

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,501

In re: 1930 Columbia Road, N.W., Unit 316

Ward One (1)

ABDUL W. AMIRI
Tenant/Appellant

v.

GELMAN MANAGEMENT COMPANY
Housing Provider/Appellee

DECISION AND ORDER

October 3, 2003

BANKS, CHAIRPERSON. This case is on appeal to the Rental Housing Commission from a decision and order issued by the Rent Administrator, based on a petition filed in the Rental Accommodations and Conversion Division (RACD). The applicable provisions of the Rental Housing Act of 1985 (Act), D.C. Law 6-10, 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.

I. THE PROCEDURES

On May 1, 2002, Abdul W. Amiri, Tenant, filed Tenant Petition (TP) 27,501, which alleged: 1) the rent increase was larger than allowed by the Act, 2) the rent charged exceeded the legally calculated rent ceiling, 3) the rent ceiling was improper, 4) a rent increase was taken while the rental unit was not in substantial compliance with the

housing regulations, 5) a rent increase prohibited by the lease in effect, 6) services and facilities were permanently eliminated, reduced, and not provided as specified in a Voluntary Agreement, 7) a security deposit was demanded after the Tenant moved into his unit, and 8) the Housing Provider violated an unspecified section of the Act. On November 8, 2002, Hearing Examiner Carl Bradford issued the Rent Administrator's decision and order, which stated the following findings of fact and conclusions of law.

Findings of Fact:

1. The subject property is located at 1930 Columbia RD., N.W.
2. Petitioner Abdul Wakil Amiri is a tenant at the subject housing accommodation and resides in unit #316.
3. The subject property is owned by Gelmore Towers, Inc. and managed by the Gelman Management Company.
4. The current rent ceiling for the Petitioner's unit is \$1,209.00
5. Petitioner's current rent charge is \$690.00
6. Respondent did not substantially reduce Petitioner's services and facilities.
7. Respondent did not implement any rent increases he was not entitled to under the Rental Housing Act of 1985.
8. Respondent abated all substantial housing code violations in a timely manner when put on notice of the violations.
9. The housing inspection division violation notice 620155 dated July 10, 2002 was closed on August 29, 2002 by inspector Evelyn Rice.
10. Respondent was not cited for housing code violations when the Petitioner's unit was reinspected on September 11, 2002 by inspector Ronald Butler.

Decision at 3 & 4.

Conclusions of Law:

1. Petitioner did not sustain his burden of proof pursuant to 14 DCMR § 4003, that the Respondent increased Petitioner's rent in violation of D.C. Official Code § 42-3502.16 (2001).
2. Respondent did not reduce Petitioner's services and facilities in violation of D.C. Official Code, [sic] §42-3502.11 [sic] (2001).

Decision at 7.

On November 14, 2002, the Tenant filed a notice of appeal, which stated the following.

Respondent was not cited for Housing Code substantial violation who ignored Appellant's demand for 8 years and as a result of Housing Inspection violation was clear ... See the record but I was discriminated deliberately by the inspectors and her office and the Hearing Examiner. I am entitle [sic] to recover all back rent under D.C. RACD, DCMR 14, D.C. Code Title V Gen. Stat § 45 et seq. Also the law was applied incorrectly and due to misinterpretation of Examiner my rights are violated. Review my petition and the D.C. Housing Inspector incomplete report of Housing Code violation. During reinspection Mr. Butler Ron never listened to me[] [H]e just came for 3 minutes in order to protect the incomplete report of Ms. Rice. The Hearing Examiner hijacked my rights for protecting the Housing Inspector violation. (emphasis added.)

Commission form for Notice of Appeal at 1.

On the Commission's form for a motion, the Tenant continued by stating:

The Hearing Examiner deliberately violated my right under D.C. Housing Code violation[] The record is prove [sic] evidence. The Hearing Examiner did not make the ruling in the presence of his conscience because I have a lot of miretorious [sic] claim [sic] against the D.C. Housing Inspectors and the Examiners themselves [sic]. The Housing Provider failed to provide me with services on the bases of Housing Code in 8 years. I was discriminated by the Inspectors and the Hearing Examiner[] (emphasis added.)

Commission form for Motion at 1.

The Commission held its hearing on January 16, 2003.

II. THE COMMISSION'S DECISION

The Commission raised the preliminary issue of whether the notice of appeal complies with the Commission's rule, 14 DCMR § 3802.5(b) (1991), which states:

The notice of appeal shall contain the following:

...

The Rental Accommodations and Conversion Division (RACD) case number, the date of the Rent Administrator's decision appealed from, and a clear and concise statement of the alleged error(s) in the decision of the Rent Administrator. (emphasis added.)

With the exception of two sentences, the writings of the Tenant on the Commission's forms do not assert an error in the decision of the Rent Administrator. Cf. Henson v. Bryant, TP 27,514 (RHC Sept. 30, 2003). The two sentences on the notice of appeal and motion forms that raised errors read: "Respondent was not cited for Housing Code substantial violation who ignored Appellant's demand for 8 years and as a result of Housing Inspection violation was clear." "The Housing Provider failed to provide me with services on the bases [sic] of Housing Code in 8 years." Therefore, the only issue before the Commission is whether the Tenant can recover under the Act for violations that are eight (8) years in duration.

The hearing examiner made the following findings of fact and conclusion of law on the issue of services and facilities:

6. Respondent did not substantially reduce Petitioner's services and facilities.
7. ...
8. Respondent abated all substantial housing code violations in a timely manner when put on notice of the violations.
9. The housing inspection division violation notice 620155 dated July 10, 2002 was closed on August 29, 2002 by inspector Evelyn Rice.

10. Respondent was not cited for housing code violations when the Petitioner's unit was reinspected on September 11, 2002 by inspector Ronald Butler.

Decision at 4.

The hearing examiner concluded:

Respondent did not reduce Petitioner's services and facilities in violation of D.C. Official Code, §42-3502.11 (2001).

Decision at 7.

The Tenant raised an issue of housing code violations that were eight (8) years in duration. Those two sentences raise the statute of limitations in the Act, which states:

No petition may be filed with respect to any rent adjustment, under any section of this chapter, more than 3 years after the effective date of the adjustment....

D.C. OFFICIAL CODE § 42-3502.06(e) (2001). See also Kennedy v. District of Columbia Rental Hous. Comm'n, 709 A.2d 94 (D.C. 1998); Majerle Mgmt., Inc. v. Dist. of Columbia Rental Hous. Comm'n, 777 A.2d 785 (D.C. 2001) (vacating part of Majerle Mgmt. v. District of Columbia Rental Hous. Comm'n, 768 A.2d 1003 (D.C. 2001).

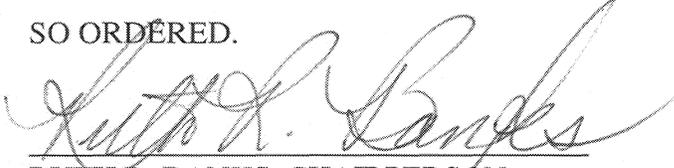
Therefore, the Tenant is unable "to recover all back rent under D.C. RACD, DCMR 14, D.C. Code Title V Gen. Stat § 45 et seq.," as he requested in the notice of appeal.

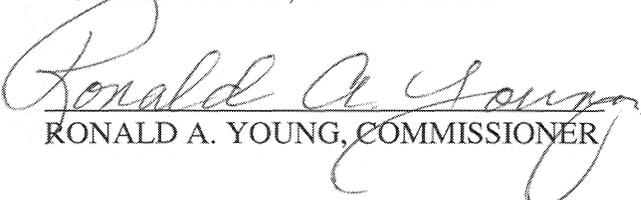
III. CONCLUSION

The Commission dismisses this appeal issue, because the claim for recovery of back rent is prevented by the statute of limitations in the Act. See Peerless Properties v. Hashim, TP 21,159 (RHC Oct. 26, 1992) (where the tenant could not recover a rent refund for the services and facilities claim of lack of a refrigerator, because that claim occurred five years before he filed the tenant petition). Likewise, the Tenant's claim of reduction and elimination of services and facilities occurred eight (8) years before he

filed the tenant petition, and that barred his recovery of a rent refund, since under the statute of limitations, D.C. OFFICIAL CODE § 42-3502.06(e) (2001), the claim must be no more than three (3) years prior to the filing of the tenant petition. See Borger Mgmt., Inc. v. Warren, TP 23,909 (RHC June 3, 1999). The tenant did not raise in the notice of appeal for review the findings of fact numbered 6, 8, 9, and 10, which relate to housing code violations and reduction of services and facilities. Instead, he raised twice his concerns about violations and services that were eight (8) years in duration or that occurred eight years before he filed the petition.¹

SO ORDERED.


RUTH R. BANKS, CHAIRPERSON


RONALD A. YOUNG, COMMISSIONER

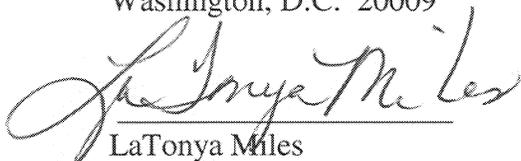
¹ In the tenant petition the tenant wrote: "I lived in fear for eight years[] For eight years, I am deprived of kitchen facility. [sic] and other services. ... The toilet is old and dirty with leaving [sic] for eight years. ... P.S. [T]his facility deprived me of any services and facility provided to other tenants during my 8 years as a tenant." Record (R.) at 3 & 6.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing DECISION and ORDER in TP 27,501 was mailed by priority mail, with confirmation of delivery, postage prepaid, this **3rd day of October 2003** to:

Richard W. Luchs, Esq.
1620 L Street, N.W
Suite 900
Washington, D.C. 20002

Abdul Wakil Amiri
1930 Columbia Road, N.W
Washington, D.C. 20009



LaTonya Miles
Contact Representative

MOTIONS FOR RECONSIDERATION

Pursuant to 14 DCMR § 3823 (1991), final decisions of the Commission are subject to reconsideration or modification. The Commission's rule, 14 DCMR § 3823.1 (1991), provides, "[a]ny party adversely affected by a decision of the Commission issued to dispose of the appeal may file a motion for reconsideration or modification with the Commission within ten (10) days of receipt of the decision."

JUDICIAL REVIEW

Pursuant to D.C. OFFICIAL CODE § 42-3502.19 (2001), "[a]ny person aggrieved by a decision of the Rental Housing Commission ... may seek judicial review of the decision ... by filing a petition for review in the District of Columbia Court of Appeals." Petitions for review of the Commission's decisions are filed in the District of Columbia Court of Appeals and are governed by Title

III of the Rules of the District of Columbia Court of Appeals. The Court's Rule, D.C. App. R. 15(a), provides in part: "Review of orders and decisions of an agency shall be obtained by filing with the clerk of this court a petition for review within thirty days after notice is given, in conformance with the rules or regulations of the agency, of the order or decision sought to be reviewed ... and by tendering the prescribed docketing fee to the clerk." The Court may be contacted at the following address and telephone number:

D.C. Court of Appeals

Office of the Clerk
500 Indiana Avenue, N.W., 6th Floor
Washington, D.C. 20001
(202) 879-2700