

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS AND ETHICS**

Pauline Nowak.

Petitioner

v.

Andrew Miscuk

Respondent

Administrative Hearing  
No. 01-003

Re: Challenge to Residency  
of Andrew Miscuk

**MEMORANDUM OPINION AND ORDER**

I. BACKGROUND.

This matter comes before the Board on the basis of a challenge filed by Pauline Nowak. The material facts of this case are not in dispute. On October 27, 2000 Mr. Miscuk suffered a fire at his residence. Since this fire has occurred, Mr. Miscuk has won an Advisory Neighborhood Commission seat in single member district 1C03, but has made minimal efforts to confirm whether his landlord will renovate the property for his use before the expiration of his lease. Mr. Miscuk's lease expires in July of 2001.

Ms. Nowak is concerned that Mr. Miscuk can not serve his constituents if he does not live in the SMD. Mr. Miscuk contends that his intention is to return to his residence at 2452 18<sup>th</sup> Street NW 20009, and that he would still be living at that address but for the fire. When asked when he would be moving back to that address, Mr. Miscuk reasoned that he would do so as soon as it was inhabitable. Unfortunately, Mr. Miscuk could not proscribe a date certain when his landlord would be completing the renovations. Both parties were represented by counsel.

II. DISCUSSION

This case rests squarely upon resolution of Mr. Miscuk's intent of residency. Mr. Miscuk had no intention of leaving his home, and was forcibly displaced by the fire. Ms. Nowak's concerns are valid; however, she presented no evidence tending to show Mr. Miscuk had any intention of moving from his residence. What was bothersome for the Board was the uncertainty of a renovation date and Mr. Miscuk's minimal efforts to confirm a renovation arrangement with his landlord. The Board sympathizes with Mr. Miscuk's loss, but must balance his constituent's concern about proper representation. Since Ms. Nowak presented no evidence of differing intent with respect to Mr. Miscuk's residency, the Board determined that Ms. Nowak's claim should be dismissed without prejudice. Until Mr. Miscuk's leasehold expires, the Board will presume it is his every

intention to return to his residence in the Single Member District where he serves as a Commissioner.

III. CONCLUSION

Accordingly, the Board, having denied Ms. Nowak's challenge to Mr. Miscuk's residency on the ground that Ms. Nowak lacked any substantiating evidence tending to diminish Mr. Micuk's stated intent of residency, it is hereby

**ORDERED**, that Ms. Nowak's challenge be **DENIED WITHOUT PREJUDICE**.

February 12, 2001

*Benjamin F. Wilson*

Benjamin F. Wilson, Chairman  
D.C. Board of Elections & Ethics