

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

ARLENA CHANEY, et al.
Tenants/Appellants/Cross-Appellees

v.

AMERICAN RENTAL MANAGEMENT COMPANY
Housing Provider/Appellee/Cross-Appellant

ORDER ON MOTION TO WITHDRAW AS COUNSEL

September 2, 2014

McKOIN, COMMISSIONER. On August 12, 2014, Jamil Zouaoui, Esq., counsel for Arlena Chaney and the New Capitol Park Towers Tenants Association (Association), the Appellants/Cross-Appellees (collectively, Tenants), filed a “Notice of Withdrawal of Appearance” in these consolidated cases, Tenant Petitions RH-TP-06-28,366 and RH-TP-06-28,577, and in RH-TP-08-29,302, which was a separate appeal to the Commission.¹ The Commission’s rules provide that, “[i]f an attorney or other person representing a party wishes to withdraw from a case pending before the Commission, a written motion for application to withdraw shall be filed.” 14 DCMR § 3813.1 (2004). The Commission, in its reasonable discretion, will treat Mr. Zouaoui’s application as a written motion filed in accordance with our rules. For the reasons set forth herein, the Commission denies Mr. Zouaoui’s motion to withdraw without prejudice.

¹ By separate order issued this same day, the Commission dismisses Mr. Zouaoui’s withdrawal from RH-TP-08-29,302 as moot.

In the Notice of Withdrawal of Appearance, Mr. Zouaoui provides the Commission with four reasons for his withdrawal, each of which asserts that he never represented the Tenants with regard to the appeal, as opposed to the administrative hearing, in the separate case numbered RH-TP-08-29,302. *See* Notice of Withdrawal of Appearance at 1-2. Mr. Zouaoui also provides three (3) attachments, the second of which, Attachment B, states that it is a retainer letter regarding “OAH Tenant Petitions 28366, 28577, 29302 [sic].” *Id.*, Attachment B. The letter, dated March 25, 2010, states that the “agreement does not address whether [Mr. Zouaoui] will represent [the Tenants] during appeals — if any.” *Id.* Attachments A and C do not address Mr. Zouaoui’s representation of the Tenants in these consolidated cases.

The Commission notes, however, that Mr. Zouaoui filed the Tenants’ Notice of Appeal in these consolidated cases, dated September 10, 2012, more than two (2) years after the date of the retainer letter, as well as every subsequent written submission by the Tenants. *See* Tenants Notice of Appeal at 3; *see, e.g.*, Motion to Strike Respondent’s Brief at 4 (May 1, 2013); Brief in Support of Petitioners/Appellants’ Appeal at 23 (Mar. 7, 2013). Further, Mr. Zouaoui appeared and argued on behalf of the Tenants at the Commission’s May 7, 2013, hearing. *See* Hearing CD (RHC May 7, 2013) at 2:04:00. Accordingly, the Commission is satisfied that Mr. Zouaoui is the attorney of record for the tenants in the appeal of these consolidated cases.²

² The essence of scope of employment is the agent's authority from the employer to act as alleged. *See Sigal Constr. Corp. v. Stanbury*, 586 A.2d 1204, 1217-18 (D.C. 1991) (citing *Presley v. Commercial Credit Corp.*, 177 A.2d 916, 918 (D.C. 1962)). Authority can be proved in several ways. *Sigal Constr. Corp.*, 586 A.2d at 1217; *Lewis v. Washington Metro. Area Transit Auth.*, 463 A.2d 666, 670 (D.C. 1983). “Implied authority is actual authority inferred from the circumstances, such as the relationship between the parties and conduct of the principal toward the agent manifesting the principal’s consent to have the agent act for him.” *Ruffin v. Temple Church of God in Christ, Inc.*, 749 A.2d 719, 722 (D.C. 2000) (quoting *Lewis*, 463 A.2d at 669); *Sigal Constr. Corp.*, 586 A.2d at 1217-18. Apparent authority arises when a principal places an agent ‘in a position which causes a third person to reasonably believe the principal had consented to the exercise of authority the agent purports to hold.’ *Sigal Constr. Corp.*, 586 A.2d at 1218-19 (citing *Feltman v. Sarbov*, 366 A.2d 137, 139 (D.C. 1976) (quoting *Drazin v. Jack Pry, Inc.*, 154 A.2d 553, 554 (D.C. 1959)). Critical to apparent authority, therefore, is the third-party’s perception of the agent’s authority. *Sigal Constr. Corp.*, 586 A.2d at 1217-18 (citing *Lewis*, 463 A.2d at 670 & n. 7. The Commission’s review of the record reveals that Mr. Zouaoui did not provide evidence of any specific, “express” authorization by the Tenants to him to serve as their attorney in this appeal in, for example, a specific retainer letter regarding this *Chaney v. Am. Rental Mgmt. Co.*

The Commission's rules on withdrawals of appearances are found at 14 DCMR § 3813 (2004) and provide, in relevant part, as follows:

- 3813.2 The motion shall state whether the party consents to or opposes the motion and whether the party will be unrepresented or will have substitute representation. A copy of the motion shall be served on the party and the party advised that he or she has the right to oppose the motion.
- 3813.3 The motion shall state the specific reasons for withdrawal and shall state whether the absence of representation will prejudice the rights of the party.

For the following reasons, the Commission determines that the motion does not meet the requirements of 14 DCMR § 3813.2-.3. First, the motion does not state whether the Tenants consent to or oppose Mr. Zouaoui's withdrawal. *See* 14 DCMR § 3813.2. Second, the motion does not state whether the Tenants will be unrepresented or will have substitute representation. *See id.* Third, although the motion contains a certificate of service upon the Association, care of tenants John Bou-Sliman, William C. Horn, and Yisehac Yohannes,³ it does not certify that it has been served upon Ms. Chaney, the individual and sole tenant/petitioner in RH-TP-06-28,366, nor does the motion state that the Tenants have been informed of their right to oppose Mr. Zouaoui's withdrawal. *See id.* Fourth, the motion does not state the specific reasons for Mr. Zouaoui's withdrawal in these consolidated cases; rather, it states only why Mr. Zouaoui never entered a formal notice of appearance with the Commission in the separate appeal of RH-TP-08-29,302.

appeal. However, based upon the Commission's review of the record, it is also uncontested that Mr. Zouaoui filed this appeal and appeared at the Commission hearing and argued on behalf of the Tenants. Furthermore, the alleged general retainer letter (Attachment B) is ambiguous as to Mr. Mr. Zouaoui's representation of the Tenants on appeal. Based upon Mr. Zouaoui's conduct in this appeal on behalf of the Tenants, in the absence of any evidence to the contrary, and upon the respective doctrines of "implied actual" and "apparent" authority, the Commission in its discretion infers from the evidence in the record that Mr. Zouaoui was authorized to represent the Tenants as their attorney in this appeal. *See Ruffin*, 749 A.2d at 722; *Sigal Constr. Corp.*, 586 A.2d at 1217-19. There is no difference in legal effect among express, implied and apparent authority. *See Sigal Constr. Corp.*, 586 A.2d at 1217-19; *Ruffin*, 749 A.2d at 722; *Lewis*, 463 A.2d at 669-672.

³ The Commission notes that the Certificate of Service does not state the unit number of the housing accommodation at which either Mr. Bou-Sliman, Mr. Horn, or Mr. Yohannes were served. *See* Notice of Withdrawal of Appearance at 3 (listing only "301 G Street SW, # [9] Washington DC 200 [sic]" as the address of service upon the Tenants).

See 14 DCMR § 3813.3; Notice of Withdrawal of Appearance at 1-2. Finally, the motion does not state whether the absence of representation will prejudice the represented parties. *See* 14 DCMR § 3813.3.

Because Mr. Zouaoui's motion does not contain all of the elements required by 14 DCMR § 3813, the Commission cannot determine at this time whether or not granting his application for withdrawal would be warranted. Accordingly, Mr. Zouaoui's withdrawal as counsel in these consolidated cases is denied without prejudice.

SO ORDERED



CLAUDIA L. MCKOIN, 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 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, D.C. 20001
(202) 879-2700

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **ORDER** in RH-TP-06-28,366 and RH-TP-06-28,577 was mailed, postage prepaid, by first class U.S. mail on this 2nd day of September, 2014 to:

Jamil Zouaoui, Esq.
4626 Wisconsin Ave., NW
Suite 300
Washington, DC 20016

Arlena Chaney
301 G Street, SW, #426
Washington, DC 20024

New Capitol Park Towers Tenants Association
c/o:
John Bou-Sliman
301 G Street, SW, #613
Washington, DC 20024

William C. Horn
301 G Street, SW, #822,
Washington, DC 20024

Yisehac Yohannes,
301 G Street, SW, #219
Washington, DC 20024

Richard W. Luchs, Esq.
1620 L Street, NW
Suite 900
Washington, DC 20036

A handwritten signature in black ink, appearing to read "LaTonya Miles". The signature is written in a cursive style with a large initial "L" and "M".

LaTonya Miles
Clerk of Court
(202) 442-8949