

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-11-30,165

RH-TP-12-30,222

In re: 1245½ Duncan Place, N.E.

Ward (6)

MICHAEL B. DORSEY

Tenant/Appellant

v.

DAVID BAILEY

Housing Provider/Appellee

**ORDER ON MOTION FOR EXTENSION OF TIME TO FILE BRIEF
OUT OF TIME**

July 2, 2014

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 on a petition filed in the Rental Accommodations Division (RAD), Housing Regulation Administration (HRA), of the District of Columbia Department of Housing and Community Development (DHCD).¹ The applicable provisions of the Rental Housing Act of 1985 (Rental Housing 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 Supp. 2008), and the District of Columbia Municipal Regulations (DCMR), 1 DCMR §§ 2800-2899

¹ The OAH assumed jurisdiction over tenant petitions from the Department of Consumer and Regulatory Affairs (DCRA) and the Rental Accommodations and Conversion Division (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 DCRA, RACD were transferred to DHCD, 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 (Supp. 2008).

(2004), 1 DCMR §§ 2920-2941 (2004), 14 DCMR §§ 3800-4399 (2004) govern these proceedings.

On January 13, 2014, Dalton Howard, counsel for the housing provider (Housing Provider), filed a “MOTION FOR LEAVE TO EXTEND THE TIME IN WHICH TO FILE HIS BRIEF” (Motion), which was due on January 6, 2014.² The Commission’s hearing was scheduled for January 28, 2014. Counsel’s Motion stated in relevant part:

2. The certification³ occurred while the undersigned was out-of-town.
3. The undersigned was in the State of Georgia December 20-27, 2013.
4. The undersigned had other pressing matters which includes (sic), but are not limited to: (1) research and prepare complex Superior Court Motion and; (2) research and prepare for Superior Court oral argument in another case.
5. Counsel for movant was ill for several days in early January 2014.
6. Tenant/Appellant will not be prejudiced if this motion is granted.
7. Movant’s brief will assist this Court in adjudicating this matter.

Motion at 1-2. Counsel’s Motion requested until January 22, 2014 to file the brief. The record reflects that no opposition to the Housing Provider’s Motion. The record reflects that the Commission received the Housing Provider’s brief on January 22, 2014. The Certificate of Service which accompanied the Motion, reflects that a copy of the Motion was mailed to the Tenant on January 22, 2014.

The Commission’s rule on continuance, 14 DCMR § 3815.1-3 (2004), states:

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

² The Commission’s rule, 14 DCMR § 3802.7 (2004) provides: “Parties may file briefs in support of their position within five (5) days of receipt of notification that the record in the matter has been certified.”

³ Counsel’s reference is to the Commission’s December 23, 2013, notice of scheduled hearing and notice of certification of record.

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.

14 DCMR § 3815.1.

Motions shall set forth good cause for the relief requested.

14 DCMR § 3815.2.

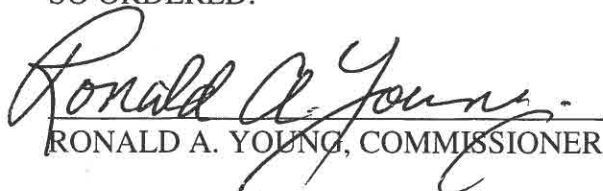
Conflicting engagements of counsel, absence of counsel, or the employment of new counsel shall not be regarded as good cause for continuance unless set forth promptly after notice of the hearing has been given.

14 DCMR § 3815.3.

Metropolitan Baptist Church v. D. C. Dep't of Consumer and Regulatory Affairs, 718 A.2d 119 (D.C. 1998), states the factors for consideration for a continuance are: 1) the reasons for the continuance (or extension of time, as in this case), 2) the prejudice resulting from the denial, 3) the party's diligence in seeking relief, 4) any lack of good faith, 5) and prejudice to the opposing party, citing Daley v. United States, 739 A.2d 814 (D.C. 1999), cited in Nezhadessivandi v. Ayers, TP 25,091 (RHC May 28, 2002).

Upon consideration of the factors for the extension of time provided by Counsel, the Commission determines that the reasons for the extension of time, Counsel's absence from the District of Columbia from December 20 to December 27, 2013 and Counsel's conflicting engagements are reasons specifically enumerated in the rules as insufficient to warrant the granting of an extension of time to file a brief out of time. Accordingly, the Housing Provider's Motion is DENIED. 14 DCMR § 3815.3 (2004).

SO ORDERED.


RONALD A. YOUNG, 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 ON MOTION TO EXTEND TIME TO FILE BRIEF OUT OF TIME** in RH-TP-11-30,165 and RH-TP-12-30,222 was mailed, postage prepaid, by first class U.S. Mail on this **2nd day of July, 2012** to:

Michael B. Dorsey
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6701 16th Street, N.W.
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