

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

RH-TP-07-28,989

In re: 1510 21<sup>st</sup> Street, N.W. Unit 2

Ward Three (3)

**THOMAS IVANCIE**  
Tenant /Appellant

v.

**ESTATE OF LEWIS H. CURD,**  
Housing Provider /Appellee

**ORDER ON MOTION FOR CONTINUANCE**

**September 4, 2015**

**YOUNG, COMMISSIONER.** This case is on appeal to the Rental Housing Commission (Commission) from a Final Order issued by the Office of Administrative Hearings (OAH), based upon a petition filed in the Housing Regulation Administration (HRA), Rental Accommodations and Conversion Division (RACD), District of Columbia Department of Consumer and Regulatory Affairs (DCRA).<sup>1</sup> 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 Supp. 2008), and the District of Columbia Municipal Regulations (DCMR), 1 DCMR §§ 2800-2899 (2004), 1 DCMR §§ 2920-2941 (2004), and 14 DCMR §§ 3800-4399 (2004) govern these proceedings.

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<sup>1</sup> The OAH assumed jurisdiction over tenant petitions from the DCRA, 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 DCRA, RACD were transferred to the Department of Housing and Community Development (DHCD), Rental Accommodations Division (RAD) 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

On December 12, 2014, Tenant/Appellant, Thomas Ivancie, through counsel, Bernard A. Gray, Sr., filed a notice of appeal in the Commission. On July 14, 2015, the Commission issued a Notice of Scheduled Hearing, setting a hearing date for August 27, 2015. On August 24, 2015, counsel for the Tenant/Appellant filed an Emergency Consent Motion for a Continuance (Motion for Continuance).

Counsel for the Tenant/Appellant states the he timely drafted a Motion for Continuance of the Commission's scheduled hearing on August 27, 2015. However, in attempting to clear his calendar for a scheduled vacation which was to occur between August 15, 2015 through September 2, 2015, he inadvertently neglected to timely file the Motion for Continuance. Additionally, counsel states that upon his return from vacation he has five (5) court appearances. Finally, counsel for the Tenant/Appellant asserts that counsel for the Housing Provider/Appellee has consented to a continuance of the Commission's hearing.

The Commission's regulations provide the following guidance regarding requesting a continuance of a Commission hearing, in relevant part:

3815.1 Any party may move to request a continuance of any scheduled hearing . . . if the motion is served on opposing parties and the Commission at least five (5) days before the hearing or the due date; however, in the event of extraordinary circumstances, the time limit may be shortened by the Commission.

3815.2 Motions shall set forth good cause for the relief requested.

3815.3 Conflicting engagements of counsel, absence of counsel, or the employment of new counsel shall not be regarded as good cause for continuance unless set forth promptly after notice of the hearing has been given.

14 DCMR § 3815 (2004). See, e.g., Siegel v. B.F. Saul Co., RH-TP-06-28,524 (RHC May 1, 2015) (finding good cause for a continuance where pro se tenant timely filed a motion for continuance, and had undergone surgery three weeks before the scheduled hearing); Chaney v. Am. Rental Mgmt. Co., RH-TP-06-28,366; RH-TP-06-28,577 (RHC Mar. 4, 2013) (finding good cause for a continuance where tenant's counsel was out of the country when the Commission's notice of hearing was issued, and the motion for continuance included counsel's flight reservations); Salazar v. Varner, RH-TP-09-29,645 (RHC July 19, 2012) (determining that counsel's conflicting schedule was not good cause for a continuance); Prosper v. Pinnacle Mgmt., TP 27,783 (RHC Jan. 19, 2012) (determining that good cause for a continuance existed where tenant's counsel was in the hospital at the time the Commission issued its notice of hearing, and counsel provided a memorandum from his physician confirming counsel's medical condition).

The Commission has previously stated the following:

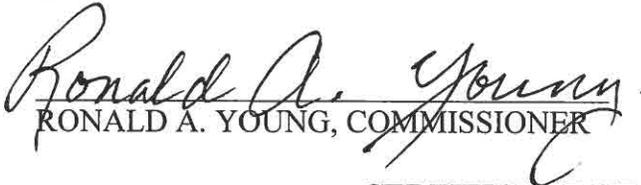
Administrative tribunals 'must be, and are, given discretion in the procedural decisions made in carrying out their statutory mandate.' Prime v. D.C. Dep't of Pub. Works, 955 A.2d 178 (D.C. 2008) (quoting Ammerman v. D.C. Rental Accommodations Comm'n, 375 A.2d 1060, 1063 (D.C. 1977)). Continuances are committed to the sound discretion of the Commission. Prime, 955 A.2d at 178. See, also, Chaney, RH-TP-06-28,366; RH-TP-06-28,577; Johnson v. MPM Mgmt., Inc., RH-TP-09-27,294 (RHC July 31, 2012); Prosper, TP 27,783.

Siegel v. B.F. Saul Co., RH-TP-06-28,524 at 4. In the instant case, Counsel for the Tenant/Appellant set forth as his reason for failing to file a timely motion for continuance in the Commission, was an inadvertent mistake. Counsel for the Tenant/Appellant, has not set forth good cause for continuance pursuant to the regulations, however, because of the Tenant/Appellant's representation that counsel for the Housing Provider/Appellee had

no objection to the continuance, the Motion for Continuance is granted to **September 29, 2015**. See e.g., Johnson v. Dorchester House Assocs, LLC., RH-TP-07-29,077 (RHC Oct. 28, 2008).

In light of the continuance of the hearing in this matter, the Commission will also extend the time for the parties to file appellate briefs, in accordance with as follows: a brief from Counsel for the Tenant/Appellant is due **September 16, 2015**; a brief from the Counsel for the Housing Provider/Appellee is due **September 28, 2015**.

SO ORDERED.

  
RONALD A. YOUNG, COMMISSIONER

**CERTIFICATE OF SERVICE**

I certify that a copy of the **ORDER ON MOTION FOR CONTINUANCE** in RH-TP-07-28,989 was served by first-class mail, postage prepaid, this **4<sup>th</sup> day of September, 2015**, to:

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