

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

TP 27,201

MARY A. VICENTE  
Housing Provider/Appellant

v.

NICQUITA ANDERSON  
Tenant/Appellee

**ORDER ON MOTION TO STAY DECISION AND ORDER  
and  
ORDER ON MOTION TO DISMISS THE APPEAL**

**September 23, 2002**

**BANKS, CHAIRPERSON.** On August 23, 2002, the Housing Provider, through her attorney, filed an appeal and motion to stay the Rent Administrator's decision and order. The Tenant through counsel filed an opposition to the motion for stay. The opposition stated the motion did not state any facts to justify a stay, and did not comply with 14 DCMR § 3805 (1991). The Commission denies the motion for stay for the following reasons. The Commission's regulations, 14 DCMR §§ 3802.10 & 3802.11 govern motions for stay.<sup>1</sup>

The court interpreted these regulations in Hanson v. District of Columbia Rental Hous. Comm'n, 584 A.2d 592, 595 (D.C. 1991). The court stated:

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<sup>1</sup> 14 DCMR §§ 3802.10-11 (1991) state:

Any party appealing a decision of the Rent Administrator which orders the payment of money may stay the enforcement of such decision by establishing an escrow account or purchasing a supersedeas bond which complies with the requirements of § 3806 within five (5) days of filing the notice of appeal.

The payment of money described in §3802.10 shall include the award of rent increases to a housing provider. Establishment of an escrow account or the purchase of a supersedeas bond pursuant to § 3802.10 shall be based on at least six (6) months of the rent increase per party appealing; Provided, that the escrow may be paid in monthly deposits during the pendency of the appeal and the appellee shall be notified of the deposits.

[T]he Commission action was not 'final' and could not be enforced in the trial court until after judicial review of the agency's action was completed or the appeal period has expired. (citation omitted). If Commission actions cannot be judicially enforced, then it would seem to follow logically that RACD decisions of the hearing examiner also cannot be enforced until appellate review has been exhausted. (citation omitted). If the decisions of the hearing examiner cannot be enforced until after judicial review, then there is no need for rules requiring a motion to stay since decisions of the examiner are, in effect, automatically stayed. Since the regulations were inconsistent with the doctrine of primary jurisdiction, the Commission was not bound to follow them. (citation omitted.) (emphasis added.)

Cited in Barnes v. MacDonald, TP 25,070 (RHC Oct. 3, 2001); Dias v. Perry, TP 24,379 (RHC June 17, 1999); Savoy Trust v. Clark, TP 11,784 (RHC Apr. 23, 1987).

In addition, pursuant to 14 DCMR § 3802.5 (1991), the Tenant filed a motion to dismiss the appeal, because the notice of appeal did not identify the date of the decision as required by 14 DCMR § 3802.5(b) (1991), nor contain the address as required by 14 DCMR § 3802.5(a), nor have the status of the appealing party (housing provider or tenant) as required by 14 DCMR § 3802.5(a) (1991). The Commission will allow the Housing Provider ten (10) days from the date of receipt of this order to comply with its appeal rules. See Gardiner v. Charles C. Davis Real Mgmt. Realty, TP 24,955 (RHC Nov. 15, 2000). Failure to comply with the appeal rules will result in the dismissal of the appeal.

SO ORDERED.


  
RUTH R. BANKS, CHAIRPERSON

## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing ORDER ON MOTION TO STAY DECISION and ORDER ON MOTION TO DISMISS THE APPEAL in TP 27,201 was mailed by priority mail, with confirmation of delivery, postage prepaid this **23rd day of September, 2002**, to:

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