

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-06-28,524

In re: 3133 Connecticut Ave., N.W.

Ward Three (3)

LLOYD SIEGEL, et al.
Tenants/Appellants

v.

B.F. SAUL COMPANY
Housing Provider/Appellee

ORDER ON MOTION FOR EXTENSION OF TIME TO FILE BRIEF

April 15, 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 Housing Regulation Administration (HRA) of the District of Columbia Department of 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.

On April 10, 2015, Tenants/Appellants Suzanne Crawford (Ms. Crawford), Christine Burkhardt (Ms. Burdhardt), and Don Wassem (Mr. Wassem), filed a “Request for (Expedited

¹ OAH assumed jurisdiction over tenant petitions from the 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 Department of Housing and Community Development (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.).

Ruling on a Request for) Extension of Time to File Appeal Briefs)” (Request for Extension of Time).²

Under 14 DCMR § 3802.7 (2004), parties may file briefs within five (5) days of “receipt of notification that the record in the matter has been certified.” 14 DCMR § 3802.7. The Commission’s review of the record reveals that a Notice of Scheduled Hearing and Notice of Certification of Record (Notice of Certificate of Record) was mailed to the parties on April 3, 2015; accordingly, the Commission observes that, excluding weekends, and allowing three (3) additional days for mail delivery, the parties’ briefs are due on April 15, 2015.³ 14 DCMR §§ 3802.7, 3816.3, & 3816.5.⁴

In accordance with 14 DCMR § 3814.3, the Housing Provider B.F. Saul Company (Housing Provider) has until April 22, 2015⁵ to submit to the Commission a response in opposition to the Request for Extension of Time. 14 DCMR §§ 3814.3, 3816.3, & 3816.5. Therefore, if the Commission were to grant the Request for Extension of Time prior to the current deadline for filing briefs, i.e., April 15, 2015, the Commission would be denying the Housing Provider its opportunity to oppose the Request for Extension of Time, and would be

² Lloyd Siegel and Ken Mazzer are also Tenants/Appellants in this matter; however, they did not join in the Request for Extension of Time.

³ The Commission observes that the Request for Extension of Time was filed a mere five (5) calendar days before the deadline for filing briefs.

⁴ 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.”

14 DCMR § 3816.5 provides the following: “If a party is required to serve papers within a prescribed period and does so by mail, three (3) days shall be added to the prescribed period to permit reasonable time for mail delivery.”

⁵ Under 14 DCMR § 3814.3, a response to a motion may be filed within five (5) days of receipt of the motion, excluding intervening weekends, plus three (3) additional days for mailing.

effectively barring the Commission from considering the Housing Provider's position with respect to the Request for Extension of Time.⁶

Moreover, if the Commission were to extend the time for the parties to file briefs until sometime after April 22, 2015, thereby giving the Housing Provider the full time period under 14 DCMR § 3814.3 to file a response to the Request for Extension, additional due process concerns are raised because neither party would have the full ten (10) day period to file a responsive brief prior to the May 5, 2015 hearing date. 14 DCMR § 3802.8.⁷ In accordance with the Commission's regulations, and as a matter of due process, the Commission in the exercise of its reasonable discretion denies the Request for Extension of Time. *See Chamberlain Apartments Tenants' Ass'n v. 1429-51 Ltd. P'ship*, TP 23,984 (RHC Dec. 17, 1999) (explaining that providing a party with an opportunity to file an opposition to a motion for an extension of time ensures due process and fair procedures); *see also Prime v. D.C. Dep't of Pub. Works*, 955 A.2d 178 (D.C. 2008) (quoting *Ammerman v. D.C. Rental Accommodations Comm'n*, 375 A.2d 1060, 1063 (D.C. 1977)) (explaining that administrative tribunals such as the Commission "must be, and are, given discretion in the procedural decisions made in carrying out their statutory mandate."); *Smith Prop. Holdings Five (D.C.) L.P. v. Morris*, RH-TP-06-28,794 (RHC May 22, 2014) ("[c]ontinuances are committed to the sound discretion of the Commission"); *KMG Mgmt., LLC v. Richardson*, RH-TP-12-30,230 (RHC Jan. 28, 2014) (stating that the decision to grant or deny a continuance is in the Commission's discretion).

⁶ As of the date of this Order, the Commission has not received any response to the Request for Extension of Time from the Housing Provider. However, the Commission observes that the Request for Extension of Time submits that the Housing Provider does not consent to an extension of time to file briefs. *See Request for Extension of Time* at 3 n.2.

⁷ 14 DCMR § 3802.8 provides as follows: "Parties may file responsive briefs within ten (10) days of service of the pleading to which the response is being filed"

Finally, the Commission observes that the Request for Extension of Time suggests that the deadline for filing briefs be extended until June 22, 2015, a date more than six (6) weeks after the Commission's scheduled hearing, and is therefore more in the nature of a request to file a post-hearing submission. *See* Request for Extension of Time at 1 & 4. A request to file a post-hearing submission is unrelated to the filing of a pre-hearing brief. The Commission notes that its denial of the Request for Extension of Time does not bar or otherwise prohibit any party from filing a motion with the Commission requesting permission to make a post-hearing submission. The Commission will independently consider the submission of post-hearing submissions upon appropriate motions by any party in compliance with Commission regulations and procedures.

For the foregoing reasons, the Request for Extension of Time is hereby denied.⁸ 14
DCMR §§ 3802.7, 3814.3, 3816.3, & 3816.5; *see Prime*, 955 A.2d 178; Smith Prop. Holdings Five (D.C.) L.P., RH-TP-06-28,794; KMG Mgmt., LLC, RH-TP-12-30,230; Chamberlain Apartments Tenants' Ass'n, TP 23,984 (RHC Dec. 17, 1999).

SO ORDERED



PETER B. SZEGEDY-MASZAK, CHAIRMAN

⁸ The Commission notes that the Notice of Appeal was filed in February 2012, more than three (3) years prior to the April 3, 2015 Notice of Certification of Record. The Request for Extension of Time does not any explanation or reason for the inability to file or prepare briefs at any other time within this three year period.

CERTIFICATE OF SERVICE

I certify that a copy of the **ORDER** in RH-TP-06-28,524 was served by first-class mail, postage prepaid, this **15th day of April, 2015**, to:

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