***Lapatin on the Law***

SURVIVAL MODE

Anyone wanted to know who won the Super Bowl in 2023 wouldn’t look for the answer in the 2020 edition of the *World Almanac*. By the same token, landlords and property managers wanting to learn about residential landlord-tenant law in Massachusetts wouldn’t be content flipping through the pages of the 2020 version of *The Massachusetts Landlord Survival Guide*. We’re pleased to report that a new Eleventh Edition of the *Guide* is approaching completion and will be available soon. Here’s a sampling of some of the new developments you’ll be able to read about:

* A Worcester property manager who wasn’t familiar with the requirements of the Section 8 rental assistance program tried to evade damages for turning away a subsidized rental applicant. Neither the Massachusetts Commission Against Discrimination nor the Appeals Court was prepared to recognize ignorance as an excuse for violating the fair housing laws.
* A tenant’s diabetic boyfriend argued that he should be allowed to keep a dog which alerted him whenever his blood sugar level was getting too high. There was no medical evidence to corroborate the dog’s unusual talent but both the landlord and the property manager still had to pay hefty fines and undergo fair housing training for trying to keep the dog out.
* Changes have been made to the Criminal Offender Record Information (“CORI”) law which allows access to a rental applicant’s criminal record.
* The Appeals Court explored the enforceability of an oral lease under which a mother who moved to Florida allegedly agreed to let her daughter rent the family home until the daughter’s children finished high school.
* One of the most important court cases in recent years addressed the issue of whether landlords can impose pet rent, reletting fees and other charges to be paid by a tenant over the term of a lease. Earlier decisions by Housing Court judges were dramatically overturned.
* A landlord’s liability when a tenant’s dog attacks someone – in this case a passer-by riding a bicycle – was addressed by the Appeals Court. Although the landlord was let off the hook, the result might be very different if the dog misbehaves again.
* A weekend rental of a house in Lynnfield for a college reunion proved fatal when one of the guests was shot and killed. The landlord was blamed and the Supreme Judicial Court had to decide whether short-term leases of this type were somehow correlated with an increased risk of criminal activity.
* By far, the most significant new development was the total overhaul of the State Sanitary Code earlier this year. New or revised requirements were adopted to govern access to apartments, refrigerators and freezers, heat and hot water, mold, leaks and flooding, window screens, garbage collection, exterior maintenance and much more. Landlords need to notify tenants of their legal rights and regularly monitor voicemail messages. Apartments must be inspected prior to turnover in order to find and exterminate pests. All of these guidelines are summarized in the new edition, which also includes a copy of the revised code.
* It was once believed that a landlord who sought to evict a tenant for nonpayment of rent couldn’t be accused of illegal retaliation. A new court case concludes otherwise, at least in instances where the landlord would have been prepared to tolerate a rent arrearage but for the fact that the tenant had started to complain about the condition of her apartment.
* Notices to quit for nonpayment of rent must now be accompanied by a state-mandated form letting the tenant know that rental assistance may be available and that the tenant is entitled to a day in court before being forced to leave.
* A new statute allows judges to delay evictions for nonpayment of rent while a tenant’s request for emergency rental assistance is pending.
* Tenants who have agreed, as part of a mediated settlement agreement approved by a judge, to leave an apartment by a specified date, can now be evicted without the need for a full-blown summary process action.

These developments have all been discussed on these pages or in special member advisories during the past three years and will now be included as part of the *Survival Guide’s* comprehensive overview of rental housing laws, regulations and court decisions. Thanks again for your continuing patronage and support.

Philip S. Lapatin