

DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
941 North Capitol Street, N.E., Suite 9100
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ALLEGRA SMITH-EVANS,
Tenant/Petitioner,

v.

GASTON J. MCVEA,
Housing Provider/Respondent.

Case No.: RH-TP-09-29575

In re: 1404 Morse Street, NE

FINAL ORDER

On April 21, 2009, Petitioner Allegra Smith-Evans filed Tenant Petition No.: TP-09-29575 with the District of Columbia Department of Housing and Community Development, Rental Accommodations Division. Respondent Gaston McVea was named as the owner/property manager of Petitioner's housing accommodation located at 1404 Morse Street, N.E. By Case Management Order dated August 7, 2009 (the "CMO"), a hearing was scheduled for October 8, 2009, at 9:30 AM, at the Office of Administrative Hearings. When the hearing convened, there was no appearance by or on behalf of either party.

The file reflects that the CMO was served on the parties by Priority Mail Delivery Confirmation sent to them at their respective addresses furnished by Petitioner when she file her tenant petition. The United States Postal Service delivery confirmation receipts in the file reflects that the CMO was delivered to Respondent, but that the CMO sent to Petitioner was returned undelivered.

The file also reflects that a deputy clerk of this court spoke to Petitioner on or about August 17, 2009, informed her that the CMO had been returned undelivered, and informed her of the hearing date and time. Petitioner stated at that time that she would contact the clerk and provide a current address, but she never did so, as required by OAH Rule 2807.4 (It is party's obligation to promptly notify the Clerk and other parties of any change in address).

OAH Rule 2818.1 provides, in pertinent parts:

For failure of the Petitioner to prosecute or to comply with these Rules or any order of this administrative court . . . the presiding Administrative Law Judge may order . . . dismissal [of the action] on his or her own. Subject to the limitations of Section 2818.2 . . ., a dismissal under this Section . . . constitutes adjudication on the merits.


The Petitioner's failure to notify the court of her change of address and her unexplained failure to appear at the hearing in accordance with the CMO was a failure by Petitioner to prosecute this case and non-compliance by her with an order of this court and the court's procedural rules. For these reasons, the tenant petition will be dismissed pursuant to OAH Rule 2818.1.

Therefore, it is this 8th day of October 2009:

ORDERED, that Tenant Petition No.: RH-TP-09-29575 is hereby **DISMISSED WITH PREJUDICE**; and it is further

ORDERED, that pursuant to OAH Rule 2818.2, this Order shall not take effect until fourteen (14) days after the date of its mailing, and shall be vacated upon the granting of a motion filed within such fourteen (14) day period showing good cause why the case should not be dismissed; and it is further

ORDERED, that the appeal rights of any person aggrieved by this Order are stated 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 U.S. Mail (Postage Paid):

Allegra Smith-Evans
1900 Massachusetts Avenue, SE
Washington, DC 20019

Gaston J. McVea
1404 Morse Street, NE
Washington, DC 20002

Gaston J. McVea
306 Mecca Court
Fort Washington, MD 20744

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

I hereby certify that on 10/8
2009, this document was caused to be served
upon the above-named parties at the
addresses and by the means stated.


Clerk / Deputy Clerk