

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 24,970

In re: 1100 Sixth Street, S.W., Unit 209

WONDIMU MERSHA
Tenant/Appellant

v.

MARINA VIEW TOWER APARTMENTS
TOWN CENTER LIMITED PARTNERSHIP
Housing Provider/Appellee

ORDER DISMISSING APPEAL

March 25, 2003

BANKS, CHAIRPERSON. On May 1, 2001, the Rent Administrator issued a final decision and order that dismissed the tenant petition. On May 16, 2001, Wondimu Mersha, the Tenant, filed an appeal with the Commission. On December 21, 2001, the Commission issued the decision and order that remanded this case to the Rent Administrator. On July 10, 2002, the Rent Administrator issued the remand decision and order, which was appealed to the Commission on August 13, 2002, by the Tenant, pro se. The Commission held its hearing on October 3, 2002. On December 24, 2002, Marilyn Killingham, who lives in the same housing accommodation as the Tenant,¹ and who attended the Commission's hearing, filed a document entitled "Notice to the Court," which stated that Wondimu Mersha, the Tenant, was deceased. Her notice also stated that she spoke with two policemen about the fact that the Tenant's body was in his rental unit for about two weeks before it was found. Other statements in the notice are not

¹ See Ms. Killingham's address (from her Notice to the Court) on p. 4, infra, and Mr. Mersha's address on the caption of this order.

relevant to this order. Consequently, on February 19, 2003, the Commission issued an order that required the filing of a document as proof that a personal representative could be substituted for Wondimu Mersha.

THE COMMISSION'S ORDER

Aggrieved parties file appeals to the Commission from final decisions and orders of the Rent Administrator, D.C. OFFICIAL CODE § 42-3202.16(h) (2001), 14 DCMR § 3802.1 (1991). The Commission has no aggrieved party before it, due to the death of Wondimu Mersha, who filed the appeal in this case.

The Commission follows as guidance, as far as practicable, the procedures of the District of Columbia Court of Appeals (DCCA), when the Commission's rules are silent on an issue, 14 DCMR 3828 (1998), 45 D.C. Reg. 687, (Feb. 6, 1998). The Commission has no rule on the effect of a death of a party to an appeal. Accordingly, we look to the DCCA rule related to death of a party, which provides, in pertinent part:


Death of a party. If a party dies after a notice of appeal is filed or while an appeal is otherwise pending in this court, the personal representative of the deceased party may be substituted as a party, on motion filed with the clerk by the representative or by any other party. If the motion is made by a party, it shall be served upon the representative. If the deceased party has no representative, any party may suggest the death on the record; and the court may direct further proceedings.

D.C. App. R. 43(a) (2000) (emphasis added).

Neither a court appointed personal representative nor a party contacted the Commission on behalf of the Tenant. However, Ms. Killingham, who is not an attorney, contacted the Commission on behalf of the Tenant, the deceased party, who represented himself, pro se at the Commission's October 3, 2002 hearing. Her notice to the Commission is in the nature of a suggestion of death.

On February 19, 2003, the Commission issued an order allowing Assiged Mersha the opportunity to file proof of appointment as the personal representative of Wondimu Mersha, his father, no later than March 24, 2003. See Sup. Ct. Civ. R. 25(a). In accordance with D.C. Ct. App. R. 43(a), the Commission directed further proceedings, as reflected in its February 19, 2003 order for proof of appointment of a personal representative. No one has contacted the Commission subsequent to that order to be substituted as the personal representative of the Tenant, Wondimu Mersha. Therefore, the Commission dismisses the appeal of Wondimu Mersha, because there is no aggrieved party before the Commission due to the death of Wondimu Mersha and the failure of an appointment of a personal representative of his estate. See Tenants of 1755 N Street, N.W. v. N Street Follies Ltd. P'ship, HP 20,746 (RHC June 21, 2000) quoted in Stancil v. District of Columbia Rental Hous. Comm'n, 869 A.2d 622 (D.C. 2002) (where the court stated the Commission articulated its authority to dismiss an appeal—not in Stancil, but in the Commission's decision and order in Tenants of 1755 N Street, N.W., which relied, in part, on D.C. App. R. 14, which provides for the dismissal of appeals “for failure to comply with these rules or for any other lawful reason”). The reason the Commission dismissed this appeal is the death of Wondimu Mersha, the Tenant, and the failure of a court appointed personal representative to contact the Commission to prosecute his appeal in the Commission.

SO ORDERED.



RUTH R. BANKS, CHAIRPERSON

CERTIFICATE OF SERVICE

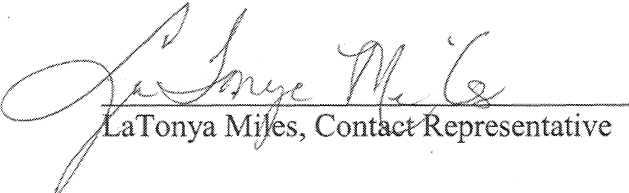
I hereby certify that a copy of the foregoing Order Dismissing Appeal was mailed by priority mail, with confirmation of delivery, postage prepaid, this **25th day of March, 2003** to:

Wondimu Mersha²
1100 Sixth Street, N.W.
Unit 209
Washington, D.C. 20024

Eric Von Salzen, Esquire
Hogan and Hartson, L.L.P.
555 13th Street, N.W.
Washington, D.C. 20004

Nathaniel Sims, Esquire³
1912 Spruce Drive, N.W.
Washington, D.C. 20012

Marilyn Killingham
1100 Sixth Street, S.W.
Washington, D.C. 20024



LaTonya Miles, Contact Representative

² The United States Postal Service did not return the Commission's order dated February 19, 2003.

³ Attorney Nathaniel Sims represented Mr. Mersha, the Tenant, during the initial proceedings before the Commission; however, he did not appear in the Commission to represent the Tenant at the hearing on October 3, 2002.