

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

RH-TP-14-30,534

In re: 437 New York Ave., NW, #609

Ward Two (2)

**SHAFIQ HIRANI**  
Tenant/Appellant

v.

**NOMADIC REAL ESTATE**  
Housing Provider/Appellee

**ORDER DENYING MOTION FOR RECONSIDERATION**

September 4, 2015

**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).<sup>1</sup> The applicable provisions of the Rental Housing Act of 1985 (Act), D.C. Law 6-10, D.C. OFFICIAL CODE §§ 42-3501.01-3509.07 (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.

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<sup>1</sup> 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

Tenant/Appellant Shafiq Hirani (Tenant), resident of the housing accommodation located at 437 New York Ave., NW, #609, (Housing Accommodation), filed Tenant Petition RH-TP-14-30,534 (Tenant Petition) with RAD on June 24, 2014. Tenant Petition at 1-3; Record for RH-TP-14-30,534 (R.) at 23-5.

A final order was issued on July 13, 2015, by Administrative Law Judge Erika Pierson (ALJ): Shafiq Hirani v. Nomadic Real Estate, RH-TP-14-30,534 (OAH July 13, 2015) (Final Order). R. at 61-78. In the Final Order, the ALJ determined that the Tenant had met his burden of proving that services and facilities were reduced at the Housing Accommodation, and awarded him \$815.18 plus interest. *Id.* at 14; R. at 65. The ALJ also rolled back the Tenant's rent, and ordered that the Housing Provider could not increase rent in the Tenant's unit until the Housing Accommodation was properly registered with RAD. *Id.* at 14-15; R. at 64-5. The ALJ determined that the Tenant failed to meet his burden of proof on the remaining allegations in the Tenant Petition. *Id.* at 15; R. at 64.

On July 31, 2015, the Tenant filed a notice of appeal with the Commission (Notice of Appeal). The Commission issued an Order Dismissing Appeal on August 28, 2015, concluding that the Notice of Appeal was untimely, and thus the Commission lacked jurisdiction over the issues raised therein. Hirani v. Nomadic Real Estate, RH-TP-14-30,534 (RHC Aug. 28, 2015) (Order Dismissing Appeal) at 3-4 (citing 14 DCMR §§ 3802.2 & 3816.3 (2004));<sup>2</sup> Salazar v. Varner, RH-TP-09-29,645 (RHC Jun 16, 2015); Gelman Mgmt. Co. v. Campbell, RH-TP-09-

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<sup>2</sup> 14 DCMR § 3802.2 provides the following: "A notice of appeal shall be filed by the aggrieved party within ten (10) days after a final decision of the Rent Administrator [or ALJ] is issued; and, if the decision is served on the parties by mail, an additional three (3) days shall be allowed."

14 DCMR § 3816.3 provides the following: "When the time period prescribed or allowed is ten (10) days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation."

29,715 (RHC Mar. 11, 2015); Allen v. L.C. City Vista LP, RH-TP-12-30,181 (RHC Apr. 29, 2014); Kuratu v. Ahmed. Inc., RH-TP-07-28,985 (RHC Feb. 28, 2014); Shipe v. Carter, RH-TP-08-29,411 (RHC Sept. 18, 2012)). The Commission determined that the ten-day time period under 14 DCMR § 3802.2 for filing a notice of appeal, including three days for mailing, and excluding intermediate weekends, expired on July 30, 2015, the day before the Tenant's Notice of Appeal was filed with the Commission on July 31, 2015. Order Dismissing Appeal at 3-4 (citing 14 DCMR §§ 3802.2 & 3816.3; Final Order at 1, 18; R. at 61, 78).

## II. MOTION FOR RECONSIDERATION

On September 2, 2015, the Tenant filed a "Notice of Reconsideration of Appeal" (Motion for Reconsideration), requesting reconsideration of the Order Dismissing Appeal. Motion for Reconsideration at 1-2. The Tenant asserts that the ten-day time period to file an appeal, plus three days for mailing, is far too short. *Id.* at 1. The Tenant explains that he travels for work at least once a week, and was traveling from July 17, 2015 through July 20, 2015, and again from July 23, 2015, through July 25, 2015. *Id.* The Tenant further states that the facilities at the Housing Accommodation continue to be reduced, and that the Housing Provider has made the issue worse for the Tenant since the OAH hearing. *Id.* at 2.

The Commission's regulations provide the following regarding the consideration of a motion for reconsideration:

3823.1 Any 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; provided, that an order issued on reconsideration is not subject to reconsideration.

3823.2 The motion for reconsideration or modification shall set forth the specific grounds on which the applicant considers the decision and order to be erroneous or unlawful.

3823.3 Within fifteen (15) days of filing of the motion, the Commission shall

grant the motion, deny the motion or enlarge the time for later disposition of the motion.

14 DCMR § 3823.1-.3.

As the Commission explained in the Order Dismissing Appeal, under the Act and its regulations, the time limit for filing an appeal with the Commission is mandatory and jurisdictional. *See, e.g.,* Salazar v. Varner, RH-TP-09-29,645 (RHC Jun 16, 2015); Gelman Mgmt. Co. v. Campbell, RH-TP-09-29,715 (RHC Mar. 11, 2015); Allen v. L.C. City Vista LP, RH-TP-12-30,181 (RHC Apr. 29, 2014); Kuratu v. Ahmed. Inc., RH-TP-07-28,985 (RHC Feb. 28, 2014); Shipe v. Carter, RH-TP-08-29,411 (RHC Sept. 18, 2012). The Commission is prohibited from enlarging the time prescribed for filing a notice of appeal. 14 DCMR § 3816.6;<sup>3</sup> *see, e.g.,* Allen, RH-TP-12-30,181; Shipe, RH-TP-08-29,411.

The Commission is satisfied that the Tenant's late filing of the Notice of Appeal was not due to any bad faith, and has no reason to doubt the Tenant's busy schedule and multiple days spent traveling for work. *See* Motion for Reconsideration at 1-2. Nevertheless, the Commission lacks discretion to depart from its earlier determination in the Order Dismissing Appeal that the Notice of Appeal was untimely on jurisdictional grounds. 14 DCMR § 3816.6; Salazar, RH-TP-09-29,645; Campbell, RH-TP-09-29,715; Allen, RH-TP-12-30,181; Kuratu, RH-TP-07-28,985; Shipe, RH-TP-08-29,411. Accordingly, the Commission reaffirms that it lacks jurisdiction over the issues raised in the Tenant's Notice of Appeal, and denies the Tenant's Motion for Reconsideration. 14 DCMR §§ 3802.2, 3816.3 & 3816.6; Salazar, RH-TP-09-29,645; Campbell, RH-TP-09-29,715; Allen, RH-TP-12-30,181; Kuratu, RH-TP-07-28,985; Shipe, RH-TP-08-29,411.

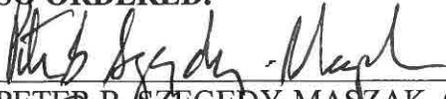
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<sup>3</sup> 14 DCMR § 3816.6 provides in relevant part as follows: "The Commission, for good cause shown, may enlarge the time prescribed . . . ; provided, that the Commission does not enlarge the time for filing a notice of appeal."

**III. CONCLUSION**

For the foregoing reasons, the Commission denies the Tenant’s Motion for Reconsideration.

**SO ORDERED.**

  
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PETER B. SZEGEDY-MASZAK, CHAIRMAN

  
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RONALD A YOUNG, COMMISSIONER

**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, DC 20001  
(202) 879-2700

**CERTIFICATE OF SERVICE**

I certify that a copy of the **ORDER DENYING RECONSIDERATION** in RH-TP-14-30,534 was served by first-class mail, postage prepaid, this 4th day of September, 2015, to:

Shafiq Hirani  
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