

DISTRICT OF COLUMBIA COURT OF APPEALS

Christine Burkhardt v. District of Columbia Rental Housing Commission

198 A.3d 183 (D.C. 2018) · No. 15-AA-1243 · Decided December 20, 2018

SUMMARY

The District of Columbia Court of Appeals held that it lacked direct-review jurisdiction over a Rental Housing Commission decision approving a temporary-eviction application because the underlying proceeding was not a contested case. The court concluded that neither the Rental Housing Act, applicable regulations, nor the Due Process Clause required a trial-type hearing before the Rent Administrator approved the application. The petition for review was dismissed, with the court explaining that review could instead be pursued in the Superior Court.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	McLeese, Associate Judge; Easterly, Associate Judge; Ruiz, Senior Judge
JURISDICTION	District of Columbia
DECIDED	December 20, 2018
DOCKET	15-AA-1243
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for review of a decision and order of the District of Columbia Rental Housing Commission affirming the Rent Administrator's approval of a housing provider's application to issue temporary-eviction notices for renovations.
STANDARD OF REVIEW	Whether a proceeding is a contested case is a question of law. The court defers to the agency's reasonable, non-plainly-wrong interpretation of the statute it administers and generally defers to the agency's interpretation of its own regulations unless plainly erroneous or inconsistent with the regulations. Constitutional issues are reviewed de novo.
PRECEDENTIAL VALUE	Published opinion; precedential

PARTIES

Christine Burkhardt, Blake Nelson, Wendy Nelson, Donald Wassem v.
District of Columbia Rental Housing Commission

TOPICS

judicial review of agency action

appellate jurisdiction

administrative law

landlord tenant

procedural due process

PRACTICE AREAS

administrative law

appellate jurisdiction

landlord-tenant law

constitutional law

due process

QUESTIONS PRESENTED

1. Whether the Rent Administrator's approval of a temporary-eviction application was made in a contested case subject to direct review by the District of Columbia Court of Appeals.
2. Whether the Rental Housing Act requires a trial-type hearing before the Rent Administrator approves a temporary-eviction application.
3. Whether the Rent Administrator's regulations require a trial-type hearing for a temporary-eviction application.
4. Whether the Fifth Amendment's Due Process Clause requires a trial-type hearing before approval of a temporary-eviction application.

HOLDINGS

1. The court lacked direct-review jurisdiction because the proceeding was not a contested case; judicial review therefore lies initially in the Superior Court.
2. The Rental Housing Act does not require a trial-type hearing before the Rent Administrator decides a temporary-eviction application.
3. The Rent Administrator's regulations do not independently require a trial-type hearing for a temporary-eviction application.
4. The Due Process Clause does not require a trial-type hearing before the Rent Administrator approves a temporary-eviction application.

KEY QUOTATIONS

"In sum, we conclude that tenants are not entitled to a contested-case hearing before the Rent Administrator decides a temporary-eviction application." (198 A.3d at 196)

"This jurisdictional bar does not deprive parties of judicial review of orders granting or denying temporary eviction applications, but rather directs parties to the Superior Court in the first instance." (198 A.3d at 196)

FACTUAL BACKGROUND

Klinge Corporation owned the Kennedy-Warren apartment complex and sought authorization to require tenants temporarily to vacate their units while it replaced aging plumbing, heating, and electrical systems. Klinge submitted an engineer's report, renovation timetable, and plan to relocate tenants within the building. The tenants challenged the need for the renovations and requested a full adjudicatory hearing, but the Rent Administrator approved the application without holding a hearing.

PROCEDURAL HISTORY

Klinge Corporation applied to the Rent Administrator for authorization to require tenants temporarily to vacate their apartments during renovations. The tenants requested a full adjudicatory hearing, but the Rent Administrator denied the request and approved the application; the Rental Housing Commission affirmed. The tenants petitioned the District of Columbia Court of Appeals for direct review, which dismissed the petition for lack of jurisdiction because the agency proceeding was not a contested case.

DISPOSITION

dismissed

CASES CITED

- Woodroof v. Cunningham, 147 A.3d 777, 784 (D.C. 2016)
- Owens v. District of Columbia Water & Sewer Auth., 156 A.3d 715, 721 (D.C. 2017)
- Farrell v. District of Columbia Police & Firefighters Ret. & Relief Bd., 151 A.3d 490, 493-94 (D.C. 2016)
- Johnson v. District of Columbia Dep't of Emp't Servs., 167 A.3d 1237, 1240 (D.C. 2017)
- Donnelly Assocs. v. District of Columbia Historic Pres. Review Bd., 520 A.2d 270, 276 (D.C. 1987)
- J.C. & Assocs. v. District of Columbia Bd. of Appeals & Review, 778 A.2d 296, 301 (D.C. 2001)
- Apartment & Office Bldg. Ass'n v. Pub. Serv. Comm'n, 129 A.3d 925, 933 (D.C. 2015)
- Silva-Rengifo v. Attorney Gen. of U.S., 473 F.3d 58, 63 (3d Cir. 2007)
- Richard Milburn Pub. Charter Alt. High Sch. v. Cafritz, 798 A.2d 531, 541 (D.C. 2002)
- Harper v. Va. Dep't of Taxation, 509 U.S. 86, 101 (1993)
- Hinton v. Sealander Brokerage Co., 917 A.2d 95, 102 (D.C. 2007)
- Illinois Farmers Ins. Co. v. Hagenberg, 167 A.3d 1218, 1225 (D.C. 2017)
- Chacon v. Litke, 105 Cal. Rptr. 3d 214, 223-26 (Ct. App. 2010)
- Perry v. Royal Arms Apartments, 729 F.2d 1081, 1082 (6th Cir. 1984) (per curiam)
- Johnson v. Tamsberg, 430 F.2d 1125, 1126 (4th Cir. 1970)
- Roanoke Chowan Reg'l Hous. Auth. v. Vaughan, 344 S.E.2d 578, 581-82 (N.C. Ct. App. 1986)
- Hudsonview Terrace, Inc. v. Maury, 419 N.Y.S.2d 409, 410 (App. Term 1979)
- Hous. Auth. v. Moore, 284 N.E.2d 456, 458-60 (Ill. App. Ct. 1972)
- Nunnally v. District of Columbia Metro. Police Dep't, 80 A.3d 1004, 1008 (D.C. 2013)
- Mathis v. District of Columbia Hous. Auth., 124 A.3d 1089, 1104-06 (D.C. 2015)

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