

DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
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HARRY GURAL,

Tenant / Appellant,

v.

EQUITY RESIDENTIAL MANAGEMENT
and SMITH PROPERTY HOLDINGS VAN
NESS, LP,

Housing Providers / Appellees

Case No.: 2016-DHCD-TP-30,855

In Re: 3003 Van Ness Street, NW
Unit S 707

OPPOSITION TO TENANT’S MOTION TO APPEND DOCUMENTS

COMES NOW Housing Provider and opposes the Tenant’s Motion to Append Documents to List of Exhibits (the “Motion” or “Mot.”). Mr. Gural, an experienced *pro se* litigant, has been vigorously litigating this case for nearly seven (7) years. Mr. Gural did not file his discovery request until six weeks after he was granted leave to do so—11 days before the exchange of Witness and Exhibit lists. Landlord is entitled to the thirty (30) days permitted under the rules to prepare its response. Mr. Gural’s belated requests, and repeated delays in prosecuting this case have prejudiced Landlord and he should not be permitted to shift his burden of litigating to the Court. The Motion should be denied.

I. Relevant Background.

For brevity, Housing Provider incorporates by reference the background section in its Opposition to Tenant’s Motion to Conduct Discovery, filed August 7, 2023 and limits its

discussion here to the relevant procedural history of Mr. Gural's numerous requests for extensions in this case and his recent requests for discovery.

Since this case was remanded from the Rental Housing Commission, Mr. Gural has sought, and obtained, the following extensions:

(i) On July 26, 2021, Tenant filed a request to reschedule the evidentiary hearing in this matter to December 2021 or January 2022 because he "need[ed] more time to prepare due to much increased personal demands during COVID. I have been representing myself but I would like to hire an attorney, which is difficult for this issue." *See* Order on Motion for Discovery at 1-3.

(ii) On October 7, 2021, Tenant filed a second request to reschedule the evidentiary hearing because he "need[ed] more time to find an attorney and to give the attorney time to catch up on the long case history. I have greatly increased family responsibilities due to COVID, which has slowed the process." *See id.* at 3.

(iii) On January 28, 2022, Tenant filed a third request to reschedule the evidentiary hearing because he had "been out of town a lot due to COVID and have increases family responsibilities. **I didn't realize the deadline for documents is today.** I have been working without an attorney so it will take longer to assemble my case. *See id.* (emphasis added).

(iv) Tenant again missed the deadline to file his witness list or exhibits, so this honorable Court scheduled a pre-hearing conference on August 25, 2022. On August 10, 2022, Tenant filed a fourth request to reschedule the evidentiary hearing because he had "a heavy burden of family responsibilities caring for my elderly mother during COVID, including helping her move. I am working without an attorney, and must review hundreds of pages of documents as well as write legal filing (sic-filings) that compete against the filings of a corporate law firm." *See id.* at 4.

(v) On November 10, 2022, Tenant filed a fifth request to reschedule the pre-hearing conference and evidentiary hearing due to a death in his immediate family. *See id.*

On July 31, 2023, Mr. Gural filed a Motion for Discovery. The Court issued a ruling on October 17, 2023 granting Mr. Gural leave to issue a document request. Over a month later, on December 4, 2023, Mr. Gural issued his document request. At that point, the deadline for the exchange of witness and exhibit lists had been in place for nearly six months since the Court's scheduling order issued on June 14, 2023. Mr. Gural subsequently filed the instant Motion seeking leave to add documents he may receive in discovery to his witness and exhibit list after the deadline

set by this court. *See generally* Mot. The reason given for the relief sought is because Mr. Gural consulted with counsel and “believed that he was giving the Housing Provider sufficient time to provide a limited number of internal documents and was not aware of any rule or other impediment to providing such documents.” *See id.* at 2.

II. Legal Standard

Mr. Gural has articulated no legal standard in his motion. Where the OAH Rules do not address a procedural issue, an Administrative Law Judge may be guided by the District of Columbia Superior Court Rules of Civil Procedure to decide the issue. *Id.* R. 2801.1. Superior Court Civil Rule 16(b)(7) provides that a “scheduling order may not be modified except by leave of court on a showing of good cause.” *D.C. v. Town Sports Int’l Consulting, LLC*, 2022 D.C. Super. LEXIS 3 at *3-*4 (D.C. Super. Ct. April 18, 2022). The party seeking the extension bears the burden of showing good cause and in evaluating the request the Court “primarily considers the diligence of the party in seeking discovery before the deadline.” *Id.* Ultimately, the decision is within the sound discretion of the trial court. *Id.* (citing *Lopez v. Timeco Inc.*, 291 F. Supp. 3d 1, 3 (D.D.C. 2017)). The party responding to a request for production of documents must respond in writing with responses and objections within thirty (30) days after being served. *See* D.C. Super. Ct. R. 34(b)(2)(A).

III. Analysis

Mr. Gural waited too long to file his discovery requests and leave himself enough time to receive the documents before the witness and exhibit list deadline. In his motion, he has articulated no good cause for this extension request. Although District of Columbia courts treat *pro se* filings with a measure of leniency, *pro se* parties cannot be permitted to shift the burden of litigating to the courts, nor to avoid the risks that attend their decision to forego expert assistance. *See Macleod*

v. Georgetown Univ. Med. Ctr., 736 A.2d 977, 979 (D.C. 1999). Mr. Gural has, in his near-decade of litigating this case and his related landlord tenant case, filed appellate briefs, substantive motions, discovery motions, and conducted an evidentiary hearing—yet apparently did not consider that there may be applicable rules for timing of discovery requests or that it may be necessary to check. *See* Mot. at 2. Mr. Gural states that Landlord “argu[es] that by D.C. Superior Court Civil Rule 34 it is permitted 30 days to fulfill such a document request.” *Id.* That is not an argument—that is the text of the rule as incorporated by OAH Rule 2801.1. To the extent Mr. Gural attributes his delay to seeking legal advice—he has already delayed these proceedings multiple times to seek the assistance of an attorney. *See* Order on Motion for Discovery at 2-4 (listing all the extensions that Tenant has sought and received). Landlord has been prejudiced by the costs of defending this case that Tenant is exacerbating due to his repeated delays. The request should be denied.

For the foregoing reasons, the Motion should be denied. A proposed Order is attached.

Dated: December 14, 2023

Respectfully submitted,
GREENSTEIN DELORME & LUCHS, PC

/s/ Spencer B. Ritchie

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PROPOSED ORDER

UPON CONSIDERATION, of Tenant's Motion To Append Documents, and Housing Provider's Opposition thereto, and for the reasons set forth in that Opposition, it is this ____ day of _____, 202_, hereby

ORDERED that the Motion is **DENIED**.

SO ORDERED.

ALJ Colleen Currie

Copies to all parties of record