

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-06-28,728

In re: 907 6th Street, S.W., Unit 207-C

Ward Six (6)

UNITED DOMINION MANAGEMENT COMPANY
Housing Provider/Appellant

v.

BRIAN HINMAN
Tenant/Appellee

ORDER ON MOTION FOR RECONSIDERATION

July 3, 2013

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 District of Columbia (D.C.) Department of Consumer & Regulatory Affairs (DCRA), Housing Regulation Administration (HRA), Rental Accommodations and Conversions Division (RACD).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 D.C. Administrative Procedure Act (DCAPA), D.C. OFFICIAL CODE §§ 2-501- 2-510 (2001 Supp. 2008), and the D.C. 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 pursuant to the OAH Establishment Act, D.C. OFFICIAL CODE § 2-1831.01, -1831.03(b-1)(1) (2001 Supp. 2005). The functions and duties of the RACD were transferred to the Department of Housing and Community Development (DHCD) by the Fiscal Year Budget Support Act of 2007, D.C. Law 17-20, 54 DCR 7052 (September 18, 2007) (codified at D.C. OFFICIAL CODE § 42-3502.03a (2001 Supp. 2008)).

I. PROCEDURAL HISTORY

The procedural history of this case is set forth in the Commission's June 5, 2013 Decision and Order: United Dominion Mgmt. v. Hinman, RH-TP-06-28,728 (RHC June 5, 2013) (Decision and Order). On June 18, 2013, the Tenant/Appellee Brian Hinman (Tenant) filed "Tenant/Appellee's Motion for Reconsideration or Modification" (Motion for Reconsideration). The Motion for Reconsideration requests that the Commission amend its June 5, 2013 Decision and Order to "explicitly state his [the Tenant's] entitlement to post judgment interest and that it continue[s] to accrue until paid." *See* Motion for Reconsideration at 2.

On June 24, 2013, the Housing Provider/Appellant United Dominion Management Company (Housing Provider), filed "Housing Provider/Appellant United Dominion Management Company's Opposition to Tenant/Appellee's Motion for Reconsideration or Modification" (Opposition). The Housing Provider contends that the Commission lacks jurisdiction to take further action that would "affect the award in this case," in light of the Housing Provider's June 12, 2013 appeal of the Commission's Decision and Order to the District of Columbia Court of Appeals (DCCA). *See* Opposition at 1.

II. DISCUSSION²

Under the Commission's rules, a motion for reconsideration "[s]hall set for the specific grounds on which the applicant considers the decision and order to be erroneous or unlawful."

14 DCMR § 3823.2 (2004). *See* Johnson v. Dorchester House Assocs., LLC, RH-TP-07-29,077

² The Commission is satisfied that it has jurisdiction over the issue raised in the Tenant's Motion for Reconsideration, despite the Housing Provider's appeal to the DCCA, because the Motion for Reconsideration is merely incidental to the merits of the Decision and Order, and is not requesting the Commission to revoke or alter the outcome of the Decision and Order. *See* Stebbins v. Stebbins, 673 A.2d 184, 189-90 (D.C. 1996) ("It is clear . . . that 'a party may seek disposition in the trial court of other matters which do not result in revocation or alteration of the judgment on appeal' Hence, a trial court may award attorney fees to a prevailing party even though the underlying order is on appeal"). *See also* In re Estate of Green, 896 A.2d 250, 253-54 (D.C. 2006); McQueen v. Lustine Realty Co., 547 A.2d 172, 179 (D.C. 1988).

(RHC July 31, 2012) at 2-3 (dismissing issues raised in tenant's motion for reconsideration where they failed to set forth a clear and concise statement of the Commission's alleged error); Mitchell v. Salarbux, RH-TP-09-29,686 (RHC Mar. 2, 2012) at 3-4 (observing that "[g]eneral allegations by the Tenant that she has a different recollection of events at the Commission's . . . hearing, that the Order did not address all of the questions raised at the hearing, or that the Order did not address all the arguments in a reply brief, are insufficiently specific . . ."); Wade v. Park Rd. Assocs. & Morris Mgmt., TP 27,631 (RHC Jan. 12, 2006) at 4. Denial of a motion for reconsideration will result from a party's failure to set forth such specific grounds of error or illegality in the Commission's decision. *See, e.g.*, Jackson v. Peters, RH-TP-07-28,898 (RHC Sept. 21, 2011); Stone v. Keller, TP 27,033 (RHC Mar. 24, 2009) at 11 – 14; Tenants of 5112 MacArthur Blvd., N.W. v. 5112 MacArthur L.P., CI 20,791 (RHC July 2, 2004); Byrd v. Reaves, TP 26,195 (RHC Aug. 8, 2002).

The Commission notes that 14 DCMR § 3826.4 (2004) provides, as a matter of law and not within the Commission's discretion, for the accrual of post-judgment interest, as follows: "Post judgment interest shall continue to accrue until full payment, or an intervening decision, order, or judgment, modifies or amends the judgment or accrual of interest." The Commission observes that 14 DCMR § 3826.4 (2004) does not require that the Commission specifically address any calculation of the amount of any accrued post-judgment interest in its Decision and Order. *See* 14 DCMR § 3826.4 (2004).

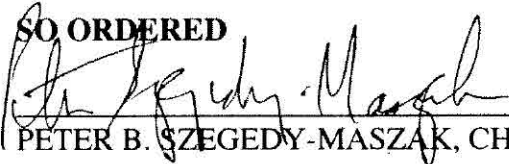
Moreover, the Commission notes that the Tenant failed to set forth specific grounds of error or illegality in the Commission's Decision and Order with respect to its interpretation of 14 DCMR § 3826.4 (2004). *See* Motion for Reconsideration at 2. *See, e.g.*, Stone, TP 27,033 at 11 – 14; Tenants of 5112 MacArthur Blvd., N.W., CI 20,791; Byrd, TP 26,195. The Commission is

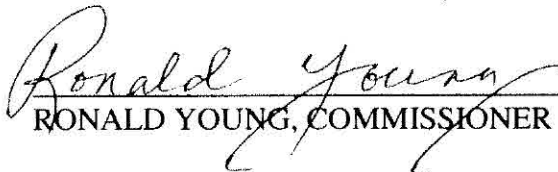
satisfied that its Decision and Order is not "erroneous or unlawful" or otherwise in contravention of the requirements of 14 DCMR § 3826.4 (2004).³ Accordingly, for the foregoing reasons, the Commission hereby denies the Motion for Reconsideration. *See* 14 DCMR § 3826.4 (2004); Johnson, RH-TP-07-29,077 at 2-3; Mitchell, RH-TP-09-29,686 at 3-4; Wade, TP 27,631 at 4.

III. CONCLUSION

For the reasons stated above, the Tenant's Motion for Reconsideration is denied.

SO ORDERED


PETER B. SZEGEDY-MASZAK, CHAIRMAN

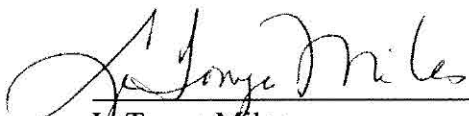

RONALD YOUNG, COMMISSIONER

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **ORDER ON MOTION FOR RECONSIDERATION** was mailed, postage prepaid, by first class U.S. mail on this **3rd day of July, 2013** to:

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LaTonya Miles
Clerk of the Court
(442-8949)

³ The Commission also observes that the Motion for Reconsideration is the first time that the Tenant has raised the issue of post-judgment interest; the Decision and Order did not address post-judgment interest, nor did the Tenant file a Notice of Appeal or any other motion prior to the Motion for Reconsideration requesting an order granting post-judgment interest. *See* Decision and Order. *See also* 14 DCMR §§ 3807.4-.5 (2004).