

**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 NOTICE OF FAILURE OF SERVICE**

February 10, 2015

**McKOIN, COMMISSIONER.** These consolidated cases arose under the Rental Housing Act of 1985 (Act), D.C. Law 6-10, D.C. OFFICIAL CODE § 42-3501.01 -3509.07, and came before the Commission on an appeal from the Office of Administrative Hearings (OAH), based on petitions 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).<sup>1</sup> The applicable provisions of the Act, 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.

---

<sup>1</sup> 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)<sup>2</sup> (collectively, Tenant Petitions), against Housing Provider/Appellant/Cross-appellee American Rental Management Company (Housing Provider).

On December 12, 2014, the Commission issued a decision and order in the appeal of the Tenant Petitions: Am. Rental Mgmt. Co. v. Chaney, RH-TP-06-28,366 & RH-TP-06-28,577 (RHC Dec. 12, 2014) (Decision and Order). In its Decision and Order, the Commission affirmed the determination of Administrative Law Judge Wanda Tucker (ALJ) that the Association represents sixty-seven (67) individual Tenants, including Tenant Chaney, with regard to petition RH-TP-06-28,577. *See* Decision and Order at 43-50, 59-53. On January 20, 2015, the Commission issued an order denying a motion for reconsideration filed by Tenant Chaney. *See* Am. Rental Mgmt. Co. v. Chaney, RH-TP-06-28,366 & RH-TP-06-28,577 (RHC Jan. 20, 2014) (Order on Reconsideration).

Also on January 20, 2015, Awad Mahmoud (Tenant Mahmoud), residing in Unit 622 of the Housing Accommodation, filed a motion (Motion for Service and Referral) requesting the Commission to disqualify the Tenants' counsel of record, Jamil Zouaoui, Esq., to refer Mr. Zouaoui to the D.C. Bar for disciplinary action, and to serve Tenant Mahmoud with all matters going forward. Motion for Service and Referral at 7. The Commission promptly denied the

---

<sup>2</sup> The Commission refers to Tenant Chaney and the individuals represented by the Association collectively as the "Tenants."

Motion for Service and Referral for lack of jurisdiction, because the complain-of conduct by Mr. Zouaoui related to matters not before the Commission, and as moot, because the proceedings on the merits of this case have been concluded. Order on Motion for Service and Referral (RHC Jan. 23, 2015) at 3-7.

On January 26, 2015, Mr. Zouaoui, apparently having not yet received the Order on Motion for Service and Referral by mail, filed an opposition to Tenant Mahmoud's motion (Opposition). *See* 14 DCMR § 3814.3 ("Any party may file a response in opposition to a motion within five (5) [business] days after service of the motion.").<sup>3</sup> On January 29, 2015, however, the Commission received the instant notice from Tenant Mahmoud (Notice of Failure of Service), stating that Mr. Zouaoui had served his Opposition on Tenant Chaney at the wrong address.<sup>4</sup> *See* Notice of Failure of Service at 1.

## **II. DISCUSSION**

In the Notice of Failure of Service, Tenant Mahmoud asks the Commission "to require Mr. Zouaoui to follow the required court rules and properly serve all parties, in this case, now and in the future." *Id.* The Commission's rules provide that:

All pleadings and other documents shall be served on the opposing party or parties prior to or at the same time as filed with the Commission and shall contain proof of service[.]

14 DCMR § 3801.8. The Commission's rules further provide, however, that:

Actual receipt of service shall bar any claim of defective service, except for a claim with respect to the timeliness of service.

---

<sup>3</sup> The Commission is satisfied that no harm was done and no right of Mr. Zouaoui's was prejudiced by the its decision to deny the Motion for Service and Referral before the expiration of his time to file an opposition.

<sup>4</sup> The Commission previously ordered that, although Mr. Zouaoui remains the attorney of record for the Tenants, all filings in this case should additionally be served upon Tenant Chaney. *See* Notice of Ex Parte Communication (RHC Sept. 30, 2014).

14 DCMR § 3803.4. Tenant Mahmoud’s Notice of Failure of Service states that he “contacted Ms. Chaney about service on [the Opposition] to which she stated she was not [sic].” Notice of Failure of Service at 1.

Moreover, the Commission cannot determine what relief, if any, it could grant to the Tenants based on Mr. Zouaoui’s misaddressed mailing. *See* Tenants of 4021 9th St., N.W. v. E&J Props., LLC, HP 20,812 (RHC June 11, 2014) (Order on Motion to Dismiss); Knight-Bey v. Henderson, RH-TP-07-28,888 (RHC Jan. 8, 2013); Kuratu v. Ahmed, Inc., RH-TP-07-28,985 (RHC Jan. 29, 2012); Oxford House-Bellevue v. Asher, TP 27,583 (RHC May 4, 2005); *see also* Smith v. Workman, 99 A.2d 712, 713 (D.C. 1953) (“if, pending an appeal, an event occurs which renders it impossible for the appellate court to grant any relief, or makes a decision unnecessary, the question becomes moot and the appeal will be dismissed.”) Bourn v. Anthony, TP 28,242 (RHC Nov. 18, 2005) (Order on Motion for Expeditious Ruling) (motion to expedite moot where Commission dismissed all appeals prior to deciding motion); Norwood v. Peters, TP 27,678 (RHC Feb. 3, 2005).

Tenant Mahmoud asks the Commission to “require” Mr. Zouaoui to comply with the Commission’s procedural rules, which Mr. Zouaoui, of course, is already required to do. Notice of Failure of Service at 1; *see* 14 DCMR § 3801.8. Interpreting, for the sake of argument, the Notice of Failure of Service as a motion to strike the Opposition, the Commission is satisfied that such corrective action would be unnecessary because the Motion for Service and Referral was denied prior to the filing of and without any reliance on the Opposition. *See* Order on Motion for Service and Referral at 7; Workman, 99 A.2d at 713; Bourn, TP 28,242; Noorwood, TP 27,678.

Therefore, the Commission declines to act on the Notice of Failure of Service as it is unnecessary and moot.

