

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,598

In re: 2270 Cathedral Avenue, N.W., Basement Unit

Ward Three (3)

TIMOTHY BUDD

Tenant/Appellant

v.

DAN HAENDEL

Housing Provider/Appellee

DECISION AND ORDER

December 16, 2004

YOUNG, COMMISSIONER. This case is on appeal from the District of Columbia Department of Consumer and Regulatory Affairs (DCRA), Rental Accommodations and Conversion Division (RACD), to the Rental Housing Commission (Commission). The applicable provisions of the Rental Housing Act of 1985 (Act), 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, 14 DCMR §§ 3800-4399 (1991), govern these proceedings.

I. PROCEDURAL HISTORY

Timothy Budd, the tenant/appellant, filed Tenant Petition (TP) 27,598, with the RACD, on August 20, 2002. In his petition Mr. Budd, who occupied the basement unit at the housing accommodation at 2270 Cathedral Avenue, N.W., alleged that the housing provider/appellee, Dan Haendel: 1) permanently eliminated services and or facilities

provided in connection with his rental unit; and 2) served on him a Notice to Vacate which violated the requirements of section 501 of the Act.

A hearing on the petition was held on November 18, 2002, with Hearing Examiner Keith A. Anderson, Esquire, presiding. The hearing examiner issued the decision and order on December 20, 2002. The decision contained the following findings of fact:

1. The subject property is a multi-family dwelling located at 2270 Cathedral Ave., N.W.
2. Timothy Budd resides at the subject property, along with five to seven other tenants, and is the Petitioner in this matter. Petitioner occupied the basement at all relevant times.
3. Dan Handel [sic] owns the subject property and is the Respondent in this matter.
4. Respondent filed a RACD Registration/Claim of Exemption Form, for the subject property, on June 17, 2002.
5. The subject property is a three-story structure, consisting of a basement and three upper floors, a kitchen and bath in the basement, a living room, dining room and kitchen on the first floor, and six bedrooms and three and one-half bathrooms on the second and third floors. A single front entrance door accesses the three upper floors. A rear entrance door accesses the basement. Five to seven tenants use the upper three floors. Petitioner uses the basement, exclusively.
6. Respondent owns a townhouse/rowhouse, located at 2716 Woodley St., N.W., and a single-family residence, located at 3618 Warren St., N.W. Respondent rents each property as one, single-family house, for a total of two rental units.
7. The basement unit of the subject property was inspected by D.C. housing officials and determined to be uninhabitable as a rental unit.
8. Respondent rents the subject property, as a single-family house, to Dwight Norton, who rents to a group of other individuals, including Petitioner. Respondent charges Mr. Norton a total monthly rent of \$3,950.00 for use and occupancy of the entire house, including the

basement. All other tenants are charged a portion of the total rent amount. All tenants pay Respondent their portion of the rent separately. Respondent has no involvement in Mr. Norton's selection of persons as co-tenants or determining how much they agreed to pay him.

9. Petitioner rented the basement area through Mr. Norton, not Respondent.
10. Respondent does not furnish meals or lunches to any transients at the subject premises. No transients occupy or have occupied the premises. The tenants have exclusive control over possession, use and occupancy of the leasehold.
11. No lease agreement exists between Respondent and Mr. Norton, or Respondent and any other tenant, at the subject property. Respondent gave a lease to Mr. Norton to sign for use and occupancy of the leasehold, as one single-family unit. Mr. Norton refused to sign due to problems with Petitioner concerning the tenancy.
12. Respondent used the basement of the subject property as additional rental space, rented by Petitioner, as one part of the entire house, not as one separate rental unit.
13. Respondent owns three rental units, one located at 2270 Cathedral Ave., N.W., and the other two at 2716 Woodley Pl., N.W., and 3618 Warren St., N.W.
14. Respondent failed to file a claim of exemption with RACD prior to June 17, 2002 or at the time he began renting the subject property, in 1999.
15. Respondent is an international lawyer, employed with the U.S. State Department, who never presented himself as a real estate specialist. Respondent is not a real estate professional.
16. Respondent owns the three units as a hobby, does not employ real estate professionals to manage his properties, and maintains his properties with help from a "handy man," who performs emergency repairs and other maintenance when Respondent is away on business. Respondent is not a landlord regularly.
17. Respondent is not versed or otherwise experienced as a real estate attorney. His area of concentration as a lawyer is international contract negotiations. Respondent filed a Registration/Claim of Exemption Form with RACD, for 3618 Warren St., N.W., on June 6, 2000, for estate planning purposes, by instruction from his probate attorney. Respondent drew an "X" through the page that indicates the specific exemption claimed. Respondent did not know he

had to list an exemption for the Warren St., property on the June 6, 2000 claim of exemption form. Respondent was not told at any time and did not know he was supposed to file a claim of exemption, for rent control purposes, for either of the three properties. Respondent was reasonably unaware of the requirement to file a claim of exemption with RACD.

18. Rental rates for rental housing in the Cathedral Avenue area are some of the highest in the city. One bedroom units rent upward from \$1,000.00. The \$3,950.00 rent for the subject property was two to three hundred dollars below market rate. Tenants at the subject property did not complain to Respondent about the \$3,950.00 total rent amount or the \$650.00 average, for each tenant. The Examiner has knowledge and experience with rental rates in the Cathedral Avenue area, via his experience as a rent control hearing officer, and as a former tenant in the District. The \$3,950.00 rental rate Respondent charged for the subject property was reasonable.
19. Respondent did not set Petitioner's monthly rent amount. Petitioner and Mr. Norton determined Petitioner's monthly rent.
20. Petitioner did not present evidence on his notice to vacate allegation.

Budd v. Haendel, TP 27,598 (RACD Dec. 20, 2002) at 9-11. In his decision, the hearing examiner concluded as a matter of law:

1. Respondent owns four or fewer rental units in the District of Columbia and, thereby, qualifies for the small landlord exemption, pursuant to D.C. Official Code Sect. 42-3502.05(a)(3) (2001), for the property located at 2270 Cathedral Ave., N.W., as perfected by the RACD Registration/Claim of Exemption Form, date-stamped June 17, 2002.
2. Respondent's belated filing of the June 17, 2002 claim of exemption is excused based on proof that "special circumstances" existed, namely, that Respondent: 1) was not a real estate professional; 2) was not a landlord regularly; 3) was reasonably unaware of the requirement of filing a claim of exemption; and 4) that the rent charged was reasonable, as set forth in Hanson v. District of Columbia Rental Housing Comm'n, 584 A.2d 592 (D.C. 1991), and later developed case law.
3. The Rent Administrator lacks jurisdiction to adjudicate Petitioner's Title II claim of reduced services and facilities because the subject property is exempt from Title II of the Act, pursuant to D.C. Official Code Sect.

42-3502. 05(a) (2001) and Madison v. Clifton Terrace Ass'n Ltd., TP 11,318 (RHC Apr. 22, 1985).

4. Petitioner's allegation that Respondent violated Sect. 501 of the Act is withdrawn, pursuant to 14 DCMR Sect. 3824 (1991), as applied to petitions filed before the Rent Administrator.

Id. at 11-12.

The tenant filed a timely notice of appeal with the Commission. The Commission held the appellate hearing on May 22, 2003.

II. ISSUES ON APPEAL

In his notice of appeal to the Commission the tenant raised the following issues:

1. That examiner should not have allowed Appellee (Dan Haendel) to fall under this case. See attached case of Hanson.
2. The examiner failed to consider all (3) properties as 2 units in each of the 3 properties. As shown to examiner, the 3 properties consist of an English bsmt. [sic] which has separate entrances and [are] self contained as separate units.
3. Examiner failed to consider that no person holds a lease as sole lessee on the property @ [sic] 2270 and Appellee had no current nor past lease to provide, just a possible lease of present tenants. See attached evidence.
4. Examiner failed to see that these properties have not been thru [sic] any proper licensing or CFO's [sic] nor that Appellee has and does not take any responsibility as a landlord for these properties.
5. Examiner failed to consider the tremendous loss to appellant due to the neglect of appellee nor the fact of proof of English bsmt. [sic], which appellant resides, being deemed uninhabitable by DC [sic] inspectors. See attached. Which to date have not been abated.
6. That examiner failed to clarify who is the landlord for Appellee, since there is no current lease w/ [sic] owner and any resident tenant.
7. That examiner failed to instruct Appellee to serve a lease w/ [sic] any tenant residing @ [sic] 2270 Cathedral Ave.

8. Examiner failed to take into consideration that there are 8 occupants @ [sic] 2270 Cathedral Ave., and placed no amount of tenants that could occupy the residence which a CFO [sic] would limit on such a property.
9. That examiner failed to realize the original complaint was about the fact of the 3 properties are renting with no control and that appellant complained not about amount of rent charged under Hanson case (sited [sic] by appellee) but that services were not provided that property had never been inspected, that Appellee has never had a business license to operate in DC [sic]. That in fact Appellee knew as early as year 2000 when he purchased Warren St. property that his properties needed to be registered and licensed with DC [sic]. That the original complaint was not about an exemption for rent control. It was about in fact, which attached documents show Appellee runs all properties as month to month or less with no regard to amt. [sic] of tenants as long as his bottom line is met which is total monthly rent for each property.

Notice of Appeal at 1- 2.

III. DISCUSSION OF THE ISSUES

A. Whether the hearing examiner erred when he applied “special circumstances” to find that the housing provider qualified for the small housing provider exemption.

The tenant contends that the hearing examiner erred when he found the housing provider qualified for the small housing provider exemption under “special circumstances,” despite the fact, the tenant asserts, the housing accommodation was not properly registered with DCRA.

The record reflects that the tenant assumed occupancy at the housing accommodation on April 18, 2002. The record further reflects that he rented the basement from Dwight Norton, the housing provider’s tenant for the housing accommodation located at 2270 Cathedral Avenue, N.W. The record shows that the owner/housing provider filed a Registration/Claim of Exemption Form for the housing accommodation on June 17, 2002, before the tenant filed his petition on August 20, 2002. The hearing examiner therefore, made his determination concerning the housing

provider's exempt status for the period from April 18, 2002, the date the tenant commenced occupancy of the housing accommodation, to June 17, 2002, the date a Registration/Claim of Exemption Form was filed by the housing provider with RACD.

In his decision, the hearing examiner concluded as a matter of law that for the period from April 18, 2002 to June 17, 2002, the housing provider met the "special circumstances" test for exemption of a non-registered housing provider as enunciated by the District of Columbia Court of Appeals in Hanson v. District of Columbia Rental Hous. Comm'n, 584 A.2d 592 (D.C. 1991). The hearing examiner determined that the housing provider met the special circumstances by applying the four prong test set out by the court, that is, whether the housing provider: 1) was not a real estate professional; 2) was not a landlord regularly; 3) was reasonably unaware of the requirement of filing a claim of exemption; and 4) charged a reasonable rent. Hanson at 595.

The tenant argued, at the hearing below, that the housing provider was aware of the requirement for filing a Registration/Claim of Exemption Form for the housing accommodation in the instant case, because he had previously filed a Registration/Claim of Exemption Form for another rental property located at 3618 Warren Street, N.W., on June 6, 2000. See Petitioner's Exhibit (P. Exh.) 2. The hearing examiner addressed this issue in his decision and order stating:

Petitioner also argued that Respondent knew or should have known of the filing requirement because he filed a claim of exemption for 2716 Warren Pl., N.W., on June 6, 2000. In response, Respondent testified that he filed the claim of exemption for the Warren St., property only because he was advised to do so by a probate attorney, in order to protect the property for estate planning purposes. Respondent testified that he thought that he was filing the claim of exemption solely to include the property as part of a corporation formed by the probate attorney. As such, he did not know he was doing it to comply with the Act, or that he had to register the other properties. Respondent stated that his lack of knowledge of the filing requirement is proven by the fact that he drew an "X"

across page two of the form, where the housing provider is supposed to identify the specific basis for the exemption (P. Exh. 2). Respondent further explained that no one had ever told him about any rent control filing requirements for the other properties before, during or after he filed the June 6, 2000 claim of exemption.

The Examiner accepts Respondent's testimony as credible evidence that he was not aware of the filing requirement. The Examiner's decision is based on the fact that Respondent drew a line through the second page of the claim of exemption, as stated. The fact that the claim of exemption was accepted by RACD with an "X" drawn across page 2 suggests that Respondent did not know he was supposed to declare an exemption on the form and was not advised by RACD staff to check the appropriate exemption, so as to correctly complete the form. This also suggests that Respondent was never told to file a claim of exemption for his other two rental properties, after he filed the claim of exemption form, for 3618 Warren St., N.W. Because Respondent did not identify the small landlord exemption on the June 6, 2000 claim of exemption, the Examiner rejects the defective registration statement as a basis to conclude that Respondent was aware of the requirement to file a claim of exemption for the subject property, prior to June 17, 2002.

Budd v. Haendel, TP 27,598 (RACD Dec. 20, 2002) at 7-8. Accordingly, the hearing examiner found that the housing provider's failure to file a claim of exemption for the housing accommodation was excusable, because the housing provider was reasonably unaware of the requirement to file for the exemption.

The housing provider stated at the hearing that he filed the Registration/Claim of Exemption Form for his property at 3618 Warren Street, N.W., asserting that he did so at the direction of his attorney, but further asserted that he did not know why he was filing the Registration/Claim of Exemption Form. Further, the Registration/Claim of Exemption Form filed on June 6, 2000, contained the addresses of the housing provider's two remaining housing accommodations located at 2716 Woodley Place, N.W., and 2270 Cathedral Avenue, N.W., the housing accommodation which is the subject of the petition in this case.

The hearing examiner based his conclusion on the credibility of the testimony of the housing provider, as opposed to the evidence presented by the tenant. The Commission has previously held that findings of credibility by the hearing examiner will be given deference by the Commission, and will not be disturbed absent evidence in the record to the contrary. Austin v. Paige, TP 27,145 (RHC Dec. 12, 2003); McDonald v. Nuyen, TP 26,124 (RHC Aug. 29, 2003); see also Eilers v. Bureau of Motor Vehicles Servs., 583 A.2d 677, 684 (D.C. 1990). In the instant case, the record evidence reflects that on June 6, 2000, the housing provider filed a Registration/Claim of Exemption Form for another rental property he owned located at 3618 Warren Street, N.W. See Pet. Exh. 2. This evidence was presented at the hearing by the tenant, and was substantial record evidence showing that the housing provider was aware of the requirement of filing a Registration/Claim of Exemption Form for his rental units. Further, the regulations require that a separate Registration/Claim of Exemption Form be filed for each unit owned and rented by a housing provider in the District of Columbia.¹

Accordingly, the decision of the hearing examiner on this issue is reversed and remanded for a determination of whether the tenant suffered a reduction of services and facilities at the housing accommodation prior to the filing of the Registration/Claim of Exemption Form filed by the housing provider for the period from April 18, 2002, the date the tenant commenced his occupancy at the housing accommodation, to June 17, 2002, the date that the housing provider filed the Registration/Claim of Exemption Form for the housing accommodation.

¹ The applicable regulation, 14 DCMR § 4102.2 (1991), provides:

Each housing provider who registers one (1) or more rental units shall file with the Rent Administrator a Registration/Claim of Exemption form for each housing accommodation with a separate address, except as provided in §4102.3.

B. Whether the hearing examiner erred when he failed to consider the evidence that the housing provider's three (3) properties contained separate, self contained English basement units with separate entrances, thereby creating more than four (4) rental units.

The tenant argues that the housing provider owned and rented six (6) rental units in the District of Columbia, in the three (3) rental houses the housing provider owned. He further asserts that the houses rented by the housing provider contain separate basement units that are also rented. The tenant argues therefore, that the housing provider was not eligible for the small housing provider exemption permitted by the Act, because the number of units owned and rented by the housing provider exceeded the four (4) rental units permitted by the small housing provider provision of the Act.

The hearing examiner determined that the evidence submitted by the parties showed that the housing provider owned and rented three (3) single-family houses in the District of Columbia. The hearing examiner further found that all three (3) houses were rented to a group of tenants who shared the occupancy of the housing accommodations. He determined, based on the credibility of the witnesses, that the basement unit rented by the tenant at 2270 Cathedral Avenue, N.W., was the only housing accommodation owned by the housing provider in the District of Columbia with a separate basement entrance.

The hearing examiner stated in his decision:

[T]he Examiner finds that, in this case, the testimony by the parties that the three floors of the house contained five bedrooms, were occupied by five tenants who accessed the house through a single front door, shared the use of the common areas of the three floors, paid rent together and the rent amount did not vary depending on how many were in occupancy, is credible record evidence that the three floors constitute a single rental unit.

The Examiner also finds that the basement was also included as part of the rental unit. Even though Petitioner had access to it through a separate entrance and exclusive use of a separate kitchen and bath, he rented the basement through Mr. Norton and paid a portion of the rent that Respondent charged Mr. Norton.

Budd v. Haendel, TP 27,598 (RACD Dec. 20, 2002) at 5-6.

The Commission has previously determined that the rental of a single-family house to four or more tenants did not create four rental units, the house was still a single rental unit. Sigal v. Snider Bros. Prop. Mgmt., Inc., TP 20,335 (RHC Mar. 11, 1988). The Commission has further determined that where two (2) floors of a building, containing five bedrooms, were occupied by four (4) or five (5) tenants, the two floors were accessed through a single front door, the tenants shared the use of the common areas of the two floors, the rent was paid by all the tenants and the amount did not vary depending on how many were in occupancy, there was substantial evidence that the two floors constituted a single rental unit. Reich v. Scullin, TP 22,093 (RHC Mar. 31, 1993). In the instant case, the hearing examiner found, and the Commission determined that the substantial evidence in the record supports, that on June 17, 2002, the housing provider was properly registered as exempt as a small housing provider, renting four (4) or fewer units, pursuant to the provisions of the Act, D.C. OFFICIAL CODE § 42-3502.05 (a)(3) (2001).

C. Whether the hearing examiner erred when he failed to determine whether the housing provider's properties were properly licensed or had certificates of occupancy, or whether the housing provider took any responsibility as a landlord for these properties.

In his decision and order, the hearing examiner determined that the housing provider submitted a valid Registration/Claim of Exemption Form on June 17, 2002. The hearing examiner then dismissed the tenant's claims of reduction of services and facilities for lack of jurisdiction.

The hearing examiner concluded that the housing provider was exempt pursuant to the Act, D.C. OFFICIAL CODE § 42-3502.05 (a) (3) (2001). The hearing examiner further determined therefore, that the housing accommodation was not subject to § 42-3502.05(f) through § 42-3502.19, except § 3502.17. Once the housing accommodation was determined to be exempt, pursuant to the Registration/Claim of Exemption Form filed on June 17, 2002, the Rent Administrator lacked jurisdiction to determine issues raised pursuant to Title II of the Act including claims of reduction of services and facilities from June 17, 2002 forward.² Taylor v. District of Columbia Rental Accommodations Comm'n, 404 A.2d 173 (D.C. 1979); Jevne v. Inner City Property Mgmt., Inc., TP 23,150 (RHC Aug. 22, 1995).

Regarding the hearing examiner's failure to address the housing provider's failure to obtain a Certificate of Occupancy and a business license to operate in the District of Columbia prior to his filing of the Registration/Claim of Exemption Form. The record reflects that the tenant's petition did not include the complaint that the housing provider was not licensed, nor does it include a charge that the housing provider failed to obtain a Certificate of Occupancy. A review of the record (recording) of the hearing reflects that the tenant did not seek to amend his petition to include the issues of licensing or whether the housing provider had obtained a Certificate of Occupancy. The DCAPA requires that in contested cases notice of the issues in the case shall be provided and where the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, all parties shall be afforded an opportunity to present evidence and

² The hearing examiner's finding that the housing provider was exempt from the Act due to "special circumstances" from April 18, 2002, the date the tenant assumed occupancy of the basement unit at the housing accommodation, through June 17, 2002, the date the housing provider filed his Registration/Claim of Exemption Form was reversed. See Discussion, Part III, A.

argument with respect to those issues. D.C. OFFICIAL CODE § 2-509(a) (2001).

The District of Columbia Court of Appeals has held that an issue must be raised at the hearing (trial) level before it is properly raised on appeal, because the opposing party must have an opportunity to be heard on the issue. 1880 Columbia Rd. Tenant's Ass'n v. District of Columbia Rental Accommodations Comm'n, 400 A.2d 333, 339 (D.C. 1979), cited in The Vistas Edgewood Terrace v. Rascoe, supra at 20. In the instant case, the tenant's petition did not afford the housing provider with notice of the issues of licensing or the absence of the Certificate of Occupancy. Further, the tenant's reference to whether the housing provider was "licensed" failed to put the housing provider on notice that he was afforded an opportunity to present evidence and argument with respect to whether he had failed to obtain a housing business license.

The decision of the hearing examiner is affirmed and this appeal issue is dismissed.

D. Whether the hearing examiner erred when he failed to consider the loss of personal property suffered by the appellant due to the neglect of the appellee; and the fact that the tenant's basement unit was deemed uninhabitable by D.C. Housing Inspectors.

The tenant argues that due to the unabated flooding in his unit at the housing accommodation, he lost personal possessions.

The Commission has previously held that the Act does not confer jurisdiction to the Rent Administrator or the Commission to order reimbursement for claims related to damages or loss of use of property. The Vista Edgewood Terrace v. Rascoe, TP 24,858 (RHC Oct. 13, 2000). Accordingly, this appeal issue is denied.

The tenant also contends that the hearing examiner failed to consider that his unit was deemed uninhabitable by the D.C. Housing Inspectors. Contrary to the tenant's

assertion, in his decision and order, at finding of fact numbered seven (7), the hearing examiner stated:

The basement unit of the subject property was inspected by D.C. housing officials and determined to be uninhabitable as a rental unit.

Budd v. Haendel, TP 27,598 (RACD Dec. 20, 2002) at 9. However, when he determined that the housing accommodation was exempt, pursuant to the Registration/Claim of Exemption Form filed on June 17, 2002, the hearing examiner lacked jurisdiction to respond to the tenant's claims of reduced services and facilities. However, pursuant to the Commission's determination discussed above, see Part III, A, this issue is granted and remanded to the hearing examiner for a determination, based on the evidence in the record, whether the tenant suffered reduced services and facilities from April 18, 2002, the date the tenant assumed occupancy of the basement unit at the housing accommodation, through June 17, 2002, the date the housing provider filed his Registration/Claim of Exemption Form. See Lustine Realty v. Pinson, TP 20,117 (RHC Jan. 13, 1988).

E. Whether the hearing examiner erred when he failed to identify the housing provider for the housing accommodation.

The tenant argues that the hearing examiner was required to determine who was the housing provider at 2270 Cathedral Avenue, N.W., because there was no written lease between the owner and any of the tenants in residence. In his petition the tenant, Timothy Budd, named Dan Haendel as the owner and housing provider of the housing accommodation. The tenant's petition named no other person as his housing provider.

The evidence of record reflects that Dan Haendel is the owner of the housing accommodation. The evidence in the record further reflects that the entire

accommodation was rented by Mr. Haendel to Dwight Norton, who subleased space to tenants selected by Mr. Norton. The testimonial evidence of record reflects that, at various times, both Mr. Haendel and Mr. Norton collected rent from the tenant.

The Commission has held, pursuant to the provisions of the Act,³ that any person who receives or is entitled to receive rent, or is the agent of the housing provider, is a proper party to be named as a respondent in a tenant petition. See Diaz v. Perry, TP 24,379 (RHC Apr. 20, 2001). The Commission has further determined that any person who occupies a rental unit by agreement with the housing provider in return for payment of rent, is a tenant, even though there is no written lease for the rental unit. Nicholas v. Howard, 459 A.2d 1039, 1040 (D.C. 1983); cited in King v Remy, TP 20,962 (RHC May 18, 1988). By definition found in the Act, both the appellee, Dan Haendel and Dwight Norton, the sublessor, were housing providers of the housing accommodation.

Accordingly, the hearing examiner did not err when he named the housing provider, Dan Haendel, in the caption of the decision, as the housing provider.

Therefore, this appeal issue is denied.

- F. Whether the hearing examiner erred when he failed to instruct the housing provider to serve a lease on the tenants at the housing accommodation.**
- G. Whether the hearing examiner erred when he failed to consider that there were eight (8) tenants at the housing accommodation, and whether he erred when he failed to place a limit on the number of tenants who could occupy the housing accommodation.**
- H. Whether the hearing examiner erred when he failed to consider that no**

³ The Act, D.C. OFFICIAL CODE § 42-3501.03(15) (2001), provides:

‘Housing provider’ means a landlord, an owner, lessor, sublessor, assignee, or their agent, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any rental unit within a housing accommodation within the District.

person holds a lease as sole lessee at the housing accommodation, and that the housing provider had no current nor past lease to provide, just a possible lease of present tenants.

The Rent Administrator is limited to determining violations of the Act. These issues do not reflect actions which are prohibited or regulated by the provisions of the Act. Newton Towers Ltd. P'ship v. Newton House Tenants Assoc., TP 20,005 (RHC Feb. 1, 1988). Accordingly, these appeal issues are denied.

- I. **Whether the hearing examiner erred when he failed to realize the original complaint was about the fact of the 3 properties are renting with no control and that the tenant complained not about the amount of rent charged under Hanson, but that services were not provided, that property had never been inspected. That, in fact, the housing provider knew as early as 2000, when he purchased the Warren Street property, that his properties needed to be registered and licensed with the District of Columbia. That the original complaint was not about an exemption for rent control, it was about, in fact, which attached documents show, that the housing provider runs all properties as month to month or less with no regard to amount of tenants as long as his bottom line is met which is total monthly rent for each property.**

The text in issue "I" are statements from the tenant which do not refer to errors committed by the hearing examiner in the decision and order, as required by 14 DCMR § 3802.5(b) (1991). See Tenants of 829 Quincy St., N.W. v. Bernstein Mgmt. Co., TP 25,072 (RHC Sept. 22, 2004); Mersha v. Town Ctr. Ltd. P'ship, TP 24,970 (RHC Dec. 21, 2001) (where the Commission dismissed several statements submitted by the tenant as issues on appeal, because they did not comply with 14 DCMR § 3802.5(b) (1991); see also Voltz v. Pinnacle Realty Mgmt. Co., TP 25,092 (RHC Sept. 28, 2001) at 12-13; Hagner Mgmt. Corp. v. Brookens, TP 3788 (RHC Feb. 4, 1999) at 39.

Accordingly, this issue is dismissed.

IV. **CONCLUSION**

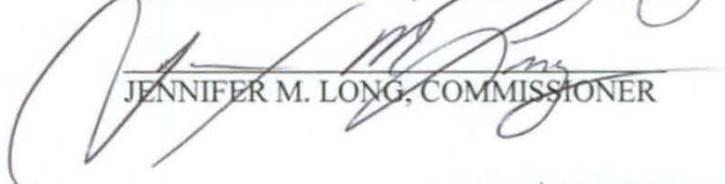
The decision of the hearing examiner is affirmed in part, reversed in part, and

remanded for a determination of whether the tenant suffered a reduction of services and facilities at the housing accommodation for the period from the commencement of the tenant's tenancy April 18, 2002, through the date the housing provider filed a Registration/Claim of Exemption Form for the housing accommodation on June 17, 2002.

SO ORDERED.


RUTH R. BANKS, CHAIRPERSON


RONALD A. YOUNG, COMMISSIONER


JENNIFER M. LONG, COMMISSIONER

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 may be contacted at the following address and telephone number:

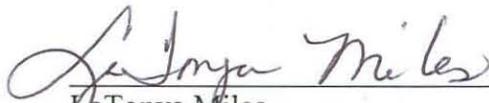
D.C. Court of Appeals
Office of the Clerk
500 Indiana Avenue, N.W., 6th Floor
Washington, D.C. 20001
(202) 879-2700

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **Decision and Order** in TP 27,598 was mailed postage prepaid by priority mail, with delivery confirmation on this **16th day of December, 2004** to:

Timothy Budd
2500 Van Dorn Street
Apartment 1127
Alexandria, VA 22302

Dan Haendel, Esquire
8900 Lynnhurst Drive
Fairfax, VA 22031



Tonya Miles
Contact Representative
(202) 442-8949