

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-14-30,571

In re: 1635 Holbrook Street, N.E.

Ward (1)

HOLBROOK STREET, LLC
Housing Provider/Appellant

v.

SYLVIA R. SEEGER
Tenant/Appellee

ORDER ON CONSENT MOTION TO CONTINUE BRIEFING SCHEDULE

May 20, 2016

McKOIN, COMMISSIONER. This case is on appeal to the Rental Housing 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 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, DC. 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 effective October 1, 2007, by 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

On August 27, 2014, Sylvia R. Seegers (Tenant) filed a tenant petition against Holbrook Street, LLC (Housing Provider) challenging the Housing Provider's September 2014, increase of her rent from \$450 to \$1,100. The Tenant alleged in her petition that the Housing Accommodation, 1635 Holbrook St., N.E., was not properly registered, that her rent was increased in an amount higher than what was allowed by the Rental Housing Act and that her rent was increased while the rental unit was not in substantial compliance with the housing regulations. Tenant Petition, R. at 1-14.

On September 22, 2015, OAH issued a Final Order, Sylvia R. Seegers v. Holbrook Street, LLC, 2014 DHCD TP 30,571 (OAH September 22, 2015) (Final Order) finding for the Tenant and ordering the Housing Provider to pay her \$8552.40, within 30 days of service of the final order, for the rent demanded above the legal rent of \$450. The order also rolled back the Tenant's rent to \$450 per month. The Housing Provider filed a Notice of Appeal of the OAH order with the Commission on October 2, 2015.

On April 28, 2016, the Tenant filed, Appellee Sylvia Seegers' Motion for an Order Requiring Appellant Holbrook Street, LLC to Establish an Escrow Account or Post a Supersedeas Bond (Motion), requesting that the Commission issue an order requiring the Housing Provider to establish an escrow account or post a supersedeas bond. On May 17, 2016, the Tenant filed Consent Motion to Continue Briefing Schedule (Motion), requesting that the Tenant's counsel be given additional time to file their hearing brief.

II. DISCUSSION

Requests for continuances are covered by 14 DCMR § 3815:

- 3815.1 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; however, in the event of extraordinary circumstances, the time limit may be shortened by the Commission.
- 3815.2 Motions shall set forth good cause for the relief requested.
- 3815.3 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.

The Tenant's counsel has requested additional time to file their brief for the following

reasons:

1. The counsel for both parties agreed to an early issuance of the Notice of Scheduled Hearing and Notice of Certification of Record (Notice), and to a later hearing date, as well as an extended briefing schedule.
2. Counsel for Tenant did not represent the Tenant in the proceeding before OAH.
3. Counsel for the Tenant is from the Legal Aid Society which represents tenants in time sensitive eviction defense litigation in the Landlord and Tenant Branch of the Superior Court of the District of Columbia.
4. Counsel for Tenant received the Housing Provider's brief on May 16, 2016.

The counsel for the Tenant filed their request for a continuance in the filing of their brief more than five (5) days in advance of the hearing scheduled for June 15, 2016. They have documented reasons for requesting the continuance including that the parties' counsels agreed to an earlier issuance of the Notice than the normal schedule for doing so, for a later scheduled hearing date and an extended briefing schedule. The Commission's regulation for filing

responsive briefs, 14 DCMR § 3802.8,² provides for filing a responsive brief within 10 days of the service of the appellant's brief. The Housing Provider filed their brief on May 16, 2016. Therefore, the Tenant's brief would normally have to have been filed on June 3, 2016. Thus the request to file on June 9, 2016, represents an extension of four (4) days. In addition, 14 DCMR § 3816.6,³ provides for the Commission's discretion in extending the time for filing a motion.

In that the parties' counsels have mutually agreed to the extension of time for filing the Tenant's brief, the fact that the hearing date will remain as scheduled and the Commission's discretion for extending time for filing the brief as provided for in 14 DCMR § 3816.6; the Commission grants the Consent Motion to Continue Briefing Schedule.

The Tenant's brief will be due on June 9, 2016.

SO ORDERED


CLAUDIA L. MCKOIN, COMMISSIONER

² 14 DCMR § 3802.8 provides as follows:

Parties may file responsive briefs within ten (10) days of service of the pleading to which the response is being filed.

³ 14 DCMR § 3816.6 provides as follows:

The Commission, for good cause shown, may enlarge the time prescribed, either on motion by a party or on its own initiative; provided, that the Commission does not enlarge the time for filing a notice of appeal.

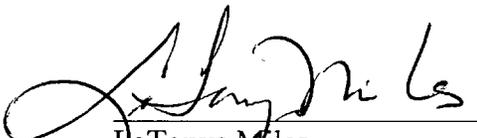
CERTIFICATE OF SERVICE

I certify that a copy of the **Order on Motion to Continue Briefing Schedule** in RH-TP-14-30,571 was served by first-class, postage prepaid, this **20th day of May, 2016**, to:

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