

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-13-30,448

In re: 3661 Winfield Lane, N.W.

Ward Two (2)

BENHAM POURBABAI
Housing Provider/Appellant

v.

CHRIS BELL, et al.
Tenants/Appellees

FINAL DECISION AND ORDER

February 18, 2016

SZEGEDY-MASZAK, CHAIRMAN. 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) of the District of Columbia Department of Housing and Community Development (DHCD).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 §§ 2-501-510 (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 the Department of Consumer and Regulatory Affairs (DCRA), Rental Accommodations and Conversion Division (RACD) pursuant to the Office of Administrative Hearings Establishment Act, D.C. Law 14-76, D.C. OFFICIAL CODE § 2-1831.03(b-1)(1) (2007 Repl.). The functions and duties of RACD in DCRA were transferred to DHCD by § 2003 the Fiscal Year 2008 Budget Support Act of 2007, D.C. Law 17-20, D.C. OFFICIAL CODE § 42-3502.04b (2010 Repl.).

I. PROCEDURAL HISTORY

On November 13, 2013, Tenant/Appellee Chris Bell, resident of 3661 Winfield Lane, NW, (Housing Accommodation) filed Tenant Petition RH-TP-13-30,448 (Tenant Petition) with RAD, against Benham Pourbabai (Housing Provider). *See* Tenant Petition at 1-2; Record for RH-TP-13-30,448 (R.) at 19-20. The Tenant Petition raised the following claims against the Housing Provider:

1. The Housing Provider, property manager, or other agent of the Housing Provider has improperly withheld my security deposit after the date when I/we moved out.
2. The Housing Provider, property manager, or other agent of the Housing Provider has failed to return the interest on my security deposit after the date when I/we moved out.

Tenant Petition at 3; R. at 18.

On July 19, 2014, Chris Bell filed a motion to amend the Tenant Petition to add seven additional tenants who had lived together at the Housing Accommodation, Semir Hasedzic, Kenny Buhr, Kaitlin Conklin, Catherine Schroeder, Geoffrey Talis, Sydney Dittman, and Caroline Watson (hereinafter, collectively, Tenants). The Housing Provider did not oppose the motion, and Administrative Law Judge Denise Wilson-Taylor (ALJ) granted the motion on the record at the July 31, 2014 evidentiary hearing. Hearing CD (OAH July 31, 2014).

The ALJ issued a final order on April 15, 2015: Bell v. Pourbabai, RH-TP-13-30,448 (OAH Apr. 15, 2015) (Final Order); R. at 130-41. The ALJ made the following findings of fact in the Final Order:²

1. Tenants resided in a single family home at 3661 Winfield Lane, NW (Housing Accommodation), from August 1, 2012 to July 31, 2013. The Housing Accommodation is owned by Benham Pourbabai (Housing Provider).

² The findings of fact are recited herein using the language of the ALJ in the Final Order.

2. When the Tenants moved into the Housing Accommodation, they signed a lease agreement to pay monthly rent of \$10,000 and paid a security deposit of \$10,000. PX 100 and 101. The Tenants signed two leases because the Housing Provider was under the impression that zoning regulations prohibited the rental of a housing accommodation consisting of more than 6 persons who are unrelated. Rent was due on the first of the month and was considered late after the fifth day of the month. Each tenant was to pay 1/8 of \$10,000 to the Housing Provider each month individually.
3. The lease contains the following provisions relevant to this case (PX 100 and 101):

10. Maintenance: Tenant shall keep all parts of the premises in a state of good order and condition and shall surrender the same at the expiration of the term hereof in the same good order in which they were received, reasonable wear and tear excepted. Tenant will be responsible for the cost of maintaining the plumbing system operational [sic], and avoid misusing the sinks, the drains, and the toilets, accordingly. Tenant shall provide for and be responsible for the following as applicable: chimney sweep; plumbing repair, and flooding damages due to toilet overflow, or misuse of the bathrooms and the toilets; elevator's maintenance cost; two semi-annual inspection[s] of the A/C units, maintaining the A/C, the furnace, the air handler, by certified DC inspectors and replacement of the air filters. Otherwise, the tenant will be held liable for the consequential damages due to not maintain(ing) the units accordingly. The tenants will be responsible to maintain the front and back gardens, trees, shrubs, and flowers, accordingly. Any damages to the gardens will be the tenants['] responsibility.

Furthermore, the Tenant will be responsible to replace the bulbs and the fuses, proper cleaning of the marble, travertine, and wood floors, the appliances, keeping up, preserving in good condition and keeping trimmed any lawn, trees, vines shrubbery, and gardens, removing leaves and other debris that accumulates on the property, including the rain gutters and drains, promptly removing ice and snow as necessary. Any repairs or replacements of property, equipment, or appliances necessary due to negligent acts of commission or omission of Tenants, the family, guests or employees, shall be paid by Tenants. In the case [sic], the Tenant fails to report the damages, the Tenant will be liable for month rent [sic] that will be paid to the landlord. In the case of condominiums, cooperative apartments or other multi-family dwelling units—replacement of furnace and air conditioning filters, light bulbs and fuses, proper cleaning of floors [sic]. In the case of any damages that is [sic] caused during the Tenant's lease, if the Tenant fails to report or repair it, the landlord is authorized to fix the damages and charge the Tenant accordingly. (emphasis added).

