

1987/7



THE RESIDENTIAL TENANCIES RULES 1987

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 26th day of January 1987

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 116 of the Residential Tenancies Act 1986, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following rules.

ANALYSIS

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RULES

1. Title and commencement—(1) These rules may be cited as the Residential Tenancies Rules 1987.

(2) These rules shall come into force on the 1st day of February 1987.

2. Interpretation—(1) In these rules, unless the context otherwise requires,—

“The Act” means the Residential Tenancies Act 1986:

“Practice directions” means directions given by the Principal Tenancy Adjudicator pursuant to section 115 of the Act:

“Tribunal registry”, in relation to each place specified in the First Schedule to the Act, means the Tribunal registry established for that place in accordance with rule 4 of these rules.

(2) References in these rules to the Tenancy Officer or the Registrar, in relation to any particular application to the Tribunal, are references to the Tenancy Officer appointed for the office of the Tribunal in which the application is filed or to the Registrar of the Tribunal appointed for the place at which the application is to be heard and determined.

3. Application of rules—These rules apply to all proceedings in respect of all applications made to the Tribunal under section 86 of the Act, and to all other proceedings under that Act before the Tribunal.

4. Tribunal registries—(1) For each of the places specified in the First Schedule to the Act, there shall be a Tribunal registry in which shall be filed and kept all applications and other matters relating to proceedings before the Tribunal at that place.

(2) Except where the Secretary for Justice otherwise directs, the Tribunal registry for each of those places shall be within the office of the nearest District Court.

5. Office hours—(1) Each Tribunal registry shall be open at the same times and on the same days as District Court offices are open.

(2) Each office of the Tribunal shall be open at the same times and on the same days as the offices of the Corporation are open.

(3) A notice of the office hours of each Tribunal registry and each office of the Tribunal shall be publicly displayed at or near the registry or office in such a manner as to be readily accessible to and read by members of the public.

6. Sealing of Tenancy Mediator's order—(1) Every request for the sealing of a Tenancy Mediator's order pursuant to section 88 (5) of the Act shall be filed in the office of the Tribunal within 6 months after the date on which it is made.

(2) Every such request shall be in form 3 in the Schedule to the Residential Tenancies Regulations 1987*, amended as necessary, as if it were an application under section 86 of the Act.

(3) On receipt of any such request, the Tenancy Officer shall, as soon as practicable,—

(a) Authenticate the copy of the order filed with the request by endorsing on the face of the copy the words “This is a true copy of an order made in mediation”, and shall sign and date the endorsement; and

(b) Cause the request, the order, and any other papers relating to the matter to be forwarded to the Registrar, who shall arrange for it

to be considered by a Tenancy Adjudicator for the purposes of section 88 (6) of the Act.

(4) Where the Tenancy Adjudicator seals the order, the Registrar shall issue a sealed copy of the order to the applicant and to the other party.

(5) Where the Tenancy Adjudicator declines to seal the order, the Registrar shall inform the applicant and the other party of that decision and the reasons for it, and, in any case where the Tenancy Adjudicator directs that the matter is to be reconsidered and determined by the Tribunal, the Registrar shall also inform the applicant and the other party of the time and place fixed for the sitting of the Tribunal.

7. Records in office of Tribunal—(1) The Tenancy Officer shall keep a record of all applications filed in the office of the Tribunal.

(2) Except where any application is forwarded to the Registrar in accordance with section 87 or section 88 of the Act, the application and all related papers shall remain within the records of the office of the Tribunal.

(3) The Tenancy Officer shall be responsible for the safe custody of all papers for the time being within the records of the office of the Tribunal.

8. Records in Tribunal registry—(1) The Registrar shall keep a record of all applications referred to the Tribunal in accordance with section 87 or section 88 of the Act.

(2) The fee for inspecting the records and papers of the Tribunal relating to each application to the Tribunal shall be \$10.

(3) The fee for a true copy of any such record or paper shall be 50 cents for each page.

9. Registrar's powers to adjourn or enlarge date of hearing—Subject to any directions of a Tenancy Adjudicator, the Registrar may enlarge or adjourn the date of any hearing to the next convenient sitting of the Tribunal in any of the following circumstances:

(a) Pursuant to any practice directions:

(b) Pursuant to the direction of a Tenancy Adjudicator:

(c) In any case where a Tenancy Adjudicator is not available to hear the application:

(d) Where notice of a hearing has not been served within the prescribed time:

(e) Where it is necessary to enable sufficient time for a witness to respond to a witness summons or for the evidence of a witness to be taken under rule 11 of these rules:

(f) With the consent of the parties.

10. Transfer of proceedings to District Court—Where, pursuant to section 83 of the Act, the Tribunal orders that any proceedings are to be transferred to a District Court, the Registrar shall forward to the Registrar of the District Court all documents relating to the proceedings.

11. Taking evidence away from Tribunal—(1) Where a Tenancy Adjudicator is satisfied that it would be unduly inconvenient or unduly expensive for a witness to be required to give evidence at a sitting of the Tribunal, the Tenancy Adjudicator may direct that the evidence of that witness be taken at some other place.

(2) In such a case the Registrar shall either arrange with the witness to take the evidence of that witness at some suitable time and place, or appoint a competent person to make such arrangements and take that evidence.

(3) The Registrar shall give to each of the parties notice of the time and place at which the evidence of that witness is to be taken, and each party shall have the same right to be present and to cross-examine that witness as the party would have had if the witness had appeared before the Tribunal.

(4) The witness shall have the same right to receive fees, allowances, and travelling expenses as the witness would have had if the witness had appeared before the Tribunal.

12. Witnesses' fees—Every person who attends before the Tribunal for the purpose of giving evidence in any proceedings shall be entitled to receive such fees, allowances, and travelling expenses as the Tribunal directs in accordance with the scale set out in the Schedule to the Witnesses and Interpreters Fees Regulations 1974*.

13. Inquiries and reports—(1) On receipt of any direction to obtain the services of a Tenancy Mediator under section 99 of the Act, the Registrar shall forthwith refer the direction to the Tenancy Officer at the office of the Tribunal in which the application was filed.

(2) The Tenancy Officer shall arrange forthwith for a Tenancy Mediator to carry out the direction of the Tribunal.

14. Decision of Tribunal—(1) A Tenancy Adjudicator may give the decision of the Tribunal forthwith upon the conclusion of the hearing, or may reserve the decision on any question of fact or law.

(2) Where the decision is reserved, it shall be given as soon as practicable, and the Tenancy Adjudicator shall ensure that all documents required by section 104 (2) of the Act to be given to the parties are given to them as soon as practicable.

15. Giving of notice by Tribunal—Where any notice is required by the Act to be given to any person by the Tribunal, it shall be given to that person by the Registrar or any other officer of the Tribunal acting for the Registrar.

P. G. MILLEN,
Clerk of the Executive Council.

*S.R. 1974/124

EXPLANATORY NOTE

This note is not part of the rules, but is intended to indicate their general effect.

These rules prescribe certain procedural matters relating to proceedings before the Tenancy Tribunal under the Residential Tenancies Act 1987. They come into force, with the commencement of the Act, on 1 February 1987.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 29 January 1987.

These rules are administered in the Housing Corporation of New Zealand.