

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
RENTAL HOUSING COMMISSION**

RH-TP-17-30,957

In re: 1388 Tewkesberry Place, NW #205

Ward One (1)

MIREYA RODRIGUEZ
Housing Provider/Appellant

v.

NESTOR HERNANDEZ
Tenant/Appellee

November 17, 2023

ORDER OF RECUSAL

HUNTER, ADMINISTRATIVE JUDGE: This matter is before the Rental Housing Commission (“Commission”) on appeal of an order granting attorneys’ fees to a tenant that prevailed in final order on a tenant petition before the Office of Administrative Hearings (“OAH”). The Commission held its hearing on November 15, 2023. At the start of this hearing, based on a review of the record and the issues briefed on appeal, I, the undersigned administrative judge, noted two possible conflicts that I did not believe would require my recusal but, out of an abundance of caution, believed it appropriate to disclose. Based on these disclosures, counsel for the housing provider orally moved for my recusal. This motion was denied, with leave for the housing provider to file a written motion, and the hearing proceeded with my participation. However, as the housing provider’s arguments developed during the course of that hearing, it became apparent that my objectivity could reasonably be questioned, and, for the following reasons, I recuse myself from this matter.

Cannons of Judicial Ethics, Cannon 3(C)(1), states “(1) A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to instances in which: (a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding[.]” Although there is no actual bias in this case, when someone might reasonably question a judge’s ability to be impartial, then recusal is appropriate.

The tenant is represented in this matter by Rising for Justice.¹ I served on the board of directors of this organization from 2010 until 2022. Although my time on the board overlapped with the litigation of this matter before OAH, I had no supervision of attorneys, cases, or client interaction. I am fully capable of separating my general support for the goals of this organization from the specific facts of the representation of particular clients by particular attorneys and students, and I have no knowledge of the facts or circumstances of this case from my past service.

More significantly, one of the original named housing providers/respondents in the tenant petition, David Nuyen, is a former client of mine, but in an unrelated case and different rental property. Mr. Nuyen was dismissed from the case prior to the start of the evidentiary hearing. I represented Mr. Nuyen during the pendency of the matter but had no knowledge or involvement in this case or the subject property. On its face, review of the notice of appeal and briefing did not reveal a need for recusal because I do not know the parties currently appearing before the Commission, the attorneys, or the subject property.

¹ Rising of Justice is a legal services organization that uses law students to represent indigent clients in the District of Columbia. The organization underwent a name change in 2019 and was formerly known as D.C. Law Students in Court.

As noted above, at the beginning of the Commission's hearing, I advised the parties of my representation of Mr. Nuyen. In moving for my recusal, counsel for the Housing Provider stated that she would be making additional arguments that would include Mr. Nuyen's alleged role in the management of the subject property. Because Mr. Nuyen was not directly mentioned in the housing provider's brief, and because my representation did not involve this property, it did not appear at that point that my recusal would be justified. During oral argument, however, counsel for the housing provider made several references to Mr. Nuyen's general business practices and outside legal issues and their purported relevance to her client. I do have knowledge of some of these matters from my representation of Mr. Nuyen, my recollection of which was refreshed by these arguments. Accordingly, after the conclusion of the hearing, I did not participate in any further discussion of the merits of this case with the other members of the Commission or its legal staff, except to note the possibility of my recusal.

Having now further considered the issue, my personal knowledge could lead a reasonable person to question my impartiality as to the primary issue argued by the housing provider. I find that my recusal is therefore required under Canon 3(C)(1), and I hereby recuse myself from this matter.

SO ORDERED.



Adam Hunter (Nov 17, 2023 14:31 EST)

ADAM HUNTER, ADMINISTRATIVE JUDGE

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **ORDER OF RECUSAL** in **RH-TP-17-30,957** was served electronically on this **17th day of November, 2023**, to:

Kathryn Erklauer
Carol S. Blumenthal
Blumenthal, Cordone & Erklauer, PLLC
7325 Georgia Ave., NW
Washington, D.C. 20012
ke@bce-law.com
cblumenthal@blumcordlaw.com

Noah J. Morris
Emma Ritz
Student Attorneys
Rising for Justice
901 4th St., NW, Suite 6000
Washington, DC 20001
Nmorris23@risingforjustice.org
Eritz23@risingforjustice.org

David Yellin
Rising for Justice
901 4th St., NW, Suite 6000
Washington, DC 20001
dyellin@risingforjustice.org



LaTonya Miles
Clerk of the Court
(202)442-8949