DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-08-29,147

In re: 1412 Spring Road, NW

Ward One (1)

CATHERINE PRESLEY AND STANLEY WEBB
Tenants/Appellants

v.

WOSEN ADMASU
Housing Provider/Appellee

RE-ISSUED DECISION AND ORDER[1]

June 18, 2015

SZEGEDY-MASZAK, CHAIRMAN. This case is on appeal to the Rental Housing Commission (Commission) from a final order issued by the Office of Administrative Hearings (OAH) based on a petition filed in the Rental Accommodations Division (RAD) of the District of Columbia Department of Housing and Community Development (DHCD).[2] 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

[1] The Commission's original Decision and Order in this case, issued on May 21, 2015, was mailed to the incorrect address for Tenants' counsel. Accordingly, the Commission hereby reissues the Decision and Order to amend the Certificate of Service to reflect the correct address for Tenants' counsel, and to ensure that the Decision and Order is properly mailed to all parties.

[2] OAH assumed jurisdiction over tenant petitions from the Department of Consumer and Regulatory Affairs (DCRA), Rental Accommodations and Conversion Division (RACD) pursuant to the Office of Administrative Hearings Establishment Act, D.C. Law 14-76, D.C. OFFICIAL CODE § 2-1831.03(b-1)(1) (2007 Repl.). The functions and duties of RACD in DCRA were transferred to DHCD by § 2003 the Fiscal Year 2008 Budget Support Act of 2007, D.C. Law 17-20, D.C. OFFICIAL CODE § 42-3502.04b (2010 Repl.)).

("DCMR"), 1 DCMR §§ 2800-2899 (2004), 1 DCMR §§ 2920-2941 (2004), 14 DCMR §§ 3800-4399 (2004) govern these proceedings.

I. PROCEDURAL HISTORY

Tenants/Appellants Catherine Presley and Stanley Webb (Tenants), residents of the housing accommodation located at 1412 Spring Road, NW, (Housing Accommodation), filed Tenant Petition RH-TP-08-29,147 (Tenant Petition) with RAD on January 3, 2008, alleging that Housing Provider/Appellee Wosen Admasu (Housing Provider) violated the Act as follows:

> 1. The building where my/our rental unit(s) is located is not properly registered with the RAD; [and]
>
> 2. The landlord (housing provider) did not file the correct rent increase forms with the RAD.

Tenant Petition at 1-2; Record for RH-TP-08-29,147 (R.) at 5-6. A hearing was held before Administrative Law Judge Margaret Mangan (ALJ) on March 21, 2008,[3] and a final order was issued on March 10, 2009: Catherine Presley & Stanley Webb v. Wosen Admasu, RH-TP-08-29,147 (OAH Mar. 10, 2009) (Final Order). R. at 51-67. The ALJ made the following findings of fact in the Final Order:[4]

> 1. Housing Provider/Respondent, Wosen Admasu, purchased 1412 Spring Road, NW (the Property) in October 2006. He was on the premises daily to collect mail.
>
> 2. Within two months of purchasing the Property, Mr. Admasu rented the room to Ms. Presley.
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> 3. Housing Provider, not a native English speaker, testified without the assistance of an interpreter. At times, he did not seem to understand certain terms, such as "homestead exemption," although with persistent questioning, proof of a general understanding emerged.

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[3] The Commission notes that the Tenants and the Housing Provider were represented by legal counsel at the OAH hearing.

[4] The findings of fact are recited herein using the language of the ALJ in the Final Order.

4. The Property has three rooms on the upper level, two rooms on the first floor[,] and a basement unit. At all times relevant to this action, at least two of the upper level rooms[,] both first floor rooms and the basement unit were rented.

5. Catherine Presley, Tenant/Petitioner, rented a first floor room at the Property in December 2006 from Housing Provider. Shortly thereafter, Stanley Webb, Tenant/Petitioner, moved in.

6. At the inception of the tenancy, Housing Provider understood that one person, Ms. Presley, would rent the room. Ms. Presley's testimony to the contrary was unconvincing. Housing Provider charged $500 per month for the first floor room for one person with use of common area kitchen and bathrooms.

7. Soon after Ms. Presley's tenancy began, Housing Provider learned that a second person, Stanley Webb, was living in the unit. Mr. Admasu told Ms. Presley that for two people in the room, rent would be $800. The discussion that followed was akin to negotiation for rent for a second person. It was not a demand or charge for an increase in rent for Ms. Presley alone.

8. Tenants paid $500 per month through July 2007, usually in cash, without receiving a receipt. In July 2007, Mr. Webb insisted on a receipt, which Housing Provider gave him – for $500 in rent paid that month. PX 103-B. After July 2007, Tenants stopped paying rent.

9. On October 26, 2007, Housing Provider filed suit for possession for nonpayment of rent from August through October, 2007. In the complaint, he specified that the rent was $500. PX 104. Since then, Petitioners have paid $350 per month pursuant to a protective order in that case.

10. Petitioners observed insects and mice in their unit. They also noted there was no smoke detector in their room.

11. Housing inspectors cited Housing Provider for the following housing code violations:

    a. On September 12, 2007, a Notice of Housing Code Violation (127518_15) was issued for: loose or peeling paint and cracks in the second floor bathroom. PX 106C.

    b. Also on September 12, 2007, a Notice of Housing Code Violation (127518_30) was issued for failure to maintain three clear feet from an obstruction to ventilation in the second floor bathroom; and failure to maintain three feet clear of obstruction to light. PX 106D. These violations were abated by September 26, 2007. RX 201.

c. On October 24, 2007: Housing Provider received a Notice of Housing Code Violation (130055) for sewage odor. PX 106A. The violation was abated by November 29, 2007. RX 201.

d. October 24, 2007, a Notice of Housing Code Violation (130055_15) was issued for the need of re-glazing in the bathroom. PX 106B.

12. Housing Provider had not filed a Registration/Claim of Exemption form at the time he rented the room to Tenants in December, 2006. However, on October 29, 2007, he registered the Property with the Rental Accommodations Division (RAD) of the Department of Housing and Community Development as a single family house whose owner holds and operates no more than four rental units. Petitioners' Exhibit (PX) 101. At that time, Housing Provider was renting at least five units at 1412 Spring Road, NW.

13. As of March 20, 2008, Housing Provider had not filed a certificate of occupancy. PX 102.

14. In December 2007, Housing Provider sent Tenants a 90 day notice to vacate for personal use and occupancy. Included in that Notice is a Claim of Exemption number (547564). RX 204.

Final Order at 2-4; R. at 64-66. The ALJ made the following conclusions of law in the Final Order:[5]

1. This matter is governed by the Rental Housing Act of 1985, D.C. Official Code §§ 42-3501.01-3509.07 (the Act), the District of Columbia Administrative Procedure Act, D.C. Official Code §§ 2-501-511, and the District of Columbia Municipal Regulations (DCMR), 1 DCMR [§§] 2801-2899, 1 DCMR [§§] 2920-2941, and 14 DCMR [§§] 4100-4399. Tenants, proponents of the relief sought, have the burden of proving the allegations in their petition by a preponderance of the evidence. Housing Provider has the burden of proving an exemption from the Act. *Goodman v. District of Columbia* [sic] [*Rental*] *Hous. Comm'n*, 572 A.2d, [sic] 1293 (D.C. 1990). OAH Rule 2932.1; [*c*]*f.* D.C. Official Code § 2-509(b).

2. This is a case where credibility was strained on both sides. Tenants disingenuously assert that Ms. Presley told Mr. Admasu at the outset that two people would be renting the room when Ms. Presley agreed to $500 in rent. It is not logical that a housing provider would quote a new rent after only a few days unless Mr. Admuasu's [sic] testimony on this point were true – that after

[5] The conclusions of law are recited herein using the language of the ALJ in the Final Order, except that the Commission has numbered the ALJ's paragraphs for ease of reference.

a few days he learned that a second person was living in the room. That response belies Tenants' assertion that they had told him from the outset that two people would be renting. Tenants testified that 12 people lived in the house, but provided no corroborating evidence on that point. Tenants testified and provided photographs of insects and rodents in the unit and testified about the lack of a smoke detector. Yet housing inspectors, who identified a number of non[-]substantial violations, did not cite Mr. Admasu for lack of smoke detector, rodents or insects. Consequently, I must conclude that the problems Tenants identified were not excessive or prolonged. Housing Provider asserted that he lived in the house, but aside from picking up mail, never convincingly proved that assertion. He testified that relatives living in some rooms in the house were helping him with the mortgage, but were not "renting" the rooms, a contention that strained credulity. Because of the questions regarding credibility, I look for corroborating evidence before accepting an assertion on a contested fact from either party.

A. Claim of Rent Increase

3. Underlying the claims of housing code violations, improper registration and failure to file proper rent increase forms is a premise I reject – that there was a rent increase. "Rent means the entire amount of money, money's worth, benefit, bonus, or gratuity *demanded, received, or charged* by a housing provider as a condition of occupancy or use of a rental unit, its related services, and its related facilities." D.C. Official Code § 42-3501.03 (28) (emphasis added). When a tenant is entitled to a refund based on an invalid rent increase, the increase need not have been paid if it was demanded or charged. *Kapusta v. D.C. Rental Hous. Comm'n*, 704 A.2d 286, 287 (D.C. 1997). In *Kapusta*, the Court of Appeals affirmed an award of a rent refund where rent of more than double the rent ceiling was charged but not paid. In *Kapusta*, there was no question about the terms of the rent. The landlord rented a unit for $410, even though the rent ceiling was $200. This case is markedly different. The rent charged was $500 for one person. Housing Provider proposed a rent of $800 for two people. Tenants' assertions to the contrary, I cannot convert discussions about more rent for a second person to a demand for an increase. A $300 increase to $800 was not demanded, received or charged, as corroborated by a complaint filed in Superior Court on which Housing Provider stated that the rent was $500, the initial rent he and Ms. Presley negotiated, with no increase. As such, the prohibition against a rent increase when a rental unit is not properly registered or licensed, pursuant to D.C. Official Code § 42-3502.08(a)(1)(B) and (C), is inapplicable here.

B. Licensure and Registration

4. For failure to obtain a license and register properly, Tenants argue that Housing Provider had no legal right to charge any rent. They ask that their rent be rolled back to zero.

5. To engage in business in the District of Columbia, a person must obtain a license and a license endorsement. D.C. Official Code § 47-2851.02. "Owners of residential buildings in which one or more dwelling units or rooming units are offered for rent or lease shall obtain from the Mayor a license to operate such business." D.C. Official Code § 47-2828. A "dwelling unit" is defined as "any habitable room or group of habitable rooms located within a residential building and forming a single unit which is used or intended to be used for living, sleeping, and the preparation and eating of meals." 14 DCMR [§] 199.1. All housing providers, including an exempt provider, must have a business license and a certificate of occupancy. D.C. Official Code §§ [sic] 42-3502.05(f)(1). Where a [h]ousing [p]rovider fails to obtain a business license or a certificate of occupancy, and he is required to do so as part of the registration requirements of the Act, that registration is defective because the housing provider failed to meet the registration requirements. *Temple v. District of Columbia* [sic] *Rental Housing* [sic] *Comm'n*, 536 A.2d 1024, 1029 (D.C. 1987); D.C. Official Code § 42-3502.08. In this case, Housing Provider's failure to obtain a business license is a violation of the Act.

6. In addition to obtaining a business license, a housing provider who is renting property for the first time must file a registration statement within 30 days of the rental. The statement must contain dates and numbers of the housing business license and certificates of occupancy. The full text of the applicable statutory provision follows: . . . .[6] D.C. Official Code § 42-3502.05 (f).

7. The only units not subject to the registration requirements in the Rental Housing Act are units the Act excludes from coverage, exclusions not applicable here. *See* D.C. Official Code § 42-3502.05(e).

8. Rental units not excluded from the registration requirements may be exempt from the rent stabilization provisions of the Act if a housing provider files the proper claim of exemption or meets a special circumstances test. *Goodman*[,] 572 A.2d [at] 1293[;] 14 DCMR [§] 1401.1. The exemption claimed here – on the RAD Registration and Claim of Exemption Form filed on October 29, 2008, RX 101, -- is the so called small landlord exemption. Yet, Housing Provider in the instant matter does not qualify for a small landlord exemption, even under the special circumstances test, because he rented more than four rental units. D.C. Official Code §§ [sic] 42-3502.05(a)(3)(A); *Hanson v. District of Columbia* [sic] *Rental Hous. Comm'n*, 584 A.2d 592 (D.C. 1991). Housing Provider violated the Act by not registering the Property properly at the time he rented the unit and for providing false information on the registration form when he registered.

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[6] The Commission omits the ALJ's recitation of D.C. OFFICIAL CODE § 42-3502.05(f). *See* Final Order at 8-9; R. at 59-60.

9. A housing provider who fails to register property is prohibited from increasing rent. D.C. Official Code § 42-3502.08. Rent refunds are appropriate to compensate [t]enants for illegal rent increases imposed when the [h]ousing [p]rovider is not properly registered. *McCulloch v. D.C. Rental Hous. Comm'n*, 449 A.2d 1072, 1073 (D.C. 1982) (affirming hearing examiner's award of rent refund under the 1977 Rental Accommodations Act where the landlord failed to file amended registrations to document rent increases); [*c*]*f. Sawyer v. D.C. Rental Hous. Comm'n*, 877 A.2d at 111, n.15 [sic] (holding that the housing provider's failure to file a timely amended registration statement to document a vacancy rent ceiling adjustment invalidated a subsequent rent increase based on that adjustment).

10. Unlike housing providers in *McCulloch* and *Sawyer*, Mr. Admasu in the instant case did not increase Tenants' rent. Furthermore, a roll back of rent to zero, as Tenants urge, is not permissable. The Act provides that rent may be rolled back for excessive and prolonged housing code violations that affect the health, safety, and habitability of the residents, but not to less than the September 1983 base rent. D.C. Official Code § 42-3502.08(a)(2). In this case, since the housing code violations detected by the inspector were not substantial and prolonged, base rent is irrelevant to the analysis. Hence I reject Tenants' claim for a roll back in rent.

C. <u>Remedy</u>

11. Absent evidence of an improper rental increase, the sole penalty for failing to properly register rental property is a fine. D.C. Official Code § 42-3509.01(d). Housing Provider did not properly register the housing accommodation at any time relevant to this action. At the time the tenancy began, he had no registration. When he filed a Claim of Exemption in October 2007, he based that claim on renting four or fewer units in the District of Columbia. Yet, his own testimony establishes that he rented at least five units in the house, in violation of the exemption claimed. Without proper registration, Housing Provider could not take a rent increase, D.C. Official Code § 42-3502.08, and is subject to a fine up to $5,000. D.C. Official Code § 42-3509.01.

12. To impose a fine, it must be proven that the Housing Provider "intended to violate or was aware that it was violating a provision of the Rental Housing Act." *Quality Mgmt., Inc.,* [sic] *v. D.C. Rental Hous. Comm'n*, 505 A.2d 73, 76 (D.C. 1986). In *Quality Mgmt.*, the Court held that the term, "willful," requires proof of a culpable mental state, *i.e.*, intent to violate the law. *Id.* at 76, n.6. Willfulness means "something worse than good intentions coupled with bad judgment." *Sherman v. Comm'n on Licensure to Practice the Healing Art*, 407 A.2d 595, 599 (D.C. 1979) (quoting *Mullen v. United States*, 263 F.2d 275, 276 (1958)). In *M.B.E. Inc. v. Minority Bus Opportunity*

Comm'n of D.C., 485 A.2d 152, 158 (D.C. 1984), the court held that when finding willfulness the focus "is on the intentional performance of a prohibited act." The cases indicate that it is not necessary to establish that a housing provider had actual knowledge of the controlling law in order to find willfulness. It is sufficient that the act or acts constituting willfulness were intended for an illegal purpose.

13. Here, Mr. Admasu purchased the property in 2006 and rented the room to tenants within two months. He did not register the Property for one year, and when he did so, stated that it was a single family house with four or fewer rental units, an incorrect representation. His suggestion at the hearing that other persons living in the house were relatives who simply helped him with the mortgage, and were not "renters" was not credible.

14. I am satisfied that Housing Provider's actions were intended for an illegal purpose, justifying the imposition of a fine of $1,000.

15. Finally, in their post hearing submission, Tenants seek recovery for reduction in services and facilities. However, that claim was not pleaded and cannot be considered in this action. *See, Parreco v. District of Columbia* [sic] *Rental Housing* [sic] *Comm'n*, 885 A.2d 327, 334-335 [sic] (D.C. 2005).

Final Order at 5-12; R. at 56-63 (footnotes omitted) (emphasis original).

On March 30, 2009, the Tenants filed a Notice of Appeal with the Commission (Notice of Appeal) raising the following issue: "The Administrative Law Judge erred in finding that a roll back of rent to zero is not permissible when the Housing Provider violated the Rental Housing Act by failing to register the Property properly at the time the Housing Provider rented the unit." Notice of Appeal at 1. On November 10, 2009, the Tenants filed a Brief in support of the Notice of Appeal. Thereafter, on November 13, 2009, the Tenants filed a Notice to Amend Notice of Appeal (Notice to Amend), raising the following additional issue: "The Administrative Law Judge erred in finding that demand by Housing Provider for increase in rent from $500 to $800 was not a rental increase because [T]enants did not pay the rent increase demanded." Notice to Amend at 2. No brief was filed by the Housing Provider. The Commission held its hearing on November 17, 2009.

II. PRELIMINARY ISSUES

A. Whether the Notice of Appeal was Timely

Under 14 DCMR § 3802.2 (2004), a notice of appeal must be filed within ten (10) days after a final decision is issued, plus three (3) days if the decision was mailed to the parties.[7] The ten (10) days do not include intermediate weekends or holidays. 14 DCMR § 3816.3.[8]

The Final Order in this case was served on the parties, by mail, on March 10, 2009; therefore, the ten (10) day time period for filing a notice of appeal, excluding intermediate weekends, expired on March 27, 2009, three days before the Tenants' Notice of Appeal was filed with the Commission on March 30, 2009. 14 DCMR §§ 3802.2 & 3816.3; Final Order at 1; R. at 67. However, the Commission observes that Notice of Appeal contains a second date-stamp indicating that the Notice of Appeal was mistakenly filed with OAH on March 27, 2009, the last day to file an appeal with the Commission. Notice of Appeal at 1.

The Commission will accept a notice of appeal that was filed with OAH or RAD, provided that the notice of appeal was filed within the ten (10) day period prescribed in 14 DCMR § 3802.2. Danesh v. Bladen-White, TP 28,571 (RHC Oct. 8, 2008). Accordingly, where the Notice of Appeal in this case was filed with OAH by March 27, 2009, the Commission will accept that Tenants' Notice of Appeal as timely filed.[9]

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[7] 14 DCMR § 3802.2 provides the following: "A notice of appeal shall be filed by the aggrieved party within ten (10) days after a final decision of the Rent Administrator [or ALJ] is issued; and, if the decision is served on the parties by mail, an additional three (3) days shall be allowed."

[8] 14 DCMR § 3816.3 provides the following: "When the time period prescribed or allowed is ten (10) days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation."

[9] The Commission notes that OAH's erroneous acceptance of a filing titled "Tenants/Petitioners' Notice of Appeal," and identifying the judicial venue in the case caption as "Rental Housing Commission," raises issues of equitable estoppel, and further support the Commission's acceptance of the Notice of Appeal as timely. *See* Borger Mgmt., Inc. v. Lee, RH-TP-06-28,854 (RHC Mar. 6, 2009) (explaining that equitable estoppel precludes a governmental agency, such as the Commission, from depriving a person of a "reasonable expectation when such agency knew or

B. Whether the Notice to Amend was Timely

As the Commission explained *supra*, the deadline for filing a notice of appeal was March 27, 2009. 14 DCMR §§ 3802.2 & 3816.3; Final Order at 1; R. at 67. The Commission has held that any amendment to a timely-filed notice of appeal must be filed within the original ten (10) day period under 14 DCMR § 3802.2. *See, e.g.,* Cascade Park Apartments v. Walker, TP 26,197 (RHC Nov. 18, 2014) at n.14 (stating that the Commission cannot consider an amended notice of appeal that is filed outside of the time limits prescribed in 14 DCMR § 3802.2); Shipe v. Carter, RH-TP-08-29,411 (RHC Sept. 18, 2012) (stating that the Commission had no jurisdiction over an amended notice of appeal that was filed more than ten (10) days after the final order); Assalaam v. Lipinski, TP 24,726 (RHC Apr. 18, 2000) (denying tenant's motion to amend notice of appeal to add new issues because the 10-day appeal period under the Act had expired).

Here, the Commission observes that the Notice to Amend was filed on November 13, 2009, more than seven (7) months after the expiration of the time period for filing an appeal. 14 DCMR § 3802.2; *see* Notice to Amend at 1. Accordingly, the Commission dismisses the Notice to Amend as untimely, and will not address the issue raised therein. 14 DCMR § 3802.2; Cascade Park Apartments, TP 26,197; Shipe, RH-TP-08-29,411; Assalaam, TP 24,726.

III. ISSUE ON APPEAL

The sole issue before the Commission in the instant appeal is the issue raised in the Tenants' Notice of Appeal, as follows: "Whether the Administrative Law Judge erred in finding that a roll back of rent to zero is not permissible when the Housing Provider violated the Rental Housing Act by failing to register the Property properly at the time the Housing Provider rented the unit." Notice of Appeal at 1; *see also supra* at 8-10.

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should have known that such person would rely upon the representation of the agency"); *see also* Tenants of 4229 East Capitol St., SE v. Fort Chaplin Park Assocs., CI 20,629 (RHC Jan. 11, 1993).

IV. DISCUSSION OF ISSUE ON APPEAL

In the Final Order, the ALJ found that the Housing Provider violated the Act by not properly registering the Housing Accommodation at the time that he rented to the Tenants. Final Order at 9; R. at 59. The ALJ explained that the penalty for failure to properly register a property is a prohibition against increasing the rent. *Id.* at 10; R. at 58. A tenant may be refunded any rent increase imposed during a time when a housing provider is not properly registered. *Id.* However, the ALJ denied the Tenants in this case any rent rollback or rent refund as a result of the Housing Provider's failure to properly register, because the ALJ determined that the Housing Provider had not increased the Tenants' rent.[10] *Id.*

In the Notice of Appeal, the Tenants contend that the ALJ erred by denying them a rent rollback to zero, because the Housing Provider did not have a right to receive any rent where he had failed to properly register the Housing Accommodation. Notice of Appeal at 1, 3.

The Commission's standard of review of any ALJ's decision is governed by 14 DCMR § 3807.1, which provides the following:

> The Commission shall reverse final decisions of the Rent Administrator [or ALJ] which the Commission finds to be based upon arbitrary action, capricious action, or an abuse of discretion, or which contain conclusions of law not in accordance with the provisions of the Act, or findings of fact unsupported by substantial evidence on the record of the proceedings before the Rent Administrator [or ALJ].

Under the Act, a housing provider may not increase the rent above the base rent unless the housing accommodation is registered. D.C. OFFICIAL CODE § 42-3502.08(a)(1)(B) (2007

[10] The Tenants did not contest the ALJ's finding that the Housing Provider did not increase their rent in the Notice of Appeal. *See* Notice of Appeal at 1-4.

Supp.);[11] *see* Dejean v. Gomez, RH-TP-07-29,050 (RHC Aug. 15, 2013) (explaining that the invalidation of a rent increase is a remedy for improper registration); Assalaam, TP 24,726 (RHC Aug. 31, 2000) (hearing examiner did not err in failing to award a rent rollback for improper registration because tenant did not present evidence of a rent increase, and "improper registration merits a fine, not a rent rollback"); *cf.,* Fazekas v. 1126 11th St. Assocs., TP 20,394 (RHC Aug. 16, 1993) (granting rent rollback to base rent for Housing Provider's failure to comply with housing regulations).[12]

The Commission is satisfied based on its review of the record that the ALJ's conclusion that neither a rent refund nor a rent rollback were appropriate remedies for the Housing Provider's improper registration where there had been no rent increase, was supported by substantial evidence and in accordance with the relevant provisions of the Act. D.C. OFFICIAL CODE § 42-3502.08(a)(1)(B); 14 DCMR § 3807.1; Dejean, RH-TP-07-29,050; Assalaam, TP 24,726; *see* Final Order at 9-10; R. at 58-59. The only remedy available under the Act, in the absence of a rent increase, is a fine, and the Commission notes that in this case the ALJ fined the Housing Provider $1,000 for the improper registration.[13] Assalaam, TP 24,726; *see* Final Order

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[11] D.C. OFFICIAL CODE § 42-3502.08(a)(1)(B) provides, in relevant part, as follows: "Notwithstanding any provision of this chapter, the rent for any rental unit shall not be increased above the base rent unless: . . . (B) The housing accommodation is registered in accordance with § 42-3502.05[.]"

[12] According to D.C. OFFICIAL CODE § 42-3502.08(b):

> Where the Rent Administrator finds there have been excessive and prolonged violations of the housing regulations . . . and that the housing provider has failed to correct the violations, the Rent Administrator may roll back the rents for the affected rental units to an amount which shall not be less than the September 1, 1983 base rent for the rental units until the violations have been abated. (emphasis added)

[13] The Commission also observes that the Tenants' request for a rent rollback to zero is not supported by substantial record evidence. *See* Hearing CD (OAH Mar. 27, 2008). If there had been a rent increase, the ALJ could have, at most, rolled the rent back to the base rent. D.C. OFFICIAL CODE § 42-3502.08(a)(1)(B); *see also* D.C. OFFICIAL CODE § 42-3501.03(4) (defining base rent as "that rent legally charged or chargeable on April 30, 1985, for the

at 11-2; R. at 56-57.

V. CONCLUSION

For the foregoing reasons, the Final Order is affirmed. D.C. OFFICIAL CODE § 42-3502.08(a)(1)(B); 14 DCMR § 3807.1; Dejean, RH-TP-07-29,050; Assalaam, TP 24,726.

SO ORDERED

PETER B. SZEGEDY-MASZAK, CHAIRMAN

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."

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

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rental unit which shall be the sum of rent charged on September 1, 1983, and all rent increases authorized for that rental unit by prior rent control laws or any administrative decision issued under those laws, and any rent increases authorized by a court of competent jurisdiction"). However, the Commission's review of the record reveals that, since the Tenants did not present any evidence regarding the amount of the base rent for the Housing Accommodation, there could not have been any substantial evidence in the record that the base rent was zero. *See* Hearing CD (OAH Mar. 27, 2008).

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
Historic Courthouse
430 E Street, N.W.
Washington, DC 20001
(202) 879-2700

CERTIFICATE OF SERVICE

I certify that a copy of the **RE-ISSUED DECISION AND ORDER** in RH-TP-08-29,147 was served by first-class mail, postage prepaid, this 18th day of June, 2015, to:

Daniel M. Clark
D.C. Law Students in Court
4340 Connecticut Ave., NW, #100
Washington, DC 20008

Kay Leslie Ackman
900 Caddington Avenue
Silver Spring, MD 20901

LaTonya Miles
Clerk of Court
(202) 442-8949