

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

RH-TP-14-30,571

In re: 1635 Holbrook Street, N.E., #3

Ward Five (5)

**HOLBROOK STREET LLC**  
Housing Provider/Appellant

v.

**SYLVIA R. SEEGER,**  
Tenant/Appellee

**ORDER GRANTING MOTION TO WITHDRAW REQUEST FOR ATTORNEY'S FEES**

September 6, 2016

**EPDS, COMMISSIONER.** This case is on appeal to the Rental Housing Commission (“Commission”) from a final order of the Office of Administrative Hearings (“OAH”), based on a petition filed in the Rental Accommodations Division (“RAD”) of the Department of Housing and Community Development (“DHCD”).<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 - 42-3509.07 (2012 Repl.), the District of Columbia Administrative Procedure Act (“DCAPA”), D.C. OFFICIAL CODE §§ 2-501 - 2-510 (2012 Repl.), and the District of Columbia Municipal Regulations (“DCMR”), 14 DCMR §§ 3800-4399 (2004), govern these proceedings.

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<sup>1</sup> OAH assumed jurisdiction over contested petitions from the Rental Accommodations and Conversion Division (“RACD”) of the Department of Consumer and Regulatory Affairs (“DCRA”) pursuant to the Office of Administrative Hearings Establishment Act of 2001, 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 the RAD in DHCD by § 2003 of the Rental Housing Operations Transfer Amendment Act of 2007, D.C. Law 17-20, D.C. OFFICIAL CODE § 42-3502.04b (2010 Repl.).

## **I. PROCEDURAL HISTORY**

A complete procedural history prior to this Order is set forth in the Commission's Decision and Order issued on July 15, 2016. *See* Holbrook Street, LLC v. Seegers, RH-TP-14-30,571 (RHC July 15, 2016) ("Decision and Order"). On August 27, 2014, Sylvia R. Seegers ("Tenant"), resident of 1633 Holbrook Street, NE, Unit 3 ("Housing Accommodation"), filed Tenant Petition TP 30,571 ("Tenant Petition") with the RAD against Holbrook Street, LLC ("Housing Provider"). *See* Seegers v. Holbrook Street, LLC, 2014 DHCD TP 30, 571 (OAH September 22, 2015) ("Final Order") at 2. On October 2, 2015, the Housing Provider filed a Notice of Appeal of the OAH order with the Commission.

The Commission's Decision and Order affirmed the Final Order in its entirety. *See* Decision and Order at 19-20. As the prevailing party on appeal, the Tenant filed a Motion for Reasonable Attorney's Fees on July 29, 2016, ("Motion for Attorney's Fees"), requesting fees in the amount of \$30, 956 for work performed by Tenant's counsel before the Commission. Motion for Attorney's Fees at 1. The Housing Provider filed an opposition on August 11, 2016 ("Opposition to Motion for Attorney's Fees") as well as a supplemental points and authorities on August 12, 2016 ("Supplemental").

On September 1, 2016, the Appellee/Tenant filed a Motion to Withdraw her Motion for Reasonable Attorney's Fees ("Withdrawal Motion "). In that motion the Tenant states:

Will the Clerk of the District of Columbia Rental Housing Commission please note that pursuant to a settlement agreement reached by the parties, Appellee/Tenant Sylvia Seegers hereby withdraws with prejudice her July 29, 2016 motion for reasonable attorney's fees in the above captioned case.

*See* Motion to Withdrawal at 1.

## II. DISCUSSION

The Commission has consistently stated that settlement of litigation is to be encouraged. *See, e.g., Batts v. Sansbury*, RH-TP-14-30,474 (RHC Jan. 8, 2016); *Gordon v. United Prop. Owners (USA)*, RH-HP-06-20,806 (RHC May 15, 2015). The Commission's rules and D.C. Court of Appeals precedent provide that a withdrawal of an appeal, based on a settlement agreement, may only be granted where the Commission is able to "ensure that the interests of all parties are protected." 14 DCMR § 3824.1 (2004); *Proctor v. D.C. Rental Hous. Comm'n*, 484 A.2d 542, 548 (D.C. 1984) (establishing four-part test for review of settlement agreements).

Unlike in the situation of a motion for withdrawal of an appeal, which is specifically addressed by the Commission's regulations, no similar guidance exists when a party has already prevailed on appeal and simply moves to withdraw a request for reasonable attorney's fees.<sup>2</sup> The Commission is not aware of any legal basis prohibiting it from granting the Tenant's current motion to withdraw her request for Attorney's fees. As such, although the parties have not filed a copy of the purported settlement agreement with the Commission, the Commission, in light of the preference for the settlement of litigation, will grant the Appellee/Tenant's instant motion without conducting any review of the agreement and makes no finding as to whether the merits of the agreement.<sup>3</sup>

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<sup>2</sup> Under D.C. OFFICIAL CODE § 42-3509.02 (2012 Repl.), the Commission may award reasonable attorney's fees to the prevailing party in an action before the Commission. *See, e.g., Loney v. D.C. Rental Hous. Comm'n*, 11 A.3d 753, 759 (D.C. 2010); *Lenkin Co. Mgmt. v. D.C. Rental Hous. Comm'n*, 677 A.2d 46, 47 (D.C. 1996); *Hampton Courts Tenants' Ass'n v. D.C. Rental Hous. Comm'n*, 573 A.2d 10 (D.C. 1990); *B.F. Saul Prop. Co. v. Nelson*, TP 28,519 (RHC April 19, 2016); *Cascade Park Apts. v. Walker*, TP 26,197 (RHC Mar. 18, 2005).

<sup>3</sup> The Commission notes that multiple filings in the course of the litigation of this case have indicated ongoing settlement negotiations between the parties related to not only this case but also proceedings in the Landlord-Tenant Branch of the D.C. Superior Court. *See* Tenant's Motion for an Order Requiring Appellant Holbrook Street, LLC to Establish an Escrow Account or Post a Supersedeas Bond; Housing Provider's Motion for Reconsideration of Order To Establish and Escrow Account or Supersedeas Bond; Motion for Attorney's Fees at 2-3; Opposition to Motion for Attorney's Fees. Moreover, both parties have been represented by counsel throughout the proceedings. The Commission is satisfied that by allowing the withdrawal of the Motion for Attorney's Fees quickly and

**IV. CONCLUSION**

For the foregoing reasons the Commission, therefore, grants the Tenant's Withdraw Motion.

**SO ORDERED**



DIANA HARRIS EPPS, 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 (2016.), "[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

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unconditionally, the resolution of this complex dispute will be expedited to the benefit of the parties and to the benefit of judicial economy.

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **ORDER Granting Appellee/Tenant's Motion to Withdraw Request for Reasonable Attorney's Fees** in RH-TP-14-30,571 was mailed, postage prepaid, by first class U.S. mail on this **6th day of September, 2016**, to:

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