

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**

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18 APR 2016 PM
DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS

GABRIEL FINEMAN
Tenant/Petitioner,

v.

SMITH PROPERTY HOLDINGS VAN NESS
L.P.,
Housing Provider/Respondent.

Case No.: 2016-DHCD-TP 30,842

In re: 3003 Van Ness Street, NW
W-1131

**ORDER ON MOTION TO STAY REMAND
PENDING RESOLUTION OF PETITION FOR REVIEW**

Tenant/Petitioner Gabriel Fineman filed Tenant Petition (TP) 30,842 on July 12, 2016, seeking an order requiring Housing Provider/Respondent Smith Property Holdings Van Ness, L.P., to re-file Rental Accommodations Division (RAD) Forms 8 and 9 from September 2015 using the rent actually being paid by Tenant as the “rent charged.” On March 16, 2017, I denied Tenant’s Motion for Summary Judgment and granted Housing Provider’s Cross-Motion for Summary Judgment.

Tenant filed an appeal of my Final Order with the Rental Housing Commission (the Commission) on March 30, 2017. The Commission subsequently reversed my Final Order and ordered the case remanded to this administrative court “for further proceedings consistent with this decision and order.” Decision and Order, Jan. 18, 2018, 37. Thereupon, Housing Provider filed a timely motion for reconsideration which the Commission denied on March 13, 2018.

On April 11, 2018, Housing Provider filed a Petition for Review with the District of Columbia Court of Appeals (Court of Appeals) of both the Commission's orders. *Smith Property Holdings Van Ness, L.P. v. District of Columbia Rental Hous. Comm'n*, 18-AA-0364. That same day, Housing Petitioner filed the presently pending Motion to Stay Remand Pending Resolution of Petition for Review in this administrative court. Tenant Fineman filed his opposition on April 19, 2018.

Housing Provider asks that I "stay the remand of the case until the District of Columbia Court of Appeals rules on Smith's Petition for Review." Motion to Stay, 2. Tenant argues that I do not have authority to stay an order from the Commission. Opposition at 2. Housing Provider should have filed its motion with the Commission and, if denied, with the Court of Appeals. Tenant goes on to argue I should proceed with the case as instructed by the Commission.

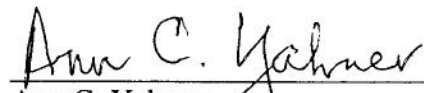
When a party files a timely notice of appeal with the Court of Appeals, this administrative court loses jurisdiction over the case. *Carter v. Cathedral Avenue Coop*, 532 A.2d 681, 684 (D.C. 1987); *District of Columbia v. FOP Metro. Police Labor Comm.*, 33 A.3d 332 (D.C. 2011). There are limited exceptions to this rule. For example, the Court of Appeals has ruled that if a party files a motion for reconsideration while an appeal is pending, I would have some limited authority to entertain the motion.¹ *District of Columbia*, 33 A.3d at 334-335; quoting *Smith v. Pollin*, 194 F.2d 349, 350 (D.C. Cir. 1952).

¹ The general process would be for me to consider a motion for reconsideration and indicate that I would be prepared to grant the motion. *Carter*, 532 A.2d at 684. The appellate court then would remand the case for entry of that order, conceivably negating the need for further proceedings in the appellate court.

Any further proceedings at this administrative court, of necessity, would involve the core issue in this case now challenged before the Court of Appeals. This case does not involve any exception that might allow me to rule upon the pending motion.

Therefore, it is, this **20th day of April, 2018:**

ORDERED, that Housing Provider's Motion to Stay Remand Pending Resolution of Petition for Review is dismissed for lack of jurisdiction.



Ann C. Yahner
Administrative Law Judge

Certificate of Service:


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I hereby certify that on 4/20, 2018 this document was caused to be served upon the parties listed on this page at the addresses listed and by the means stated.


Clerk / Deputy Clerk