



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes SUM

Introduction

This Decision relates to an application made by counsel for the tenants for a Summons to be issued to a person to give oral testimony by way of conference call and to provide evidentiary material prior to the hearing to the landlords and to the tenants.

Issue(s) to be Decided

Is the application for a Summons to a witness justified in the circumstances?

Background and Evidence

The application was made by way of a letter of the tenants' counsel that states that the witness was the property manager with respect to the rental premises and that the dispute involves allegations by the landlords that the tenant caused significant damage to the rental unit. The witness has testimony to provide that the witness or persons employed by the witness thoroughly cleaned the rental unit and damage was not noted.

The letter further states that the witness may have photographic evidence of the rental unit before and after the end of the tenancy, and requests an order that the witness provide any documents or photographs in the witness' possession relating to the tenancy, including photographic evidence of the rental property taken prior to the commencement of the tenancy or subsequent to the end of the tenancy, to the landlords and to the tenants prior to the hearing date of October 30, 2012.

The name and address of the witness has been provided in the letter.

Analysis

The *Residential Tenancy Act* provides that a party may request a summons be issued requiring a person to attend a hearing, give evidence and produce documents or any other thing relating to the subject matter of the dispute. The Residential Tenancy Branch Rules of Procedure specify that a request for a summons must be submitted in

writing, set out the name and address of the witness, include a detailed list of any documents, photographs or other physical evidence the witness must bring to the dispute resolution proceeding, provide a summary of the evidence the witness is expected to produce and a summary of the purpose for which the evidence is required.

In the circumstances, I find that the tenants' counsel has satisfied the criteria set out in the Residential Tenancy Branch Rules of Procedure. I further find that the witness has material evidence to provide for the hearing, and I find that a Summons to the witness is justified.

Conclusion

For the reasons set out above, I hereby order the witness to attend the hearing on October 30, 2012 at 11:00 a.m. by way of conference call.

I further order the tenants to serve the witness with the attached Summons along with a copy of the Notice of Dispute Resolution Proceeding which sets out the date, time, phone number and pass-code to call into the conference call hearing, and a copy of this Decision.

I further order the witness to provide to the tenants or the tenants' counsel copies of all photographs or documents relating to the rental unit on or before October 19, 2012.

I further order the tenants or the tenants' counsel to provide copies of such evidence received from the witness to the Residential Tenancy Branch and to the landlords by October 22, 2012.

I further order that any costs associated with providing such documents and photographs to the parties be paid by the tenants.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 12, 2012.

Residential Tenancy Branch