

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW
DOCKET NO.: YD430079RT

RENT ADMINISTRATOR'S
DOCKET NO.: XF4300010D

PETITIONER

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On April 21, 2010, the above named petitioner-tenant filed a Petition for Administrative Review (PAR) of an Order issued on March 17, 2010 by the Rent Administrator concerning the housing accommodations known as 230 West 97th Street, New York, New York, in which the Administrator granted the owner permission to change essential services by substituting gas-burning stoves with electric stoves. In granting the modification of services, the Administrator determined that a rent decrease of \$10.00 per month was warranted for all rent regulated apartments.

In the PAR, the tenant states that, prior to changing the stoves from gas to electrical, the owner discontinued providing gas service to the apartments. The tenant further states that if the Order Granting Permission to Change Services simply grants permission to replace gas stoves with electric stoves, but does not address the discontinuation of gas service, then the tenant does not object to the Order. If however, the Administrator's Order grants permission to discontinue the pre-existing gas service, then the tenant objects to the Order on certain stated grounds. The owner answered the PAR on June 15, 2010, opposing the tenant's petition.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied.

Pursuant to Section 2522.4(e) of the Rent Stabilization Code and Section 2202.21 of the Rent and Eviction Regulations, an owner

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may apply to DHCR to modify or substitute required services, provided such modification or substitution is not inconsistent with the Code or the Regulations. The record of the instant proceeding supports the Administrator's determination that the owner's Application to Change Essential Services should be granted, based on a finding that the replacement of gas-burning stoves with electric stoves constitutes an adequate substitution of a required service which is not inconsistent with the Code or Regulations.

The record shows that the change of services which the owner specifically requested approval for in the Application was the replacement of gas-burning stoves with electric stoves. No mention is made in the Application of the discontinuation of gas service to the apartments. The Administrator's Order states that the substitution of services for which permission is being granted, as stated in the Application, is "changing gas stoves to electric stoves."

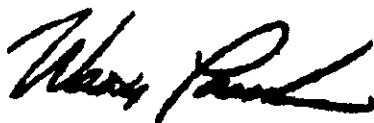
Based on the record, the Commissioner finds that the modification of services for which permission has been granted in the Administrator's Order issued under Docket XF4300010D is to substitute gas-burning stoves with electric stoves only, and the XF4300010D Order does not address the matter of the discontinuation of gas service to the apartments. The tenant has stated in the PAR that there is no objection to the Administrator's Order if such Order does not address the discontinuation of gas service. Therefore, in light of the above finding, the other issues raised in the PAR are moot.

It is noted that, contrary to the tenant's assertion in the PAR, the findings of the instant Order do not bar the owner from filing an Application to Restore Rent relating to Docket VJ430004B. The disposition of any such Application, if filed, will be based on the evidence available during the time such proceeding is pending before the Administrator.

THEREFORE, in accordance with the Rent Stabilization Code and the Rent and Eviction Regulations, it is

ORDERED, that this petition is denied, and that the Rent Administrator's Order is affirmed.

ISSUED: JUN 20 2012



WOODY PASCAL
Deputy Commissioner