

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

RH-TP-19-31,209 & RH-TP-22-31,512

In re: 1444 Corcoran Street, NW #4  
Ward Two (2)

**PAUL A. STERMAN**  
Tenant/Appellant

v.

**GEORGE FARRAH,**  
Housing Provider/Appellee

**ORDER ON DENIAL OF RECONSIDERATION**

February 13, 2024

**CARMICHAEL, ADMINISTRATIVE JUDGE:** The instant motion for reconsideration was filed by tenant/appellant Paul Sterman (“Tenant”) on January 8, 2024. Pursuant to the Commission’s rules at 14 DCMR § 3823.4 & .6 (2021), the motion was automatically denied after 30 days on February 7, 2024. The following order is being issued to explain the Commission’s reasons for denying the motion and does not change the effective date of the denial.

The procedural history of this petition is set forth in the Commission’s December 22, 2023, Order Dismissing Appeal (“2023 Order Dismissing Appeal”), at 1-12, and we incorporate that procedural history herein by reference. In that most recent order, the Commission concluded that the Tenant had not shown cause, in response to the Commission’s September 26, 2023 order to do so, that his August 2, 2023 Notice of Appeal was not frivolous, designed to delay resolution of the matter at hand, or designed to harass the Housing Provider. Based on that

conclusion, the Commission dismissed the Tenant's Notice of Appeal and denied his Motion for Remand.

On January 8, 2024, Tenant filed a motion for reconsideration ("Motion for Reconsideration"). In said motion, the Tenant asks the Commission to reconsider and revise the 2023 Order Dismissing Appeal based on the following perceived errors and/or arguments:

1. There was a stay in place and as such the Housing Provider was not permitted to raise the rent;
2. The Commission's 2023 Order Dismissing Appeal as well as its refusal to remand is contrary to law as it deprives him of an evidentiary hearing before the Office of Administrative Hearings ("OAH");
3. The Commission's dismissal of his appeal was incorrect because it was done without the sufficient quorum being established.

*See* Motion for Reconsideration at 3-13.

Housing provider/appellee George Sterman ("Housing Provider") filed his opposition to Tenant's Motion for Reconsideration on January 18, 2024 ("Opposition to Motion for Reconsideration"). The Housing Provider argued that said Motion for Reconsideration "is yet another bad-faith and frivolous filing replete with misstatements of both District of Columbia law and the facts of this years-long litigation." *Opposition to Motion for Reconsideration* at 1. The Housing Provider also argues that the Tenant has not met the standard for filing a motion for reconsideration. *Id.* at 2. Additionally, in his *Opposition to Motion for Reconsideration* the Housing Provider requested that sanctions be levied against the Tenant as well as an award for attorney fees. *Id.* at 5. On January 22, 2024, the Tenant filed his response to the Housing Provider's *Opposition to Motion for Reconsideration* in a document labeled "Tenant's Motion

for Hearing on His Motion for Reconsideration and Housing Provider’s Opposition Response” (“Reply to Opposition to Motion for Reconsideration”).<sup>1</sup>

For the reasons discussed below the Commission denies the Tenant’s Motion for Reconsideration.

**I. DISCUSSION**

**1. Standard of review**

The Commission’s rule contained in 14 DCMR § 3823 sets forth the standards and procedures for a motion for reconsideration filed before the Commission. More specifically, 14 DCMR § 3823.3 sets forth the substantive requirements for what must be contained in a motion for reconsideration. 14 DCMR § 3823.3 specifically states:

A motion for reconsideration shall contain a short and plain statement of the specific grounds on which the moving party considers a final decision and order or an order that dismisses an appeal to be erroneous or unlawful. Grounds for reconsideration shall be as follows:

- (a) The moving party failed to appear at a Commission hearing, to respond to a motion of another party, or to respond to an order of the Commission and the failure resulted in the order dismissing the party’s appeal, and the party has good reason for not doing so and would have presented an adequate claim or defense;
- (b) **The decision or order contains a clear mistake in the application of law;**
- (c) **The decision or order contains a clerical mistake or clear mistake of the factual record; or**
- (d) There has been a change in circumstances since the initiation of the appeal that makes any relief provided by the decision impossible or inequitable.

---

<sup>1</sup> The Commission’s rule at 14 DCMR § 3819.3 (2021) gives the Commission discretion over whether a hearing will be held on a motion. We see no basis to hold oral arguments on the merits of the Motion for Reconsideration and conclude a hearing would only serve to incur unnecessary billable hours for the Housing Provider’s counsel.



14 DCMR § 3823.3 (2021) (emphasis added). In the instant matter, when reviewing the Tenant’s Motion for Reconsideration the Commission concludes that the Tenant has failed to comply with the relevant standards in 14 DCMR §§ 38.23(b) and (c). A close review of the Tenant’s Motion for Reconsideration reveals that he has failed to identify any mistake of law or fact that would justify reversal of the Commission’s 2023 Order Dismissing Appeal.

The Tenant’s Motion for Reconsideration does not identify any error of fact from the record. Instead, Tenant’s motion selectively cites to sections of transcripts associated with parallel and resolved tenant petitions—namely TP 31, 209, TP 31,140, and TP 31,049—filed 2018 and 2019. In doing so Tenant is claiming that said statements demonstrate that both the Housing Provider and OAH agreed with the positions taken and advanced by him. *See* Motion for Reconsideration at 3. For example, Tenant asserts that at a September 26, 2019, hearing of TP 31,209, Housing Provider’s Counsel “confirm[ed] that the rent is set at the rent-controlled amount of \$1200 and not at the disputed market rent of \$1700.” Motion for Reconsideration at 6. However, in the hearing transcript cited by Tenant, the Housing Provider’s counsel does not “confirm” that the proper rent for the Property is \$1,200.00 but instead states, “Mr. Sterman’s not paying \$1700, he’s paying \$1200, which is substantially different than \$1900, and he’s continuing to argue that he should never have to pay \$1700.” Motion For Reconsideration at 6; *see* R.of 31,209 at Tab 14 at 419. The Tenant’s attempt to utilize prior hearing transcripts to validate and support his positions ignores the fact that these statements from 2018 and 2019 do not and cannot supersede final rulings from the DC Court of Appeals or the Commission—namely the Commission’s 2023 Order Dismissing Appeal.

There being no error of fact, we turn to the Tenant’s main contentions that there was a clear error of law.

**2. Whether there was a stay in place that prevented the Housing Provider from demanding increased rent.**

The Tenant has repeatedly argued in numerous filings that the Housing Provider is barred from demanding the rent owed under the 2018 rent increase because the Commission stayed the Final Order issued by Administrative Law Judge Ann Yahner (“ALJ Yahner”) on December 19, 2018 (“First Final Order”) in its April 2019 order. Motion for Reconsideration at 8-9. Here the Tenant once again is putting forth the same failed argument he previously made before the Commission, OAH, and District of Columbia Court of Appeals (“DCCA”), by essentially contending that the 2023 Order Dismissing Appeal ignores the Commission’s April 2019 stay of TP 31,029 and TP 31,140. Furthermore, the Tenant also contends that the record of his hearings before OAH as well as the orders issued by OAH demonstrate, during the time period covering August of 2019 through October of 2019, that any rent increase issued by the Housing Provider was never approved or acknowledged by an OAH ALJ. *See* Motion for Reconsideration at 3 & 8-9. In other words, the Tenant is essentially arguing that that there was no ruling that the December 2018 rent increase was valid, and that the Housing Provider agreed to the exempted rent amount. *Id.* The Commission, once again, does not find this argument persuasive or compelling.

The Tenant’s argument regarding the stay issued by the Commission in April of 2019 misstates and misinterprets said stay. What the Tenant fails to accept despite our numerous rulings regarding the impact of the stay, is that while the Commission did grant a stay of those tenant petitions while the original appeal to us was pending, any stay was lifted by the DCCA on February 9, 2022, in an order explicitly finding that Tenant’s failure to demonstrate that he was likely to succeed on the merits of his appeal was dispositive. *See* 2023 Order Dismissing Appeal at 8. The Commission’s stay did not indicate that Housing Provider lost his exemption for the

months from April 2019 to February 2022. Opposition to Motion for Reconsideration at 3. Since at least February 9, 2022, there has been no stay in place. *Id.* More importantly, there could not have been a stay in place after April 20, 2023, when the DCCA affirmed the Housing Provider's exemption and the validity of the December 2018 rent increase in the Memorandum Opinion and Judgment. *Id.* After the stay was lifted, Housing Provider was lawfully allowed to demand the unpaid rent Tenant owed pursuant to the December 2018 rent increase. *See* 2023 Order Dismissing Appeal at 9.

The Tenant's arguments regarding the validity of the rent increase and his contention that the Housing Provider agreed to the exempted rent amount are misplaced and mischaracterizes what is in the record. In a partial order issued by ALJ Yahner regarding TPs 31,049 and 31,140 she specifically states:

On December 12, 2018 I issued a Final Order. I dismissed TP 31,049 because . . . [o]nly the May 2018 claim of exemption had been properly filed and noticed[.] . . . I rejected Tenant's other arguments claiming that his unit was subject to rent control.

R. of 31,209 at Tab 13 at 282. As previously mentioned, on the Commission's review of the hearing transcript of the September 26, 2019, hearing before OAH clearly shows that the actual conversation regarding Tenant's rent at the time stands in complete contradiction to the Tenant's arguments regarding the validity of the rent increase and his contention that the Housing Provider agreed to the rent amount. Thus, the Commission again finds Tenant's arguments false and not warranting reconsideration of our 2023 Order Dismissing Appeal.

Given the above, the Tenant's Motion for Reconsideration is denied.



**3. Whether the Tenant’s argument that the Commission dismissed his appeal without a quorum is misplaced.**

The Tenant argues that the Commission erred by dismissing his appeal without a quorum taking part in the decision. To support his argument Tenant relies on “Rule 3806”. However, given the Tenant’s citation the Commission is unable to locate what rule he is relying on to support his contention that “a quorum to dismiss applies [sic] when an appeal is a rent dispute even if OAH cites failure to state a claim under the Act.” Motion for Reconsideration at 12. The Commission’s rule at 14 DCMR § 3806 regulates escrow and supersedes bonds and contains no mention of any requirement that only a quorum may dismiss appeals.

The applicable provision here is 14 DCMR § 3801.15. Applying the proper regulations, the Commission finds that the Tenant has failed to demonstrate that the Commission’s dismissal under 14 DCMR § 3801.15 was improper. 14 DCMR § 3801.15 clearly states that every party filing pleadings with the Commission is required to:

Certify that, to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

- (a) The pleading, motion, or other document is **not being filed for any improper purpose, such as to harass or to cause unnecessary delay** or needless increase in the cost of litigation;
- (b) Any factual assertions therein are true; and
- (c) The **legal contentions therein are warranted by existing law or by a non-frivolous argument** for the extension, modification, or reversal of existing law or the establishment of new law.

14 DCMR § 3801.15 (2021). The Commission clearly laid out in its 2023 Order Dismissing Appeal that the Tenant’s appeal stood in direct conflict with this provision—the Tenant has failed to assuage or provide a sufficient counter to the Commission’s determination that his

Notice of Appeal was: 1) frivolous; 2) designed to delay resolution of the matter at hand; and 3) designed to harass the Housing Provider. *See* 2023 Order Dismissing Appeal.

To be clear, a quorum was not needed to dismiss the Tenant’s appeal. The Commission’s rules clearly state in 14 DCMR § 3800.6 that:

**[A]n order issued in the course of an appeal may be issued in writing by a single Commissioner without a meeting on the record if:**

- (a) **The order dismisses an appeal or an issue on appeal for procedural reasons**, including a failure to comply with the filing requirements for a notice of appeal, as provided in § 3802.16, for failure to appear at a hearing, as provided in § 3819.5, pursuant to a motion to withdraw an appeal under § 3824, including for approval of a settlement under § 3829, or for lack of jurisdiction;
- (b) Any other section of this chapter specifically provides that an order may be issued by a single Commissioner; or
- (c) The order otherwise relates to the process and management of the litigation of an appeal.

14 DCMR 3800.6 (2021) (emphasis added). Here, this rule was followed, as the 2023 Order Dismissing Appeal was issued by a single ALJ of the Commission—ALJ Toya Carmichael. *See* 2023 Order Dismissing Appeal. Moreover, the 2023 Order Dismissing Appeal made it clear that the Tenant’s notice of appeal was being dismissed for procedural grounds—the failure to comply with 14 DCMR § 3801.15. *See also* 14 DCMR § 3830.1 (“The Commission may dismiss an appeal for failure to comply with these rules or for any other lawful reason.”). Although 14 DCMR § 3801.15 (or § 3830.1) is not one of the specifically listed “procedural reasons” in § 3800.6(b), “[t]he participle ‘including’ typically indicates a partial list.” Aboye v. United States, 121 A.3d 1245, 1249 & n.10 (D.C. 2015). Thus, the Tenant’s arguments related to quorum are inconsistent with the applicable rules.

Given the above, the Tenant’s Motion for Reconsideration is denied.



**4. Whether the Commission deprived him of an evidentiary hearing before OAH when it dismissed his tenant petition**

Tenant argues that the Commission deprived him of an evidentiary hearing that he was entitled to when it issued its 2023 Order Dismissing Appeal. The Tenant further contends that the Commission must remand the instant tenant petitions to OAH in order for an evidentiary hearing. In order to support this argument, the Tenant relies on 14 DCMR § 3903.1, which provides that “[i]f a petition or other application requires an evidentiary hearing . . . the Rent Administrator. . . shall transmit the petition or application . . . to the Office of Administrative Hearings.” 14 DCMR § 3903.1 (2021). While this provision directs the Rent Administrator to transmit petitions she receives, it does not necessarily mean that OAH is required to hold a hearing on every petition or that the Rent Administrator’s transmission of a petition is a binding conclusion that a hearing is required. In fact, the OAH Rules make it clear that cases before OAH may be decided “summarily, without an evidentiary hearing.” *See* OAH Rule 2819 (2016). The Commission also made this point clear in its 2023 Order Dismissing Appeal. *See* 2023 Order Dismissing Appeal at 12.

This argument also ignores the fact that the only new claim before the Commission that could possibly require an evidentiary hearing was the Tenant’s retaliation claim in TP 31,512. However, during the July 2023 hearing before the ALJ at OAH, the Tenant voluntarily abandoned his retaliation claims because he was denied the opportunity to relitigate the validity of the December 2018 rent increase. *See* Tr. at 9:5-12; 11:1-14 (“But the matter for me is I’m not willing to have an evidentiary hearing unless I’m going to have the right to argue that I was rent-controlled for those three years.”); 12:15-22; and 13:9-12 (OAH July 21, 2023); R. of 31,209 Tab 4; *see also id.* at 48:14-16 (“I’m not going into a hearing at all with you, Mr. Vergeer, this is concluded.”). This abandonment amounted to a voluntary dismissal under OAH Rule 2817.1

which states that a “party initiating [a] case may move to dismiss the case at any time.”

Consequently, the ALJ dismissed Tenant’s claims based on Tenant’s decision not to move forward with his case. Furthermore, the ALJ also took extra care to explain his rationale for the dismissal in his July 21, 2023, Order which concluded, in relevant part that:

Mr. Sterman’s only argument against the allegedly impermissible notices is that the December 2018 rent increase was not valid, so the notices could not be valid. He made clear at the status hearing that he would attempt to relitigate the issue of the December 2018 rent increase at any evidentiary hearing. More than once, Mr. Sterman stated that he would only participate in an evidentiary hearing on the issue of the notices if he could once again argue that the December 2018 rent increase was illegal.

. . . At this point, Tenant has no legitimate remaining claims. I hereby dismiss all remaining claims in TP 31,209 and TP 31,512 with prejudice.

OAH Final Order dated July 21, 2023, at 4. By dismissing the only claim that could be heard by the Commission, the Tenant left nothing to be heard on remand. So, the Tenant’s present request that the Commission remand this matter back to OAH cannot be granted.

Given the above, the Tenant’s Motion for Reconsideration is denied.

**5. Whether the Commission should grant the Housing Provider’s request for attorney fees and sanctions**

The Housing Provider requests that the Commission award him attorney’s fees and sanction the Tenant under D.C. Official Code § 42-3509.02, 14 DCMR § 3825.7, and Tenants of 500 23rd St., N.W. v. D.C. Rental Hous. Comm’n, 617 A.2d 486, 488-489 (D.C. 1992). The Housing Provider bases this request on their assertion that the Tenant’s Motion for Reconsideration and his entire appeal are frivolous and brought in bad faith and that attorney fees and sanctions will stop the filing of frivolous pleadings. Opposition to Motion for Reconsideration at 5. The Commission is inclined to agree with the Housing Provider’s assertion, given that the Housing Provider, as the prevailing party, may be awarded fees where a

tenant's litigation was "frivolous, unreasonable, or without foundation." *See* D.C. Official Code § 42-3509.02; 14 DCMR § 3825.3; Tenants of 500 23rd Street, 617 A.2d at 490-91.

As the Housing Provider is a prevailing party on this appeal, he may file a motion for fees, including affidavits as required by 14 DCMR § 3825.7, to be computed in accordance with 14 DCMR § 3825.8 and prevailing case law with respect to reasonable fee awards, including any relevant adjustments to the lodestar amount. If the Housing Provider elects to file a Motion for Attorney's Fees, the Tenant may respond to the motion and present his opposition to the specific fee award that the Housing Provider requests.

## II. CONCLUSION

For the reasons explained above, the Tenant's Motion for Reconsideration is **DENIED**.

**SO ORDERED.**



\_\_\_\_\_  
TOYA CARMICHAEL, ADMINISTRATIVE JUDGE

## JUDICIAL REVIEW

Pursuant to D.C. Official Code § 42-3502.19 (2012 Repl.), "[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 foregoing **ORDER DENYING RECONSIDERATION** in RH-TP-19-31,209 & RH-TP-22-31,512 was served electronically on this **13th** day of **February, 2024** to:

Paul Sterman  
1444 Corcoran St., N.W.  
Apt. 4  
Washington, DC 20009  
[allsterm@aol.com](mailto:allsterm@aol.com)

Morris R. Battino, Esq.  
Aaron Sokolow, Esq.  
Battino & Sokolow, PLLC  
1213 33<sup>rd</sup> Street, N.W.  
Washington, DC 20007  
[aaron@sokolowlaw.com](mailto:aaron@sokolowlaw.com)  
[rachel@sokolowlaw.com](mailto:rachel@sokolowlaw.com)



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