

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-08-29,302

In re: 301 G Street, S.W.

Ward Six

AMERICAN RENTAL MANAGEMENT COMPANY
Housing Provider/Appellant

v.

ARLENA CHANEY, et al.
Tenants/Appellees

ORDER ON MOTION TO WITHDRAW AS COUNSEL

September 2, 2014

McKOIN, COMMISSIONER. On August 12, 2014, Jamil Zouaoui, Esq., counsel for the Tenants/Appellees, filed a “Notice of Withdrawal of Appearance” in Tenant Petitions RH-TP-06-28,366 and RH-TP-06-28,577, which are consolidated cases, and in this case, 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 dismisses Mr. Zouaoui’s motion to withdraw as moot.

I. PROCEDURAL HISTORY

On May 16, 2008, Arlena Chaney, residing at 301 G Street, S.W. (Housing Accommodation), filed Tenant Petition RH-TP-08-29,302 (Tenant Petition) against American

¹ By separate order issued this same day, the Commission denies Mr. Zouaoui’s withdrawal from RH-TP-06-28,366 and RH-TP-06-28,577.

Rental Management Company (Housing Provider). Ms. Chaney named as additional petitioners the New Capitol Park Towers Tenant Association (Association) and seventy-eight (78) other individuals who were stated to also reside at the Housing Accommodation (collectively, Tenants).

On March 27, 2013, Administrative Law Judge Louis Burnet (ALJ) issued a final order, Chaney v. Am. Rental Mgmt. Co., RH-TP-08-29,302 (OAH Mar. 27, 2013) (Final Order), granting the Tenants reductions in rent and rent ceilings, rent rollbacks, and rent refunds for reductions in related services and facilities. *See* Final Order at 120-24; Record (R.) at 1497-1501. The Housing Provider filed a timely motion for reconsideration, and, on June 24, 2013, the ALJ issued an Order Granting Motion for Reconsideration (Reconsideration Order), correcting errors in the Final Order and thereby reducing the award to the Tenants. *See* Reconsideration Order at 2; R. at 1756.

On July 9, 2013, the Housing Provider filed a Notice of Appeal with the Commission. *See* Notice of Appeal at 2. On April 1, 2014, the Housing Provider filed a motion to voluntarily withdraw its appeal (Motion to Dismiss Appeal). *See* Motion to Dismiss Appeal at 1. On May 8, 2014, the Commission granted the Housing Provider's Motion to Dismiss Appeal. *See* Am. Rental Mgmt. Co. v. Chaney, RH-TP-08-29,302 (RHC May 8, 2014) (Order Dismissing Appeal) at 1.

On May 15, 2014, Ms. Chaney, *pro se*, filed an "Emergency Motion" for Reconsideration of the Order Dismissing Appeal, to late file an Opposition to the Motion to Dismiss Appeal, and to late file a cross-appeal in this case (Motion for Reconsideration of Dismissal). The Commission issued an Order denying the Tenants' motion on June 27, 2014 (Order Denying Reconsideration).

II. DISCUSSION

In his 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, of this Tenant Petition. *See* Notice of Withdrawal of Appearance at 1-2.² However, where the Commission can grant no further relief to a party, an issue is moot and will not be decided by the Commission. *See, e.g.,* Tenants of 4021 9th St., N.W. v. E&J Props., LLC, HP 20,812 (RHC June 11, 2014) (where Commission lacked jurisdiction over non-final order, proper formation of tenant association was moot); Knight-Bey v. Henderson, RH-TP-07-28,888 (RHC Jan. 8, 2013) (where tenant/petitioner fails to appear at hearing, failure to afford due process through proper notice of hearing to housing provider/respondent is moot); Kuratu v. Ahmed, Inc., RH-TP-07-28,985 (RHC Jan. 29, 2012) (where case remanded to determine remedy for violation of registration provision of the Act, issue of notice to tenant of reduction in services was moot on appeal); Oxford House-Bellevue v. Asher, TP 27,583 (RHC May 4, 2005) (dismissing issue as moot where there was no further relief the Commission could grant). Moreover, the Commission's rules provide that an attorney may file a motion to withdraw from a case that is "pending before the Commission." 14 DCMR § 3813.1.

² The Commission notes that we have previously determined, in the Order Denying Reconsideration, that, pursuant to our regulations, 14 DCMR §§ 3812.6 and 3813.1 (2004), Mr. Zouaoui was the attorney of record for the Tenants because of his appearance before OAH, even though he did not file a notice of appearance before the Commission. *See* Order Denying Reconsideration at 5-7 (citing 1460 Irving St. Tenants Assoc. v. 1460 Irving St., LP, CIs 20,760-20,763 (RHC Sept. 17, 2003); Mersha v. Marina View Tower Apts., TP 24,302 (RHC May 26, 2000); Wedderburn v. Thomas, TP 23,970 (RHC June 10, 1996); Salisbury Prop. Co. v. Sargisson, TP 22,187 (RHC Sept. 30, 1994); Dismer Auxier Realty v. Tenants of 5922 13th St., N.W., TP 20,364 (RHC Dec. 10, 1993)).

The Housing Provider's appeal in this case was dismissed by the Commission on May 8, 2014. Order Dismissing Appeal at 1. Pursuant to 14 DCMR § 3824.2,³ the Commission determined at that time that the interests of all parties were protected by granting the Motion to Dismiss. Order Dismissing Appeal at 4-6 (citing Lanier Assocs. v. Tenants of 1773 Lanier Pl., NW, HP 20,880 (RHC Mar. 5, 2014); Williams v. Asrat, TP 27,612 (RHC Dec. 1, 2004); Williams v. Lipscomb Realty Corp., TP 27,867 (RHC July 1, 2004)). The Commission was satisfied that the interests of all parties were protected because the Final Order and Order on Reconsideration awarded rent refunds and rent rollbacks to the Tenants, and the Housing Provider, by moving to dismiss, voluntarily chose to give up its appeal of those awards. *See id.*

As noted, the Tenants' subsequent Motion for Reconsideration of Dismissal requested: that the Commission deny the Housing Provider's voluntary withdrawal of the appeal; that the Tenants be allowed to late file an Opposition to the Motion to Dismiss Appeal; and that the Tenants be allowed to late file a cross-appeal in this case. See Motion for Reconsideration of Dismissal at 1-2. The Commission, in its Order Denying Reconsideration, determined: that the Tenants identified no legal grounds on which the Order Dismissing Appeal was erroneous; that there was no basis for the Tenants to late file an Opposition because Mr. Zouaoui, as the attorney of record, was properly served with the Housing Provider's Motion to Dismiss Appeal and the Commission's Order Dismissing Appeal; and that the Tenants had exceeded the mandatory, ten-day (10-day) time limit to file a Notice of Appeal from the Final Order and the ALJ's Order Granting Reconsideration. *See Order Denying Reconsideration at 5-8.*

For these reasons, the Commission is satisfied that all issues between the Tenants and the Housing Providers on which the Commission can grant relief with regard to this Tenant Petition

³ 14 DCMR § 3824.2 provides: "The Commission shall review all motions to withdraw [an appeal] to ensure that the interests of all parties are protected." See also

have been resolved by the Order Dismissing Appeal and Order Denying Reconsideration. Having dismissed the only Notice of Appeal filed in this matter, and having denied reconsideration of that dismissal, the Commission is satisfied that this case is no longer “pending” before us. *See* 14 DCMR § 3813.1. Accordingly, Mr. Zouaoui’s motion to withdraw as counsel is dismissed as moot.

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-08-29,302 was mailed, postage prepaid, by first class U.S. mail on this 2nd day of September, 2014 to:

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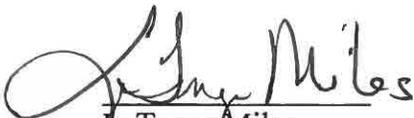
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