

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-15-30,710

In re: 330 Taylor Street, N.E., #32

Ward Five (5)

LAWRENCE CALDWELL

Tenant/Appellant

v.

HORNING MANAGEMENT CO., LLC

Housing Provider/Appellee

ORDER ON EMERGENCY MOTION FOR CONTINUANCE AND SANCTIONS

September 30, 2016

SZEGEDY-MASZAK, CHAIRMAN. On September 26, 2016, Lawrence Caldwell (Tenant) filed with the District of Columbia Rental Housing Commission (Commission) an “Emergency Motion for a Continuance Due to Housing Provider’s Failure to Serve Responsive Brief on Tenant” (Emergency Motion for Continuance).¹ Horning Management Co., LLC (Housing Provider) filed no response to the Emergency Motion for Continuance.²

¹ Continuances are governed by the Commission’s regulations, 14 DCMR § 3815.1-3 (2004), which state, respectively:

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.

Motions shall set forth good cause for the relief requested.

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.

² This Emergency Motion for Continuance was raised and addressed as a preliminary matter by the Commission at its scheduled hearing on this appeal on September 27, 2016. Each party was afforded the opportunity to address the Emergency Motion for Continuance at the hearing.

The Tenant had filed his brief for this appeal with the Commission on August 19, 2016. Under the Commission's rules, "[p]arties may file responsive briefs within ten (10) days of service of the pleading to which the response is being filed." 14 DCMR § 3802.8 (2004). In light of the Commission's mailing requirements at 14 DCMR §§ 3816.5 (2004) (three (3) days added to a prescribed time period for service if service is by mail) and 14 DCMR § 3816.3 (2004) (when prescribed time period for service is ten (10) days or less, intermediate Saturdays, Sundays and legal holidays are excluded from the computation of such prescribed time), the Commission notes that the final date for the filing of the Housing Provider's brief was September 8, 2016. The Housing Provider only filed its brief with the Commission on September 20, 2016, twelve (12) days after the prescribed due date. *See* 14 DCMR §§ 3802.8, 3816.3, .5.³

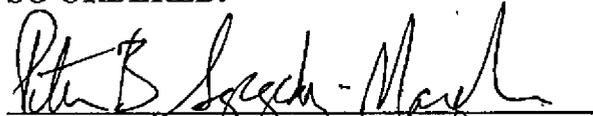
In his Emergency Motion for Continuance, the Tenant in essence maintains that the late filing of the Housing Provider's brief constitutes "good cause" for a continuance of the Commission hearing under 14 DCMR § 3815.2. The Tenant also maintains that the Housing Provider's late filing of his brief demonstrated its "continuing bad faith disregard of the Rules of the Commission," requiring the imposition of sanctions on the Housing Provider.

In the interests of judicial economy and the reasonably expedient processing of appeals by the Commission's, the Commission denies the Emergency Motion for Continuance. However, the Commission also recognizes that the Housing Provider's brief did not comply with the filing requirements of 14 DCMR §§ 3802.8, 3816.3, .5. In the Emergency Motion for Continuance and at the Commission hearing on this appeal on September 27, 2016, the Tenant

³ The Commission's review of the record does not indicate that the Housing Provider attempted in any way to provide an excuse to the Commission for the late filing. The Commission notes that, at its hearing on September 27, 2016, counsel for the Housing Provider indicated that he believed his staff had filed the brief earlier.

clearly suggested that his ability to prosecute the appeal would be compromised, if not prejudiced, because of he only received the Housing Provider's brief "a mere 24 hours prior to the [Commission] hearing" on September 27, 2016. *See* Emergency Motion for Continuance at 2-3. The Commission will thus strike the Housing Provider's brief from its record on appeal, and will solely consider the Tenant's brief in rendering a decision in this appeal. *See, e.g., Linen v. Lanford*, TP 27,150 (RHC May 21, 2003). Because the Commission is unable to determine from its review of the record that the late filing of its brief by the Housing Provider constituted bad faith or wanton disregard of the Commission's regulations, the Commission declines to impose any sanctions on the Housing Provider.⁴

SO ORDERED.

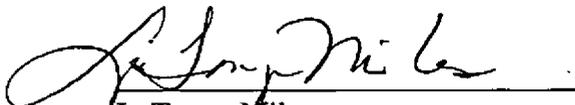

PETER SZEGEDY-MASZAK, CHAIRMAN

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **ORDER ON EMERGENCY MOTION FOR CONTINUANCE AND SANCTIONS** in RH-TP-15-30,710 was served by first-class mail, postage prepaid, this **30th day of September, 2016**, to:

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⁴ This Order memorializes the oral ruling of the Commission on the Tenant's Emergency Motion for Continuance issued at its hearing on this appeal on September 27, 2016.