

Before the

Commission on Landlord-Tenant Affairs

for Montgomery County, Maryland

<p>In the Matter of</p> <p>Kenneth Calhoun and Tamika Johnson</p> <p>Complainants</p>	
<p>v.</p>	<p><i>Case No. 7016</i></p>
<p>Billy Danny Rocha-Guzman</p> <p>Rental Facility: 8814 Glenville Road, Silver Spring, MD</p> <p>Respondent</p>	

ORDER

The hearing was scheduled on this matter on July 9, 1998, at 6:30 p.m. At 6:30 p.m., on that date, Commissioners Martin Schnider, Greg Smith and Gary G. Everngam were present together with the Respondent, Billy Danny Rocha-Guzman, and Mr. Guzman's witness. The Complainants did not appear as scheduled. A review of the case file indicated that the notice of the hearing had been sent to the Complainants and that Complainants had received such notice. The proceedings were delayed until 7:00 p.m. during which time the panel sought to ascertain whether or not the Complainants had left word with the Department of Housing and Community Affairs (DHCA) regarding their absence. At 7:00 p.m., the Respondent advised the panel that he wished to proceed on the Complaint and that he would consent to the admission of Commission Exhibit 1, DHCA case file 7016. Accordingly, Exhibit 1 was entered into the record. The Commission then entered the certified receipt card, signed by the Complainant as Commission's Exhibit 2. The Respondent offered testimony in support of his position that the Complaint should be dismissed. The panel treated Respondent's submission as a motion to dismiss. At the conclusion of Respondent's

presentation, the record was closed with a proviso that the Complainants could file a motion to re-open the record within fifteen (15) days and that Complainants be notified forthwith.

The Complainant, Kenneth D. Claxon, has written to the Commission concerning his failure to appear at the hearing scheduled and conducted on July 9, 1998 at 6:30 p.m. Mr. Claxon is requesting that the Commission reopen the record and schedule another hearing on the above entitled case. Mr. Claxon explains his absence was due to recently becoming employed as a cab driver, being rather busy and admits that he lost track of the date. Mr. Claxon offers no basis for the request other than neglect. The other Complainant, Tama Johnson, has made no request to re-open the record or for further hearing. The undersigned, while appreciating Mr. Claxon's candor, finds that an admission of neglect does not establish good cause for the record to be re-opened. The Complainants have the burden of going forward with production of evidence at the hearing and they have failed to do so. The Respondent's presentation was treated by the panel as being a Motion to Dismiss and, after considering the record and Respondent's Motion to Dismiss, it is the ruling of the panel that, based on the Complainants' failure to appear at the public hearing after being properly notified, Respondent's Motion to Dismiss is GRANTED; further, the Complaint of Kenneth Claxon and Tamika Johnson against Billy Danny Rocha- Guzman, Case No.7016 be, and the same hereby is DISMISSED, for failure to prosecute.

Any party aggrieved by the action of the Commission may file an administrative appeal to the Circuit court of Montgomery County, Maryland, within thirty (30) days from the date of this Order, pursuant to the Maryland Rules governing administrative appeals.

Gary Everngarn, Panel Chair

Commission on Landlord-Tenant Affairs