DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 28,392

In re: 1831 D Street, N.E. Unit 3

Ward Six (6)

GERALDINE DICKERSON
Tenant/Appellant

v.

FULTON SMITH
Housing Provider/Appellee

DECISION AND ORDER

June 30, 2008

PER CURIAM. 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. 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, 14 DCMR §§ 3800-4399 (2004), govern these proceedings.

I. PROCEDURAL HISTORY

Geraldine Dickerson, tenant of 1831 D Street, N.E. Unit 3, filed Tenant Petition (TP) 28,392 with the Housing Regulation Administration against her housing provider, Fulton Smith, on August 4, 2005. In the petition, the tenant asserted that the increase of her rent by 300 percent was improper because her housing provider was not exempt from

the Rent Stabilization Program, and therefore could not increase her rent by 300 percent. On December 1, 2005, the RACD held a hearing in which the tenant and the housing provider, both of whom were represented by counsel, disclosed that they reached a settlement agreement. The RACD issued its Decision and Order on September 22, 2006, dismissing the case with prejudice because the parties reached a settlement agreement. Dickerson v. Smith, TP 28,392 (RACD Sept. 22, 2006).

The tenant filed a Notice of Appeal in the Commission on October 10, 2007. The tenant's basis for appeal was that she "was not totally aware of all [her] rights." Notice of Appeal at 1. The Commission issued a Notice of Scheduled Hearing on May 21, 2007, informing the parties that a hearing would take place July 12, 2007. The housing provider filed a Motion to Dismiss Appeal on June 7, 2007, in which he explained that the "appellant was present when the Praecipe was presented to the hearing examiner advising that 'all outstanding issues between the Petitioner and the landlord have been resolved.'" Motion to Dismiss Appeal at 1. The housing provider also noted that the tenant "personally signed the Settlement Agreement underlying this resolution and accepted its substantial benefits." Id. The housing provider's motion was denied, and the hearing was held before the Commission on July 12, 2007.

II. PRELIMINARY ISSUE ON APPEAL

The Commission notes that the RACD Decision and Order did not contain findings of fact and conclusions of law, which constitutes plain error under 14 DCMR § 3807.4 (2004).[1] Therefore, as a preliminary matter, the Commission must determine:

> Whether the hearing examiner erred when she failed to make findings of fact and conclusions of law regarding the settlement as required by the District of

[1] Pursuant to 14 DCMR § 3807.4 (2004), "[R]eview by the Commission shall be limited to the issues raised in the notice of appeal; provided, that the Commission may correct plain error."

Columbia Court of Appeals (DCCA) in Proctor v. District of Columbia Rental Hous. Comm'n, 484 A.2d 542 (1984).

III. DISCUSSION OF PRELIMINARY ISSUE

Pursuant to the DCAPA, D.C. OFFICIAL CODE § 2-509(e) (2001), "every decision … rendered by the Mayor or an agency … shall be in writing and shall be accompanied by findings of fact and conclusions of law." Here, the RACD made no such findings and conclusions. The DCCA has ruled that a decision "adopting or rejecting the compromise proposal, shall contain findings of fact and conclusions of law sufficient for this court's review." Proctor v. District of Columbia Rental Hous. Comm'n, 484 A.2d 542, 548 (1984).

Pursuant to D.C. OFFICIAL CODE § 42-3502.16(h) (2001):

> The Rental Housing Commission may reverse, in whole or in part, any decision of the Rent Administrator which it finds to be arbitrary, capricious, an abuse of discretion, not in accordance with the provisions of this chapter, or unsupported by substantial evidence on the record of the proceedings before the Rent Administrator, or it may affirm, in whole or in part, the Rent Administrator's decision.

Because the decision to accept the settlement failed to make findings of fact and conclusions of law sufficient for review by the Commission as required by Proctor, the Commission remands the decision for appropriate findings of fact and conclusions of law.

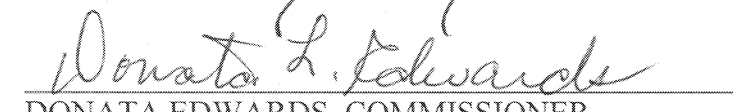
Pursuant to 14 DCMR § 3822.2 (2004), "any case remanded by the Commission to the [RACD] shall receive expedited and priority treatment."

IV. CONCLUSION

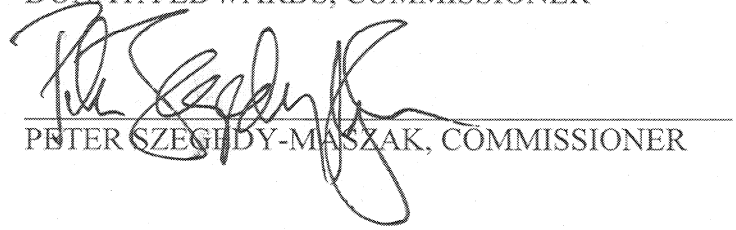
Accordingly, because the RACD's decision did not contain findings of fact and conclusions of law, the decision shall be remanded to the RACD for findings of fact and conclusions of law. The decision shall receive expedited review, and does not require a new hearing.

SO ORDERED

RONALD A. YOUNG, CHAIRMAN



DONATA EDWARDS, COMMISSIONER



PETER SZEGEDY-MASZAK, COMMISSIONER

MOTIONS FOR RECONSIDERATION

Pursuant to 14 DCMR § 3823 (2004), final decisions of the Commission are subject to reconsideration or modification. The Commission's rule, 14 DCMR § 3823.1 (2004), 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 by 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 Order to Dismiss Appeal in TP 28,392 was sent by priority mail with delivery confirmation, postage prepaid, this **30th day of June, 2008,** to:

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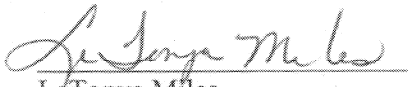

LaTonya Miles
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