



Failing to Comply with Property Management Agreement

This case study highlights the importance of accurate written brokerage agreements, and a licensee's obligation to comply with such agreements. When property managers bring existing clients to a new brokerage firm, new written property management agreements must be drafted and executed between the new firm and the landlord. Furthermore, property managers are required to comply with the responsibilities described in property management agreements.

The Situation

Between March 9, 2014 and July 30, 2022, Frank Miller was a real estate licensee affiliated with Hadley Realty. On July 30, 2022, Miller left Hadley and began working for Noon Train Realty.

Miller represented landlord Will Kane in the management of several properties while working both for Hadley and Noon Train.

The Investigation

On October 22, 2021, Will Kane entered into a property management agreement with Frank Miller, real estate licensee with Hadley Realty, to manage several properties, including 123 Market Street, Unit B.

On July 30, 2022, Miller left Hadley and began working for Noon Train Realty. Miller continued to manage all of Kane's units. However, Miller never drafted a new property management agreement with Noon Train as the brokerage, and Kane never signed a new property management agreement with Noon Train.

Additionally, Kane claimed Miller failed to disburse rental proceeds for Unit B for the month of May 2023. The property management agreement required Miller to remit to Kane the balance of all sums due under the management agreement and to keep accurate records of such. Miller stated his firm's bookkeeper handled rental disbursements and he would provide proof of the disbursement to the Board Investigator. After several requests for the documentation of the rental disbursement for Unit B, Miller failed to provide the documentation.

The Result

The Board found the following:

Miller violated Virginia Code § 54.1-2137.A because he failed to have a new property management agreement signed with the new brokerage firm.

Miller violated Virginia Code § 54.1-2135.A.1 because he failed to perform in accordance with the property management agreement by disbursing rental income to the landlord and account for such transactions.

Miller violated Virginia Administrative Code § 135-20-240 because he failed to provide the documents requested by the Board's Investigator.

Miller was fined \$2,700.00 and required to complete six hours of post-licensing education.

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