

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,143

In re: 2505 13th Street, N.W., Unit 508

Ward One (1)

JONATHAN HOLMES
Tenant/Appellant

v.

BERNSTEIN MANAGEMENT
Housing Provider/Appellee

ORDER ON JOINT MOTION TO DISMISS APPEAL

September 30, 2002

LONG, COMMISSIONER. The tenant initiated this matter by filing Tenant Petition (TP) 27,143 on June 4, 2001. Following a hearing on the claims raised by the tenant, Administrative Law Judge Rohulamin Quander dismissed the tenant's petition with prejudice. See Holmes v. Bernstein Mgmt., TP 27,143 (OAD June 18, 2002).

The tenant appealed Mr. Quander's decision to the Rental Housing Commission (Commission) on July 8, 2002. The Commission scheduled the appellate hearing for September 17, 2002. On the morning of the hearing, the parties filed a joint motion to dismiss the appeal. Jonathan Holmes, the tenant, and Richard W. Luchs, Esquire, who represents Bernstein Management, executed the joint motion to dismiss the appeal. Attached to the motion was the settlement agreement that the tenant and the Associate Vice President of Bernstein Management Corporation executed on September 13, 2002.

According to the terms of the agreement, the parties settled all issues between them. The agreement encompasses the claims raised in the tenant petition, and the

parties' resolution of those issues. The agreement also covers the cooking facility issue that the tenant raised in the notice of appeal. The housing provider agreed to furnish and install an electric cooktop and electricity outlet within fifteen days after the parties executed the settlement agreement. Additionally, the agreement states that each party read, understood, and had an opportunity to review and discuss the agreement with legal counsel.

“The Commission has looked favorably upon the terms of a settlement agreement where it observes that the agreement was negotiated with the assistance of legal counsel.” Davis v. Barac Co., TP 24,835 (RHC Oct. 27, 2000) at 16. However, the assistance of counsel is just one factor that the Commission considers when reviewing a settlement agreement. In accordance with Proctor v. District of Columbia Rental Hous. Comm'n, 484 A.2d 542, 548 (D.C. 1984), the Commission considers the following factors: “(1) the extent to which [the settlement agreement] enjoys support among the affected tenants, (2) its potential for finally resolving the dispute, (3) the fairness of the proposal to all affected persons, (4) the saving of litigation costs to the parties; and (5) the difficulty of arriving at a prompt, final evaluation of the merits, given the complexity of the law and the delays inherent in the administrative and judicial processes.”

The Commission applied the Proctor factors to the parties' settlement agreement. The Commission found that the agreement finally resolved the issues that the tenant raised in the petition and the notice of appeal; both parties supported the agreement; there will be a saving of the time associated with the administrative process; and the agreement is fair to the parties, because the tenant will receive a cooking facility and the housing

provider will not incur additional legal expenses on appeal. Accordingly, the Commission grants the joint motion to dismiss the appeal.

SO ORDERED.



JENNIFER M. LONG, COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order on Joint Motion to Dismiss Appeal in TP 27,143 was mailed by priority mail with delivery confirmation, postage prepaid, this 30th day of September 2002 to:

Jonathan Holmes
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