

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-06-28,366

RH-TP-06-28,577

In re: 301 G Street, S.W.

Ward Six (6)

AMERICAN RENTAL MANAGEMENT COMPANY

Housing Provider/Appellant/Cross-Appellee

v.

ARLENA CHANEY, et al.

Tenants/Appellees/Cross-Appellants

ORDER ON MOTION FOR RECONSIDERATION

January 20, 2015

McKOIN, COMMISSIONER. This case is on appeal from the District of Columbia Office of Administrative Hearings (OAH), based on a petition filed in the Rental Accommodations and Conversion Division (RACD), Housing Regulation Administration (HRA), of the District of Columbia Department of Consumer and Regulatory Affairs (DCRA).¹ 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 (DCMR), 1 DCMR §§ 2800-2899 (2004), 1 DCMR §§ 2920-2941 (2004), 14 DCMR §§ 3800-4399 (2004) govern these proceedings.

¹ OAH assumed jurisdiction over tenant petitions from RACD on October 1, 2006, pursuant to § 6(b-1)(1) of the OAH Establishment Act, D.C. Law 16-83, D.C. OFFICIAL CODE § 2-1831.03(b-1)(1) (2012 Repl.). The functions and duties of RACD were transferred to the Department of Housing and Community Development (DHCD) by § 2003 of the Fiscal Year 2008 Budget Support Act of 2007, D.C. Law 17-20, D.C. OFFICIAL CODE § 42-3502.04b (2012 Repl.).

I. PROCEDURAL HISTORY

On July 1, 2005, and March 27, 2006, respectively, Tenant/Appellee/Cross-appellant Arlena Chaney (Tenant Chaney), residing at 301 G St., S.W., (Housing Accommodation), Unit 426, filed tenant petition RH-TP-06-28,366, on her own behalf, and tenant petition RH-TP-06-28,577, on behalf of the New Capitol Park Towers Tenant Association (Association) (collectively, Tenant Petitions), against Housing Provider/Appellant/Cross-appellee American Rental Management Company (Housing Provider). On November 17, 2006, Administrative Law Judge Wanda Tucker (ALJ) issued an Order consolidating the two Tenant Petitions, stating that the two cases represented the same or similar issues and would expedite the processing of the petitions and not adversely affect the interest of either party. *See* Order Granting Petitioner's Motion for Consolidation at 1-6; Record (R.) at 237-42.

On September 19, 2007, the ALJ issued an order, which was amended on November 7, 2007, in which she determined that the Association did not represent a majority of the tenants of the Housing Accommodation and, as such, lacked standing as a party to Tenant Petition RH-TP-06-28,577. *See* OAH Rule 2924 Order at 1-8; R. at 390-97; Amended OAH Rule 2924 Order at 1-8; R. at 530-37. Nonetheless, the ALJ determined that sixty-seven (67) individual Tenants had authorized the Association to represent them and could proceed as parties to the Tenant Petition. Amended OAH Rule 2924 Order at 5-6; R. at 532-33.

On November 7, 2008, the ALJ granted the Housing Provider's motion *in limine* (Motion in Limine) to preclude the consideration of claims or damages arising after March 27, 2006, the date on which Tenant Petition RH-TP-06-28,577 was filed. *See* Hearing CD (OAH Nov. 7, 2008) at 10:40 - 10:54; *see also* Motion in Limine; R. at 668-72. Evidentiary hearings were held

over several days between March 5, 2009, and April 28, 2009. *See generally* Hearing CDs (OAH 2009).

On July 12, 2012, the ALJ issued a Final Order in these consolidated cases: Chaney v. Am. Rental Mgmt. Co., RH-TP-06-28,366 & RH-TP-06-28,577 (OAH Jul. 12, 2012) (Final Order); R. at 966-1243. On July 18, 2012, the ALJ issued an order amending the Final Order (Amended Final Order) to correct an error in the conclusions of law regarding whether the Housing Provider implemented improper rent increases. Amended Final Order; R. at 1244-76. On August 30, 2012, the ALJ issued an Order Granting Motion for Reconsideration (OAH Order on Reconsideration), granting in part a motion by the Housing Provider and amending the Final Order accordingly. OAH Order on Reconsideration at 1; R. at 1364.

On September 7, 2012, the Housing Provider filed a timely notice of appeal of the Final Order, as amended by the Amended Final Order and the Order on Reconsideration. *See* Notice of Appeal of Housing Provider/Appellant American Rental Management Company at 1 (Notice of Appeal). On September 10, 2012, the Tenants filed a timely Notice of Cross-appeal of the Final Order, as amended. *See* Tenants' Notice of Appeal at 1 (Notice of Cross-appeal).

On December 12, 2014, the Commission issued its Decision and Order: Am. Rental Mgmt. Co. v. Chaney, RH-TP-06-28,366 & RH-TP-06-28,577 (RHC Dec. 12, 2014) (Decision and Order). The Commission therein affirmed the determination of the ALJ, with one correction for plain error. *See* Decision and Order at 67. On December 19, 2014, Tenant Chaney, the sole Tenant/Petitioner in RH-TP-06-28,366 and the president of the Association, which represents sixty-seven (67) tenants, including Ms. Chaney, in RH-TP-06-28,577 (collectively, Tenants), filed Tenants/Appellees/Cross-appellants' Motion for Reconsideration (Motion for Reconsideration).

The Motion for Reconsideration lists the following issues in these consolidated cases as errors:

1. Tenants were not granted monetary compensation for the 15 years that the Housing Provider did not timely file its certificate[s] of elections, [sic] or rent document[s].
2. The Housing Provider was able to increase [the] tenants' rents during the 15 years during [sic] which times the certificate[s] of elections [sic] or rent documents were not timely submitted.
3. The tenants' rents were not fully or adequately rolled back.
4. The Tenants were not fully compensated based on their extensive evidentiary court submitted documents and oral testimonies regarding the lack of services.
5. The Tenants were not compensated for the documented retaliation experienced by the Housing Provider [sic].
6. Clear calculations were not provided to the Tenants in this case.

Motion for Reconsideration at 1-2. The Commission observes that the Motion for Reconsideration further argues that: (7) the ALJ improperly granted the Housing Provider's Motion in Limine, *see id.* at 6-8; and (8) the Association was improperly denied status as a party to Tenant Petition RH-TP-06-28,577, *see id.* at 8-10.

II. DISCUSSION OF THE ISSUES

In deciding this Motion for Reconsideration, filed *pro se* by Tenant Chaney,² the Commission is mindful of the important role that lay litigants play in the Act's enforcement.

² Tenant Chaney states that the Motion for Reconsideration is filed by her as the president of the Association on behalf of the sixty-seven (67) individual Tenants who are parties to these consolidated cases. Motion for Reconsideration at 1. The Commission notes that counsel for the Tenants, Jamil Zouaoui, Esq., was denied, without prejudice, leave to withdraw and remains the attorney of record for the Tenants. Order on Motion to Withdraw as Counsel (RHC Sept. 2, 2014). Several Tenants, purportedly a majority of the board of the Association, asserted to the Commission by letter received September 19, 2014, that neither Mr. Zouaoui nor Tenant Chaney is authorized to represent the Tenants in this matter. Nonetheless, Tenant Chaney filed a notice of appearance as a lay representative of the Association on behalf of the individual Tenants on October 22, 2014. *See* Notice of Appearance at 1; *see also*

