

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-10-29,840

In re: 4545 Connecticut Ave., NW, Unit 928

Ward Three (3)

JO CARPENTER
Tenant/Appellant

v.

THE MARKSWRIGHT COMPANY, INC.
Housing Provider/Appellee

ORDER ON MOTION FOR CONTINUANCE

February 14, 2013

SZEGEDY-MASZAK, CHAIRMAN. This case is on appeal from the District of Columbia Office of Administrative Hearings (OAH), based on a petition filed in the Rental Accommodations and Conversion Division (RACD), Housing Regulation Administration (HRA), of the District of Columbia 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 - 2-510 (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.

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) (Supp. 2005). The functions and duties of 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)).

According to 14 DCMR § 3815.1 (2004), in relevant part:

Any party may move to request a continuance of any scheduled hearing or for extension of time to file a pleading, other than a notice of appeal, or leave to amend a pleading if the motion is served on opposing parties and the Commission at least five (5) days before the hearing or the due date . . .

According to 14 DCMR § 3815.2 (2004):

Motions shall set forth good cause for the relief requested.

According to 14 DCMR § 3815.3 (2004):

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.

Administrative tribunals "must be, and are, given discretion in the procedural decisions made in carrying out their statutory mandate." Prime v. District of Columbia Dep't of Pub. Works, 955 A.2d 178 (D.C. 2008) (*quoting* Ammerman v. District of Columbia 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*, King v. District of Columbia Water and Sewer Auth., 803 A.2d 966, 968 (D.C. 2002).

Counsel for the Tenant has requested a Continuance on the grounds of a medical emergency involving his family, which would prevent his attendance at the hearing scheduled in the Commission's hearing room at 2:00 p.m. on Thursday, February 14, 2013. Based upon its review of the request for the Continuance, the Commission is persuaded to grant a reasonable Continuance because of (1) the lack of any apparent prejudice to either party because of the Continuance, (2) the Housing Provider's consent to the Continuance (as timely communicated to the Commission), (3) the lack of any evidence of less than "good faith" by Tenant's counsel in requesting the Continuance, (4) the appropriately prompt response of Tenant's counsel in filing

the request for Continuance upon his determination of a family emergency, and (5) the Commission's interest in providing each party a full and fair opportunity to appear before the Commission regarding the appeal. *See, e.g., Taylor v. Cummings*, RH-TP-08-29,345 (RHC June 2, 2011).

The Commission hereby grants the Tenant's Motion for Continuance, and will re-schedule the hearing on this case to a later date which is mutually agreed upon by the parties and which otherwise meets all Commission hearing requirements and schedules. The parties are requested to provide the Commission, orally or in writing, with a mutually acceptable hearing date by no later than 4:30 P.M. on Tuesday, February 19, 2012. The Commission will notify the parties in writing of the date and time of the re-scheduled hearing. The re-scheduled hearing will be at the Commission's offices, located at Suite 1140N, 441 4th Street, N.W., Washington, D.C. The Commission will not grant any further continuance to either party except under extraordinary circumstances.

SO ORDERED



PETER B. SZEGEDY-MASZAK, CHAIRMAN

JUDICIAL REVIEW

Pursuant to DC 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:

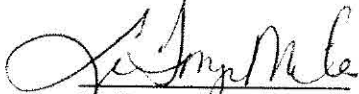
D.C. Court of Appeals
Office of the Clerk
430 E. Street, N.W.
Washington, D.C. 20001
(202) 879-2700

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **ORDER ON MOTION FOR CONTINUANCE** in RH-TP-10-29,840 was mailed, postage prepaid, by first class U.S. mail on this **14th day of February, 2013** to:

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