hall closet, and 6) defective water faucets in the bathroom. (Decision at 3). The examiner stated in the decision and order "[t]he periods of violation shall run from the time Respondent [Housing Provider] received notice of the violations, October 8, 1998, [sic]¹ to April 15, 2000, the date the Petitioner vacated the rental unit pursuant to a court agreement." Decision at 3-4.

On July 6, 2000, the Housing Provider filed a notice of appeal. The appeal issues are: 1) whether the examiner erred by awarding damages from October 8, 2000, which was four (4) months before the February 4, 2000 letter of notice of housing code violations was sent to the Housing Provider, 2) whether the examiner erred in the calculation of the value of the reduced services and facilities, i.e., water damage in

¹ The Housing Provider correctly noted in his motion that the hearing examiner's decision and order contained a date error of October 8, 1998, but the Tenant commenced her occupancy on October 8, 1999. Motion n.1.

Tenant's unit, and 3) whether the examiner erred in the finding of bad faith by the Housing Provider. The Housing Provider requested reversal and remand of the decision and order for correction of the errors.

On July 21, 2000, the Housing Provider filed its brief in support of the appeal and motion for disposition without a hearing. In that motion it requested that the case be decided without a hearing and that the hearing scheduled for August 17, 2000 be cancelled. The opposition to the motion was due on August 2, 2000 and none was filed.

The Commission's rule on hearings provides, "[i]n hearing appeals, the Commission shall sit as a body with at least two (2) Commission members present, and all hearings shall be open to the public." 14 DCMR 3819. Also, "[t]he Commission may schedule any motion for an oral hearing, or may decide any motion without a hearing. 14 DCMR 3814.4. In this case, the Housing Provider's request in its motion was tantamount to a waiver of its right to a hearing, and there was no opposition to that waiver. Since the rights of all parties will be protected by the Commission issuing a decision and order based

on the record, and this case does not have complex issues that require clarification through the hearing process, the Commission grants this motion, and the hearing scheduled for August 17, 2000 is cancelled. The Commission will issue a decision without a hearing.

SO ORDERED.

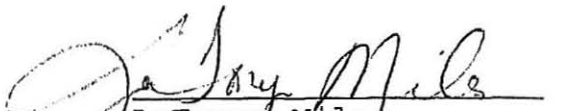

RUTH R. BANKS, CHAIRPERSON

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing ORDER ON MOTION FOR DISPOSITION WITHOUT A HEARING was mailed by certified mail postage prepaid this 7th day of August, 2000 to:

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