

INFORMATION BULLETIN

Under subsection 13(7) of The Residential Tenancies Act, S.N.B. 1975, c. R-10.2, where a landlord transfers his estate in real property: (a) the transferee assumes all of the obligations with respect to the tenancies; and (b) no action lies against the transferor for any obligation with respect to the tenancy arising after notification of the transfer takes place in accordance with subsection 13(8).

Subsection 13(8) requires the landlord to notify the rentalsman and the tenant of such transfer by completing a Notice of Transfer (Form 8) prescribed by section 12 of General Regulation — The Residential Tenancies Act, N.B. Regulation 82-218.

If this Notice of Transfer does not occur, complicated situations may arise for both the transferee and the transferor with regards to rights and obligations vis-à-vis the tenant. The Office of the Chief Rentalsman has noticed a steady increase of noncompliance with subsection 13 (7) of The Residential Tenancies Act over the last few years.

Title is transferred to the transferee once the transfer has been registered, but the transferor cannot transfer his obligations with respect to a tenancy until a Notice of Transfer takes place under section 13 of The Residential Tenancies Act.

If the transferor's solicitor does not ensure section 13 of The Residential Tenancies Act is complied with, a transferor may continue to have obligations with regards to his/her tenants. Moreover, solicitors for the transferee in many cases are not ensuring the Notice of Transfer has been completed, resulting in questions around the transferee's rights and obligations with respect to a tenancy. Solicitors for both the transferee and transferor have a responsibility to their clients to ensure the Notice of Transfer required by section 13 of The Residential Tenancies Act takes place.

Therefore, please ensure you complete the Notice of Transfer (Form 8) as required by subsection 13(8) of The Residential Tenancies Act when you are acting as either a landlord or a transferee.

Excerpt: Law Society of New Brunswick July 2005

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