

DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
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DISTRICT OF COLUMBIA
OFFICE OF
ADMINISTRATIVE HEARINGS

2009 SEP 14 A 10:43

MARILYN CROUCH
Tenant/Petitioner,

v.

EYOB & KAREN SAMARA
Housing
Providers/Respondents

Case No.: RH-TP-06-28,687

In re: 912 Shepherd St., N.W., Apt. #4

FINAL ORDER

I. Introduction

On July 3, 2006, Tenant/Petitioner Marilyn Crouch filed Tenant Petition No. 28,687 with the Rental Accommodations and Conversion Division ("RACD") of the Department of Consumer and Regulatory Affairs naming Respondents Eyob and Karen Samara as the Housing Providers/Property Managers of her housing accommodation at 912 ½ Shepherd Street, N.W., Apt. #4. Petitioner alleged that the rent increase for her apartment exceeded the amount of the increase allowed by any applicable provision of the Rental Housing Act of 1985.

At the hearing on February 26, 2007, Petitioner appeared in proper person, and Cherie Martin, Esquire, appeared on behalf of Respondents. Respondents raised *res judicata* and the parties' Release agreement as bars to Petitioner's claim in this case.

Based on the testimony of the witnesses, my evaluation of their credibility, and the documents introduced into evidence, I make the following findings of fact and conclusions of law.

II. Findings of Fact

On March 1, 2005, Petitioner leased from Respondents apartment #4 at 912 ½ Shepherd Street, N.W., for a one year term, at a monthly rental of \$750. On January 24, 2006, Petitioner filed Tenant Petition No. 28,516 making the identical claim as alleged in this case against Respondents. Respondents' Exhibit ("RX") 200. At a hearing on February 27, 2006, the parties appeared for a hearing before a hearing examiner from RACD in that case, and a Praceipe with the terms of a settlement resolving all issues in the case was filed, and the case was dismissed with prejudice. RX 202.

Petitioner vacated her apartment on March 1, 2006. Subsequently, Petitioner's check for the February rent, in the amount of \$650, was returned for insufficient funds. Thereafter, on March 3, 2006, the parties entered into a Release agreement which settled outstanding matters among them, including the returned check, and costs in connection therewith. The Release provided, in pertinent part, that Petitioner released Respondents "from any and all claims and/or liabilities associated with 912 ½ Shepherd Street, NW" RX 201.

III. Conclusions of Law

This matter is governed by the Rental Housing Act of 1985, D.C. Official Code §§ 42-3501.01-3509.07, the District of Columbia Administrative Procedure Act

(DCAPA), D.C. Official Code §§ 2-501-510, the District of Columbia Municipal Regulations (DCMR), 1 DCMR 2800-2899, 1 DCMR 2920-2941, and 14 DCMR 4100-4399. OAH assumed jurisdiction of rental housing cases pursuant to the OAH Establishment Act, D.C. Official Code § 2-1831.03.

I will dismiss the Tenant Petition because Respondents proved by the preponderance of the evidence that Petitioner's claims are barred by *res judicata* and the parties' Release agreement.

Under the doctrine of *res judicata*, when a final judgment has been entered on the merits, the parties are barred from re-litigating the same claim or any issues arising out of the same cause of action. *Goldkind v. Snider Bros., Inc.*, 467 A.2d 468, 473 (D.C. 1983); *Oubre v. Dep't of Employment Services*, 630 A.2d 699 (D.C. 1993); *Short v. Dep't of Employment Services*, 723 A.2d 845 (D.C. 1998); *Gallothom, Inc. v. Alcoholic Beverage Control Bd.*, 820 A.2d 530, 532 (D.C. 2003) (quoting *Herbin v. Hoeffel*, 806 A.2d 186, 193 (D.C. 2002)); *Scoville St. Corp. v. Dist. TLC Trust*, 857 A.2d 1071, 1076-77 (D.C. 2004). The doctrine bars relitigation not only as to every ground of recovery or defense actually presented in the action, but also as to every ground which might have been presented. *Molovinsky v. Monterey Cooperative, Inc.*, 689 A.2d 531, 533 (D.C. 1996); *Faulkner v. Government Employees Insurance Co.*, 618 A.2d 181, 183 (D.C. 1992); *Goldkind, supra*, 467 A.2d at 473 n.10.

The voluntarily dismiss with prejudice of Tenant Petition No. 28,516 is the equivalent of a final judgment in that case. Accordingly, the doctrine of *res judicata* bars

re-litigation of the claims made or which could have been made therein, which are the same in this case.

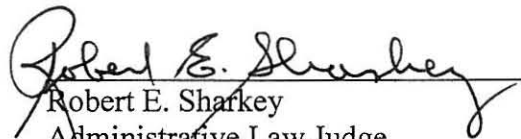
In addition, the parties entered into a Release agreement whereby Petitioner released Respondents from all claims and/or liabilities associated with 912 ½ Shepherd Street, NW.” RX 201. The Release is plain on its face, and it provides for a complete release of the parties respective claims and liabilities in connection with the leased apartment. This precludes Petitioner from re-asserting such claims. *See GLM Partnership v. Hartford Casualty Insurance Co.*, 753 A.2d 995, 998 (D.C. 2000).

IV. Order

Based on the above findings of fact and conclusions of law, it is, this 11th day of September 2009:

ORDERED, that Case No. RH-TP-06-28,687 is hereby **DISMISSED WITH PREJUDICE**; and it is further

ORDERED, that the parties’ reconsideration and appeal rights are set forth below.


Robert E. Sharkey
Administrative Law Judge

MOTIONS FOR RECONSIDERATION

Any party served with a final order may file a motion for reconsideration within ten (10) days of service of the final order in accordance with 1 DCMR 2937. When the final order is served by mail, five (5) days are added to the 10 day period in accordance with 1 DCMR 2811.5.

A motion for reconsideration shall be granted only if there has been an intervening change in the law; if new evidence has been discovered that previously was not reasonably available to the party seeking reconsideration; if there is a clear error of law in the final order; if the final order contains typographical, numerical, or technical errors; or if a party shows that there was a good reason for not attending the hearing.

The Administrative Law Judge has thirty (30) days to decide a motion for reconsideration. If a timely motion for reconsideration of a final order is filed, the time to appeal shall not begin to run until the motion for reconsideration is decided or denied by operation of law. If the Judge has not ruled on the motion for reconsideration and 30 days have passed, the motion is automatically denied and the 10 day period for filing an appeal to the Rental Housing Commission begins to run.

APPEAL RIGHTS

Pursuant to D.C. Official Code §§ 2-1831.16(b) and 42-3502.16(h), any party aggrieved by a Final Order issued by the Office of Administrative Hearings may appeal the Final Order to the District of Columbia Rental Housing Commission within ten (10) business days, in accordance with the Commission's rule, 14 DCMR 3802. The ten (10) day time limit shall begin to run when the order becomes final. If the Order is served on the parties by mail, an additional five (5) business days shall be allowed, in accordance with 1 DCMR 2811.5.

Additional important information about appeals to the Rental Housing Commission may be found in the Commission's rules, 14 DCMR 3800, *et seq.*, or you may contact the Commission at the following address:

District of Columbia Rental Housing Commission
941 North Capitol Street, N.E.
Suite 9200
Washington, D.C. 20002
(202) 442-8949

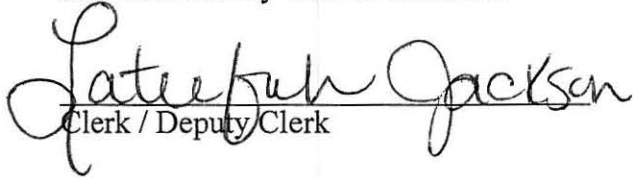
Certificate of Service:

**By Priority Mail with Delivery
Confirmation (Postage Paid:**

Marilyn Crouch
4241 58th Avenue
Bladensburg, MD 20710

Cherie Martin, Esquire
3301 Beaverwood Lane
Silver Spring, MD 20906

I hereby certify that on 9-14
2009, this document was caused to be served
upon the above-named parties at the
addresses and by the means stated.


Clerk / Deputy Clerk

By Inter-Agency Mail:

District of Columbia Rental Housing
Commission
941 North Capitol Street, N.E.
Suite 9200
Washington, DC 20002

Keith Anderson
Acting Rent Administrator
Rental Accommodations Division
Department of Housing and Community
Development
1800 Martin Luther King, Jr., Avenue, S.E.
Washington, D.C. 20020