

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-12-30,279

In re: 2727 29th Street, N.W., Apt. 410

Ward Three (3)

SMITH PROPERTY HOLDING THREE (DC), L.P.
Housing Provider/Appellant

v.

MUNEER A. SHEIKH
Tenant/Appellee

ORDER DISMISSING APPEAL

March 21, 2017

EPPS, 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”).¹ 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”), 1 DCMR §§ 2800-2899 (2004), 1 DCMR §§ 2920-2941 (2004), and 14 DCMR §§ 3800-4399 (2004) govern these proceedings.

¹ 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

This case is before the Rental Housing Commission ("Commission") pursuant to an appeal filed February 16, 2016, ("Second Notice of Appeal") by the housing provider/appellant Smith Property Holdings Three (DC), L.P. ("Housing Provider") from a final order issued by the Office of Administrative Hearings, *Sheikh v. Smith Prop. Holdings Three (DC), L.P.*, 2012-DHCD-TP-30,279 (OAH Jan. 29, 2016) ("Final Order after Remand"). On November 30, 2016, the Commission issued an order substituting the tenant/appellee Muneer A. Sheikh ("Tenant") with Waqas Sheikh, in his capacity as Administrator of the Estate of Muneer A. Sheikh ("Personal Representative") ("Order Granting Substitution").

On December 7, 2016, the Housing Provider filed a motion requesting the Commission reconsider the Order Granting Substitution ("Motion for Reconsideration"). On December 19, 2016, the Personal Representative filed an opposition ("Opposition to Reconsideration"). On December 22, 2016, the Commission issued an order denying the Housing Provider's motion for reconsideration ("Order Denying Reconsideration").

On March 7, 2017, the Housing Provider along with the Personal Representative jointly filed a motion to dismiss both the Second Notice of Appeal [sic] and the Tenant petition with prejudice ("Motion to Withdraw"),² with the parties' February 7, 2017 signed Settlement Agreement, appended thereto.

II. DISCUSSION

The Commission's regulation 14 DCMR § 3824, provides the following with regard to the withdrawal of an appeal before the Commission:

² See § 14 DCMR 3824.

3824.1 An appellant may file a motion to withdraw an appeal pending before the Commission.

3824.2 The Commission shall review all motions to withdraw to ensure that the interests of all parties are protected.

14 DCMR § 3824 (2004). The Commission has consistently stated that settlement of litigation is to be encouraged. *See, e.g.,* Urban Investment Partners XIII at Ontario, LLC v. 2359-2401 Ontario Road Tenants' Association, RH-TP-12-30,182 (RHC Oct. 4, 2016); Holbrook Street, LLC v. Seegers, RH-TP-14-30,571 (Sept. 6, 2016); 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); Tenants of 4000 Kansas Avenue, N.W. v. CSA 4000 Kansas Avenue, LLC, NV 11-001 (RHC Dec. 11, 2013).

In Proctor v. District of Columbia Rental Hous. Comm'n, 484 A.2d 542 (D.C. 1984), the District of Columbia Court of Appeals (DCCA) held that the Rental Housing Commission must consider any settlement agreement which the parties before the Commission enter in an attempt to resolve a dispute under the Act. Also, in Proctor at 548, the District of Columbia Court of Appeals (DCCA) established the following five (5) factors for the Commission to use in evaluating settlement agreements:

1. The extent to which the settlement enjoys support among affected tenants;
2. Its potential for finally resolving the dispute;
3. The fairness of the proposal to all affected persons;
4. The saving of litigation costs to the parties; and
5. The difficulty of arriving at a prompt, final evaluation of the merits, given the complexity of law and the delays inherent in the administrative and judicial processes.

See, e.g., Batts, RH-14-30,474; Crawford v. Dye, RH-TP-30,472 (RHC Sept. 25, 2015).

In applying the Proctor factors, the Commission's review of the Settlement Agreement in this case indicates the following:

1. The Personal Representative participated in the settlement negotiations and signed the Settlement Agreement. The Housing Provider and the Personal Representative also filed a Motion to Withdraw the Second Notice of Appeal [sic].
2. The Settlement Agreement fully resolves the parties' disputes. The Housing Provider paid the Personal Representative an amount in full settlement of outstanding claims, including interest and attorney's fees.
3. The Settlement Agreement is fair to both parties in that the Personal Representative agreed to withdraw all claims in the Tenant Petition RH-TP-12-30-279 and have the petition dismissed with prejudice.
4. This Settlement Agreement dismisses the pending appeal thus saving any additional litigation costs.
5. The Settlement Agreement allows the parties to avoid the difficulty of arriving at a prompt, final evaluation of the merits, given the complexity of law and the delays inherent in the administrative and judicial processes.

See Settlement Agreement at 1-4; Proctor, 484 A.2d at 548; Batts, RH-TP-14-30,474.

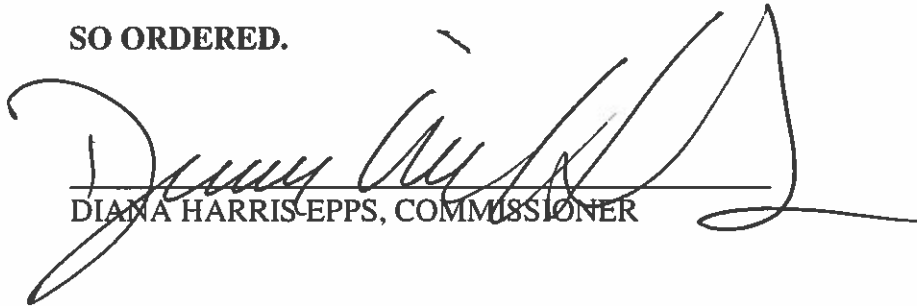
The Commission has found no evidence in the record to indicate that the Settlement Agreement was not knowingly and voluntarily negotiated in good faith. Based on the foregoing, the Commission determines that the interests of all the parties are protected by the filing of the Motion to Withdraw.

III. CONCLUSION

For the foregoing reasons, the Commission determines that the interests of each party in this appeal are protected by the Settlement Agreement. Further, the Commission determines that the withdrawal of the Second Notice of Appeal [sic] by mutual consent of the parties is consistent

with the purposes of and provisions of the Act. Therefore, the Commission grants the parties' Motion to Withdraw and dismisses both the Second Notice of Appeal as well as the Tenant Petition with prejudice.

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

CERTIFICATE OF SERVICE

I certify that a copy of the **ORDER DISMISSING APPEAL** in RH-TP-12-30,279 was served by first-class mail, postage prepaid, this **21st day of March, 2017**, to:

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