

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

NV-9-001

In re: 3133/3131 Connecticut Ave., N.W., Multi-Unit Building  
Application for 501(f) Notices to Vacate and for Approval of Renovation Plan

Ward Three (3)

**KLINGLE CORP.**  
Housing Provider/Appellant/Cross-Appellee

v.

TENANTS OF 3133/3131 CONNECTICUT AVE., N.W.  
Tenants/Appellees/Cross-Appellants

**ORDER ON MOTION FOR CONSOLIDATION OF APPEAL ISSUES WITH TENANT  
PETITION 28,724 OR, IN THE ALTERNATIVE MOTION FOR EXTENSION OF TIME  
TO FILE INITIAL BRIEF AND CONTINUANCE FOR ORAL ARGUMENT**

June 28, 2013

**YOUNG, COMMISSIONER.** This matter comes before the Commission on an appeal filed by tenants of 3133/3131 Connecticut Ave., N.W., in regard to Orders issued by the Rent Administrator on December 11, 2009 and March 3, 2010. On Monday, June 17, 2013 Blake J. Nelson, Tenant/Appellant/Cross-Appellee, filed his Motion For Consolidation Of Appeal Issues With Tenant Petition 28,724 Or, In The Alternative Motion For Extension Of Time To File Initial Brief And Continuance For Oral Argument (Motion).

**I. MOTION FOR CONSOLIDATION OF APPEAL ISSUES WITH TENANT  
PETITION 28,724.**

The Commission's relevant regulation, 14 DCMR § 3811.1 (2004), provides:

If two (2) or more person [sic] are entitled to an appeal from an order of the Rent Administrator and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may move to consolidate their separate appeals by a motion to consolidate.

The Commission's rules permit consolidation of appeals from orders of the Rent Administrator. Tenant Petition 28,724, is being adjudicated in the Office of Administrative Hearings. Absent a final order from the Office of Administrative Hearings, and an appeal from that order in the Commission. Therefore, the Commission lacks jurisdiction to consolidate TP 28,724 and NV-09-001. Accordingly, the Tenant's motion to consolidate is denied.

## **II. MOTION FOR EXTENSION OF TIME TO FILE INITIAL BRIEF AND CONTINUANCE FOR ORAL ARGUMENT**

The Commission's rule on continuances, 14 DCMR § 3815.1-3 (2004), state:

Any party may move to request a continuance of any scheduled hearing or for extension of time to file a pleading, other than a notice of appeal, or leave to amend a pleading if the motion is served on opposing parties and the Commission at least five (5) days before the hearing or the due date; however, in the event of extraordinary circumstances, the time limit may be shortened by the Commission.

14 DCMR § 3815.1 (2004)

Motions shall set forth good cause for the relief requested.

14 DCMR § 3815.2 (2004)

Conflicting engagements of counsel, absence of counsel, or the employment of new counsel shall not be regarded as good cause for continuance unless set forth promptly after notice of the hearing has been given.

14 DCMR § 3815.3 (2004)

In his motion for extension of time to file initial brief and continuance for oral argument the Tenant states:

Tenants only became aware of the order setting this matter for hearing before the Commission on Tuesday, June 11, 2013, nearly a week after the order was issued. At the time of this writing, Tenants have not yet received the Commission's order in this proceeding. ... Tenants request an extension of the time to file an initial brief. Moreover, Tenants already had work and other commitments during the week of June 11, 2013 that precluded the Tenants trying to draft and file an initial brief on the existing briefing schedule. Similarly, Tenants have unavoidable work and medical commitments scheduled for July 2, 2013 that cannot be rescheduled and preclude Tenants from being

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able to attend them [sic] July 2, 2013 oral argument. Tenants also now have to travel a considerable distance to participate in oral argument at the Commission.

Motion at 3.

### **THE COMMISSION'S ORDER**

When there is a question regarding the granting of a continuance or extension of time, “the factors to be considered are: 1) the reasons for the continuance or extension of time, 2) the prejudice resulting from the denial, 3) the party’s diligence in seeking relief, 4) any lack of good faith, 5) and prejudice to the opposing party.” Nezhadessivandi v. Ayers, TP 25,091 (RHC May 28, 2002) citing Daley v. United States, 739 A.2d 814 (D.C. 1999).

Notices of hearing in NV 09-001 where mailed to the parties by first-class mail, postage prepaid on June 5, 2013. Pursuant to 14 DCMR § 3802.7 (2004), the parties “may file briefs in support of their position within five (5) days of receipt of notification that the record in this matter was certified.” The Tenant argues that he has yet to receive the Commission’s order.<sup>1</sup> The Tenant’s reason for the extension of time to file his brief was that he, “already had work and other commitments during the week of June 11, 2013 that precluded Tenants trying to draft and file an initial brief on the existing briefing schedule.” The Tenants request for a continuance of the July 2, 2013, hearing stated, “[t]enants have unavoidable work and medical commitments scheduled for July 2, 2013 that cannot be rescheduled and preclude Tenants from being able to attend [the] ... oral argument.” Motion at 3.

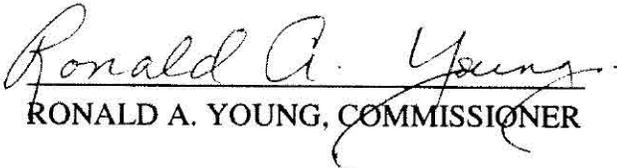
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<sup>1</sup> There is a presumption of receipt of an item if the agency has properly mailed it. Foster v. District of Columbia, 497 A.2d 100, 102 n.10 (D.C. 1985); Allied American Mutual Fire Insurance Co. v. Pajize, 143 A.2d 508, 510 (D.C. 1958).

The Commission's regulations require that a party seeking a continuance or extension of time, "shall set forth good cause for the relief requested." 14 DCMR § 3815.2. The reasons set forth by the Tenant, "other commitments during the week of June 11, 2013 that precluded Tenants trying to draft and file an initial brief," or "unavoidable work and medical commitments," do not set forth compelling reasons to grant an extension of time to file a brief out of time or to continue the previously scheduled hearing. Accordingly, the Tenant's motion to extend the time to file his brief and his motion to continue the Commission's hearing is denied.

Therefore, the motion is denied.

**SO ORDERED.**

  
RONALD A. YOUNG, 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."

### **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **ORDER ON MOTION FOR CONSOLIDATION OF APPEAL ISSUES WITH TENANT PETITION 28,724 OR, IN THE ALTERNATIVE MOTION FOR EXTENSION OF TIME TO FILE INITIAL BRIEF AND CONTINUANCE FOR ORAL ARGUMENT** in NV 9,001 was sent by first-class mail with delivery confirmation, postage prepaid, this **28th day of June, 2013** to:

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