

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 28,519

In re: 3133 Connecticut Ave., N.W. Apt. 802

Ward Three (3)

B. F. SAUL PROPERTY COMPANY & THE KLINGLE CORPORATION
Housing Providers/Appellants/Cross-Appellees

v.

BLAKE NELSON & WENDY NELSON
Tenants/Appellees/Cross-Appellants

ORDER ON ATTORNEY'S FEES

April 19, 2016

SZEGEDY-MASZAK, CHAIRMAN. This case is on appeal to the Rental Housing Commission (“Commission”) from an order issued by the Rental Accommodations Division (“RAD”) of the District of Columbia Department of Housing and Community Development (“DHCD”), based on a petition filed with the Rental Accommodations and Conversion Division (“RACD”) of the Department of Consumer and Regulatory Affairs (“DCRA”).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 During the pendency of this case, the Office of Administrative Hearings (“OAH”) assumed jurisdiction over tenant petitions from RACD on October 1, 2006, pursuant to § 6(b-1)(1) of the OAH Establishment Act, D.C. Law 16-83, D.C. OFFICIAL CODE § 2-1831.03(b-1)(1) (2012 Repl.). The functions and duties of RACD were transferred to DHCD by § 2003 of the Fiscal Year 2008 Budget Support Act of 2007, D.C. Law 17-20, D.C. OFFICIAL CODE § 42-3502.04b (2012 Repl.). Therefore, although this case originated with RACD, it was subsequently transferred to RAD. *See infra* at n.2.

I. PROCEDURAL HISTORY²

On January 26, 2006, Tenants/Appellees/Cross-Appellants Blake Nelson and Wendy Nelson (“Tenants”), residents of 3133 Connecticut Avenue, NW, Apartment 802 (“Housing Accommodation”), filed Tenant Petition TP 28,519 (“Tenant Petition”) with DCRA against B.F. Saul Property Company and the Klingle Corporation (collectively, “Housing Provider”). Tenant Petition at 1-2; Record for TP 28,519 (“R.”) at 22-23.

A Proposed Decision and Order was issued on September 24, 2008: Blake J. Nelson & Wendy Nelson v. B.F. Saul Company & Klingle Corporation, TP 28,519 (RAD Sept. 24, 2008) (“Proposed Decision and Order”).³ R. at 861-78. The Proposed Decision and Order invalidated the August 2003 vacancy rent ceiling adjustment, the November 2004 CPI-W rent ceiling adjustment, and the November 2005 CPI-W rent ceiling adjustment, and further determined that the lawful rent ceiling for the Tenants’ unit was \$1,766. Proposed Decision and Order at 13-14; R. at 865-66. The Proposed Decision and Order rolled back the Tenants’ rent charged to \$1,766, and awarded the Tenants a rent refund in the amount of \$54,790. *Id.*

After receiving exceptions and objections from both the Tenants and the Housing Provider, on March 29, 2010 Hearing Examiner Keith Anderson (“Hearing Examiner”) issued an Order Denying Exceptions and Objections to September 24, 2008 Decision and Order and Final

² The Commission notes that a complete procedural history of this case was presented in its February 18, 2016 Decision and Order. The Commission recites herein only those details relevant to the Tenants’ Motion for Attorney’s Fees.

³ The Commission notes that pursuant to the FY 2008 Budget Support Act of 2007, RACD was transferred from DCRA to DHCD, and renamed as the RAD. D.C. Law 17-20, 54 DCR 7052 (Sept. 18, 2007) (codified at D.C. OFFICIAL CODE § 42-3502.03a (Supp. 2008)).

The Commission’s review of the record reveals that the evidentiary hearing was conducted by Hearing Examiner Johnson, and Hearing Examiner Keith Anderson issued the Proposed Decision and Order, in accordance with D.C. OFFICIAL CODE § 2-509(d) (2001).

Decision and Order (“Final Order”). In addition to the relief awarded to the Tenants in the Proposed Decision and Order, the Final Order fined the Housing Provider \$1,000. Final Order at 8-9; R. at 1360-61.

On April 1, 2010, the Housing Provider filed a timely Notice of Appeal with the Commission; subsequently, on April 9, 2010, the Housing Provider filed a timely Amended Notice of Appeal (“Amended Notice of Appeal”). On April 14, 2010, the Tenants filed a timely Notice of Appeal with the Commission (“Tenants’ Notice of Appeal”).

The Commission issued its Decision and Order in this case on February 18, 2016: B.F. Saul Property Company v. Nelson, TP 28,519 (RHC Feb. 18, 2016) (“Decision and Order”). In the Decision and Order, the Commission: (1) reversed the Hearing Examiner’s determination that the Housing Provider willfully failed to provide proper notice of the 2003 vacancy rent ceiling increase, and vacated the \$250 fine related to the 2003 vacancy rent ceiling increase, Decision and Order at 55-58; (2) reversed the Hearing Examiner’s order that the Housing Provider could either pay the rent refund to the Tenants or credit the rent refund amount towards the future rent due, and ordered the Housing Provider to pay the rent refund to the Tenants directly, Decision and Order at 75-76; (3) reversed the Hearing Examiner’s determination that the applicable interest rate was 4%, the rate in effect on the date of the Proposed Decision and Order, Decision and Order at 77-79; and (4) vacated the Hearing Examiner’s calculation of the total interest due to the Tenants because it was not calculated at the correct interest rate, and because it was not calculated through the date of the Final Order, and awarded the Tenants \$8,571 in interest on their rent refund. Decision and Order at 77-81.

On March 8, 2016, the Tenants filed a Motion for Reconsideration with the Commission, which was denied on March 22, 2016. B.F. Saul Prop. Co. v. Nelson, TP 28,519 (RHC Mar. 22,

2016); Motion for Reconsideration at 1. On March 18, 2016, the Tenants filed Tenants' Motion for Attorney's Fees ("Motion for Attorney's Fees"), requesting fees in the amount of \$11,977.00 for work performed before the Commission. Motion for Attorney's Fees at 1. The Housing Provider filed an opposition on March 30, 2016 ("Opposition to Motion for Attorney's Fees").

III. DISCUSSION

Under D.C. OFFICIAL CODE § 42-3509.02 (2001),⁴ the Commission may award reasonable attorney's fees to the prevailing party in an action before the Commission. This provision creates a presumptive award of attorney's fees for prevailing tenants in both tenant-initiated and landlord-initiated proceedings. *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); *Cascade Park Apts. v. Walker*, TP 26,197 (RHC Mar. 18, 2005). A prevailing party "is 'a party in whose favor a judgment is rendered, regardless of the amount of damages awarded.'" *Hardy v. Sigalas*, RH-TP-09-29,503 (RHC July 21, 2014); *Caesar Arms, LLC v. Lizama*, RH-TP-07-29,063 (RHC Sept. 27, 2013); *Cascade Park Apts.*, TP 26,197 (quoting BLACK'S LAW DICTIONARY 1145 (7th ed. 1999)). Moreover, the District of Columbia Court of Appeals ("DCCA") has held that, in a court's discretion, prevailing tenants should generally be awarded attorney's fees. *Tenants of 500 23rd Street, N.W. v. D.C. Rental Hous. Comm'n*, 617 A.2d 486, 488 (D.C. 1992) (quoting *Ungar v. D.C. Rental Hous. Comm'n*, 535 A.2d 887, 892 (D.C. 1987)); *Lizama*, RH-TP-07-29,063; *see also Cascade Park Apts.*, TP 26,197 (quoting *Slaby v. Bumper*,

⁴ D.C. OFFICIAL CODE § 42-3509.02 provides the following: "The Rent Administrator, Rental Housing Commission, or a court of competent jurisdiction may award reasonable attorney's fees to the prevailing party in any action under this chapter, except actions for eviction authorized under § 42-3505.01."

TPs 21,518 & 22,521 (RHC Sept. 21, 1995) (a prevailing party “merely has to ‘succeed on any significant issue which achieves some of the benefit the parties sought in bringing the suit.’”)); Chamberlain Apartments Tenants’ Ass’n v. 1429-51 Ltd. P’ship, TP 23,984 (RHC July 7, 1999).

The Commission’s review of the record on appeal reveals that of the thirteen issues raised by the Tenants on appeal, the Tenants prevailed on one—that the Hearing Examiner applied the incorrect interest rate. *See* Decision and Order at 65-86. However, out of the twenty-three issues raised on appeal by the Housing Provider, the Tenants prevailed on twenty-one issues, resulting in reversal of the Hearing Examiner only on the imposition of fines against the Housing Provider. *See id.* at 33-65. Additionally, the Commission affirmed the entire \$54,790 in rent refunds awarded to the Tenants. *Id.* at 33-86; *see, e.g., Lizama*, RH-TP-09-29,063; Cascade Park Apts., TP, 26197.

Based on the foregoing, the Commission is satisfied that the Tenants “‘succeed[ed] on any significant issue which achieve[ed] some of the benefit the parties sought in bringing the suit,’” and are a prevailing party in the proceedings on appeal to the Commission for purposes of D.C. OFFICIAL CODE § 42-3509.02, and are therefore entitled to an award of attorney’s fees. Cascade Park Apts., TP 26,197 (quoting Slaby, TPs 21,518 & 22,521); *see Loney*, 11 A.3d at 759; Lenkin Co. Mgmt., 677 A.2d at 47; Hampton Courts Tenants’ Ass’n, 573 A.2d at 10.

Under the Commission’s regulations, any fee-setting inquiry starts with the “lodestar,” which is a reasonable hourly rate multiplied by the number of hours reasonably expended on a task. *See* 14 DCMR § 3825.8(a) (2004);⁵ *see also Sindram v. Tenacity Grp.*, RH-TP-07-29,094 (RHC Sept. 14, 2011); Cascade Park Apts., TP 26,197; Reid v. Sinclair, TP 11,334 (RHC Nov.

⁵ The regulation states as follows: “The starting point shall be the lodestar, which is the number of hours reasonably expended on a task multiplied by a reasonable hourly rate.” 14 DCMR § 3825.8(a).

9, 1999). The determination of the amount of reasonable attorney's fees is committed to the discretion of the Commission. See Cascade Park Apts., TP 26,197; Dey v. L.J. Dev., Inc., TP 26,119 (RHC Nov. 17, 2003); Town Ctr. Mgmt. Corp. v. Pettaway, TP 23,538 (RHC Feb. 29, 1996) (citing Alexander v. D.C. Rental Hous. Comm'n, 542 A.2d 359, 361 (D.C. 1988)).

Under the DCAPA, the proponent of a rule or order has the burden to prove all facts essential to their claim by a preponderance of the evidence. D.C. OFFICIAL CODE § 2-509(b);⁶ see, e.g., Barac Co. v. Tenants of 809 Kennedy St., N.W., VA 02-107 (RHC Sept. 27, 2013); Wilson v. KMG Mgmt., LLC, RH-TP-11-30,087 (RHC May 24, 2013); Jassiem v. Jonathan Woodner Co., TP 27,720 (RHC Sept. 4, 2009). In this case, as the proponent of the Motion for Attorney's Fees, the burden is on the Tenants to prove by a preponderance of evidence both a reasonable hourly rate for the services of, and the number of hours reasonably expended by, the Tenants' counsel (Tenants' Counsel) for the entire time period of representation. Loney, SR 20,089 (RHC June 6, 2012) (“[c]ounsel seeking an award of legal fees has the burden of proof to document and support the amount and reasonableness of the . . . rates claimed” (citing Webb v. County Bd. of Educ., 471 U.S. 234, 242 (1985))); see also D.C. OFFICIAL CODE § 2-509(b); Barac Co., VA 02-107; Wilson, RH-TP-11-30,087; Jassiem TP 27,720.

A. Reasonable Hourly Rate

The first element of the lodestar calculation requires the Commission to determine a reasonable hourly rate “as measured by prevailing market rates in the relevant community for attorneys of similar experience and skill.” 14 DCMR § 3825.8(a); see Hampton Courts Tenants

⁶ D.C. OFFICIAL CODE § 2-509(b) provides, in relevant part, as follows: “In contested cases, except as may otherwise be provided by law, other than this subchapter, the proponent of a rule or order shall have the burden of proof [.]”

Ass'n, 599 A.2d at 1115 n.7; Dey, TP 26,119; Reid, TP 11,334; Hampton Courts Tenants' Ass'n v. William C. Smith Co., CI 20,176 (RHC May 20, 1988).

Here, the Tenants requested an hourly rate of \$295 for the work of Tenants' Counsel before the Commission, based on Tenants' Counsel's hourly billing rate. Motion for Attorney's Fees at 7; Affidavit in Support of Tenant's Motion for Attorney's Fees ("Affidavit") at 2. Tenants' Counsel asserts that her hourly rate is on the "lower side of fee rates" charged by other legal practitioners for work in the field of rent control law, and that the rate is well below the Laffey Matrix rate of \$510 per hour for an attorney with her experience. Motion for Attorney's Fees at 7; Affidavit at 2.

Tenants' Counsel also stated that she began practicing law in 1981, and has developed a specialty in landlord-tenant law, gaining extensive experience both filing and defending petitions arising under the Act. Affidavit at 2. Tenants' Counsel provides that she has an active practice before the D.C. Superior Court Civil Division, DCCA, and OAH. *Id.* at 1.

The Commission notes that the Housing Provider has not asserted that Tenants' Counsel's hourly billing rate of \$295 is unreasonable. *See* Opposition to Motion for Attorney's Fees at 1-3.

For the reasons stated *supra*, the Commission in the exercise of its reasonable discretion determines for purposes of the lodestar calculation under 14 DCMR § 3825.8(a) that the reasonable hourly rate for the time of Tenants' Counsel is \$295 per hour.

B. Reasonable Hours Expended

To satisfy the second element of the lodestar calculation, that the hours claimed were reasonably expended on a case, a fee applicant must submit "sufficiently detailed information about the hours logged and the work done." *See* Hampton Courts Tenants' Ass'n, 599 A.2d at

1116; *see also* Am. Petroleum Inst. v. EPA, 72 F.3d 907, 915 (D.C. Cir. 1996); Nat'l Ass'n of Concerned Veterans v. Sec'y of Def., 675 F.2d 1319, 1327 (D.C. Cir. 1982); Copeland v. Marshall, 641 F.2d 880, 891 (D.C. Cir. 1980). Commission decisions have held that a “reasonable” number of hours is a function of a number of factors, such as: (1) whether the time records are contemporaneous, complete and standardized rather than broad summaries of work done and hours logged; (2) whether an attorney skilled in the specialized field of rental housing would have logged the same number of hours for similar work; and (3) whether the hours appear excessive, redundant or otherwise unnecessary. *See* Hampton Courts Tenants' Ass'n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp., TP 23,538; Hampton Courts Tenants' Ass'n, CI 20,176.

The Motion for Attorney's Fees includes an Affidavit, detailing the time spent by Tenants' Counsel on this case. *See* Affidavit at 3-4. The Affidavit indicates that Tenants' Counsel began working on this case on September 23, 2012, and her responsibilities included, for example, researching and editing the Tenants' Brief, appearing at oral argument, preparing for a settlement meeting, and preparing Tenants' Motion for Reconsideration. *See id.* at 3-4. The Affidavit contains approximately one page of contemporaneous time entries detailing the work that Tenants' Counsel performed in relation to the Tenants' appeal before the Commission. *Id.* at 2-4. The Affidavit indicates that Tenants' Counsel spent a total of 40.6 hours on this case. *Id.* at 3-4.

The Commission's review of the Affidavit indicates that Tenants' Counsel provided contemporaneous records of the work done during the time logged. *Id.* at 2. Moreover, the Commission has no basis to conclude that an attorney skilled in the specialized field of rental housing would have spent less time than Tenants' Counsel for similar work, particularly where Tenants' Counsel has represented that her practice specialty is in landlord-tenant law. *See, e.g.,*

Hampton Courts Tenants' Ass'n, 599 A.2d at 1115 n.7; Gelman Mgmt. Co. v. Campbell, RH-TP-09-29,715 (RHC April 22, 2015); Smith Prop. Holdings Five (D.C.) L.P. v. Morris, RH-TP-14-28,794 (RHC Aug. 19, 2014); Dey, TP 26,119; Reid, TP 11,334; Hampton Courts Tenants' Ass'n, CI 20,176.

The Housing Provider asserts in its opposition that the hours claimed are not reasonable. Opposition to Motion for Attorney's Fees at 2. Specifically, the Housing Provider requests that Tenants' Counsel's time be reduced by 9.6 hours to reflect the time spent on a Motion to Dismiss, a Motion for Continuance, and a Motion for Reconsideration that were all denied by the Commission. *Id.* at 2-3. The Commission notes that although it has reduced a fee award where a party does not prevail on all the claims made on appeal, the Commission has not reduced time for failing to prevail on individual motions made during the pendency of the appeal. *See, e.g.*, Covington v. Foley Props., TP 27,985 (RHC June 12, 2007) at 7 (reducing fees by 20% when the Tenant prevailed on four out of five issues and the attorney did not delineate time based on issue); Dey, TP 26,119 at 5 (reducing counsel's hours by 25% to discount for issues where the Tenant did not prevail); Londraville v. Kader, TP 21,748 (RHC Dec. 14, 1993) at 14 (reducing attorney's fees awarded to the Housing Provider for frivolous claims brought by the Tenant by 25% when the Tenant was successful on one of four issues raised).

The DCCA has explained that a request for attorney's fees should not result in a second major litigation. *See* Tenants of 710 Jefferson St., NW v. D.C. Rental Hous. Comm'n, 123 A.3d 170, 186 (D.C. 2015) (quoting Hensley v. Eckerhart, 461 U.S. 424, 437 (1983)); Murray v. Wells Fargo Home Mortg., 953 A.2d 308, 326-27 (D.C. 2008); Lively v. Flexible Packaging Ass'n, 930 A.2d 984, 988 (D.C. 2007). The Commission notes that the Housing Provider has not cited any case law authority for reducing a fee award based on unsuccessful motions, nor has the

Housing Provider alleged that the motions were frivolous. *See* Opposition to Motion for Attorney's Fees at 2-3. Particularly where the Housing Provider has not alleged that the filings were frivolous, the Commission is not persuaded (1) that a motion to dismiss, a motion for a continuance, and a motion for reconsideration are outside of the customary scope of litigation of a case on appeal to the Commission, (2) that the respective motions filed in this case were in any way unreasonable, or (3) that the hours spent by the Tenants' Counsel on preparing and litigating the various motions in this case "appear excessive, redundant or otherwise unnecessary." *See* Hampton Courts Tenants' Ass'n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp., TP 23,538; Hampton Courts Tenants' Ass'n, CI 20,176.

Therefore, the Commission in its discretion declines to reduce the Tenants' fee award for time spent by Tenants' Counsel on motions that were denied by the Commission. *See* Woodner v. Taylor, RH-TP-07-29,040 (RHC Nov. 2, 2015) (stating that the determination of the amount of attorney's fees is committed to the discretion of the Commission); *see also* Campbell, RH-TP-09-29,715; Cascade Park Apts., TP 26,197.

Based on its review of the record, the Commission is satisfied that substantial evidence supports that the 40.6 billable hours requested by Tenants' Counsel are reasonable. *See* Hampton Courts Tenants' Ass'n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp., TP 23,538; Hampton Courts Tenants' Ass'n, CI 20,176.

C. Lodestar Amount

As previously noted *supra*, the Commission's fee-setting inquiry starts with the "lodestar," which is the number of hours reasonably expended on a task multiplied by a reasonable hourly rate. *See* 14 DCMR § 3825.8(a); *see also* Sindram, RH-TP-07-29,094; Cascade Park Apts., TP 26,197; Reid, TP 11,334. The table below shows the Commission's

calculation of the lodestar amounts for Tenants' Counsel using the hours and hourly rates determined *supra* at pp. 6-10:

HOURS EXPENDED	HOURLY RATE	LODESTAR
40.6	\$295/hour	\$11,977

Pursuant to 14 DCMR § 3825.8(a), the Commission approves the following "lodestar" amount of fees for Tenants' Counsel: \$11,977.00.

D. Lodestar Adjustment Factors

The Commission may make adjustments to the "lodestar" amount upon consideration of the following factors:

- (1) the time and labor required;
- (2) the novelty, complexity, and difficulty of the legal issues or questions;
- (3) the skill requisite to perform the legal service properly;
- (4) the preclusion of other employment by the attorney, due to acceptance of the case;
- (5) the customary fee or prevailing rate in the community for attorneys with similar experience;
- (6) whether the fee is fixed or contingent;
- (7) time limitations imposed by the client or circumstances;
- (8) the amount involved and the results obtained;
- (9) the experience, reputation, and ability of the attorney;
- (10) the undesirability of the case;
- (11) the nature and length of the professional relationship with the client;
- (12) the award in similar cases; and
- (13) the results obtained, when the moving party did not prevail on all the issues.

14 DCMR § 3825.8(b).

Having calculated the lodestar amounts of the fees for Tenants' Counsel, the Commission will proceed to consider whether any adjustments to the lodestar amount are warranted under 14 DCMR § 3825.8(b). The Commission's determination will be based upon its review of the record, fee awards in other cases under the Act, and its "past experience with attorney services in the rental housing area." See Kuratu v. Ahmed, Inc., RH-TP-07-28,985 (RHC May 10, 2013); Ahmed, Inc. v. Avila, RH-TP-28,799 (RHC Jan. 29, 2013); Hampton Courts Tenants' Ass'n, CI 20,176 at 8-9; Reid, TP 11,334 at 17.

(1) The time and labor required

This factor has been addressed by the Commission in its determination of an appropriate amount of hours expended by Tenants' Counsel in the instant case. See *supra* at 7-10. The Commission is satisfied that this factor does not warrant any adjustment of the lodestar amount.

(2) The novelty, complexity, and difficulty of the legal issues or questions

Based upon its review of the record, the Commission in its discretion does not regard the issues or questions addressed by the Tenants' Counsel in the instant case to be of unusual or extraordinary novelty, complexity or difficulty—both in the context of practitioners in the specialized field of rent control and rental housing under the Act and in the context of typical actions brought under the provisions of the Act applicable to this case—to warrant an upward adjustment of the lodestar in this case. Moreover, the Commission does not regard the issues as so simple or straightforward as to warrant a downward adjustment of the lodestar in this case.

(3) The skill requisite to perform the legal service properly

Based upon its review of the record, the Commission in its discretion does not regard the legal skill required of Tenants' Counsel to perform her service properly on behalf of the Tenants in the instant case to be necessarily enhanced or increased when compared to the customary skill level of other attorneys with experience in the representation of clients under the Act. While the Commission is satisfied that Tenants' Counsel performed the requisite litigation, research, evidentiary and argument skills in a very professional manner in the instant case, the Commission does not regard the required legal skills for Tenants' Counsel to warrant any adjustment of the lodestar amount.

(4) The preclusion of other employment by the attorney, due to acceptance of the case

The Commission observes that Tenants' Counsel has stated that her representation of the Tenants precluded her from accepting other employment. *See* Motion for Attorney's Fees at 10. However, the Commission notes that any acceptance by an attorney of a particular case will necessarily preclude that attorney from representing clients in other cases. Therefore, Commission is satisfied that this factor does not warrant any adjustment of the lodestar amount.

(5) The customary fee or prevailing rate in the community for attorneys with similar experience

This factor has been addressed by the Commission in its determination of the appropriate hourly rate for Tenants' Counsel in the instant case, *supra* at 6-7. *See, e.g.,* Kuratu, RH-TP-07-28,985; Avila, RH-TP-28,799; Hampton Courts Tenants' Ass'n, CI 20,176; Reid, TP 11,334. The Commission is satisfied that this factor does not warrant any adjustment of the lodestar amount.

(6) Whether the fee is fixed or contingent

This factor has been addressed by the Commission in its determination of the appropriate hourly rate for Tenants' Counsel in the instant case. *See supra* at 6-7. The Commission is satisfied that this factor does not warrant any adjustment of the lodestar amount.

(7) Time limitations imposed by the client or circumstances

The Commission observes that Tenants' Counsel has not asserted that there were any time limitations imposed on her by the Tenants or the circumstances of this case. Motion for Attorney's Fees at 11. The Commission is satisfied that this factor does not warrant any adjustment of the lodestar amount.

(8) The amount involved and the results obtained (including results obtained, when the moving party did not prevail on all the issues)⁷

This factor has been addressed by the Commission in its determination of the appropriate number of hours reasonably expended by Tenants' Counsel in the instant case, *supra* at 7-10. The Commission is satisfied that this factor does not warrant any adjustment of the lodestar amount.

(9) The experience, reputation, and ability of the attorney

Based upon its review of the record, and in the exercise of its reasonable discretion, the Commission observes that the appropriate quality of the representation of the Tenants by Tenants' Counsel did not require or otherwise necessitate enhanced or unusual legal experience, reputation and abilities in the context of all attorneys who are customarily engaged in the representation of clients in similar cases in the specialized field of rent control under the Act. *See, e.g., Kuratu*, RH-TP-07-28,985; *Avila*, RH-TP-28,799; Hampton Courts Tenants' Ass'n, CI

⁷ The discussion regarding this factor also incorporates consideration of factor thirteen (13) under 14 DCMR § 3825.8(b).

20,176 at 8 - 9; Reid, TP 11,334 at 17. Thus, in the exercise of its reasonable discretion, the Commission determines that this factor does not warrant any adjustment of the lodestar amount.

(10) The undesirability of the case

The Commission determines in its discretion that this appeal is not of such “undesirability,” when compared with other rental housing cases brought under the Act, as to warrant adjustment of the lodestar amount of fees. *See, e.g.,* Lizama, RH-TP-07-29,063; Kuratu, RH-TP-07-28,985; Avila, RH-TP-28,799.

(11) The nature and length of the professional relationship with the client

Based upon its review of the record, the nature and length of the professional, attorney-client relationship between the Tenants and Tenants’ Counsel does not appear to the Commission to be unusual in length, difficulty or in substance in the context of attorneys ordinarily and customarily practicing before the Commission in the specialized field of rent control. *See* Hampton Courts Tenants’ Ass’n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp., TP 23,538; Hampton Courts Tenants’ Ass’n, CI 20,176. Therefore, the Commission in its discretion does not consider this factor to warrant any adjustment of the lodestar amount of fees.

(12) The award in similar cases

Based upon its review of the record in this case and extensive Commission case law, the Commission is satisfied that the award by RAD to the Tenants in this case was not so extraordinary or unusual to warrant any adjustment of the lodestar amount. *See, e.g.,* Lizama, RH-TP-07-29,063; Kuratu, RH-TP-07-28,985; Avila, RH-TP-28,799.

(13) The results obtained (when the moving party did not prevail on all the issues)

The discussion of this factor was incorporated in the Commission’s consideration of factor eight (8) under 14 DCMR § 3825.8(b). *See supra* at p. 14 n.7.

The Commission has given careful consideration to each of the factors in 14 DCMR § 3825.8(b) with respect to the representation of the Tenants by Tenants' Counsel. The Commission's review of the record indicates that (1) Tenants' Counsel provided the Tenants with a proper, reasonable, and satisfactory quality of legal services, and (2) neither Tenants' Counsel's performance nor the nature and complexity of the case warranted upward or downward adjustments to the lodestar amount of the fee request. Thus, based upon its review of the record, the Commission, in the exercise of its reasonable discretion, determines that Tenants' Counsel's representation of the Tenants does not warrant any adjustment to the lodestar amount of the fee request under 14 DCMR § 3825.8(b).

VII. CONCLUSION

Based on the foregoing, the Commission awards the Tenants \$11,977 in attorney's fees.

SO ORDERED



PETER B. SZEGEDY-MASZAK, CHAIRMAN

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 (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

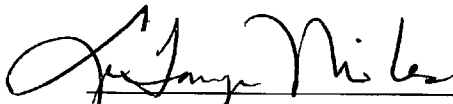
CERTIFICATE OF SERVICE

I certify that a copy of the **ORDER ON ATTORNEY’S FEES** in TP 28,519 was served by first-class mail, postage prepaid, this **19th day of April, 2016**, to:

Blake and Wendy Nelson
509 Raeburn Lane
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