



BITS AND PIECES

Here's the latest sample batch of questions and answers from the Rental Housing Association's legal hotline, a free service which has been keeping members well-informed for the past fourteen years:

Q. Is a residential landlord required to change an apartment lock when a new tenant takes occupancy? If not, do we need to warn the tenant when the lock isn't replaced?

A. There's no legal requirement to change the lock, but the incoming tenant can be charged for a new lock and key and it makes sense from a security perspective to make sure that former tenants and occupants won't have continuing access. Warning the new tenant that the lock hasn't been changed is advisable, although such a disclosure is likely to trigger a request for a replacement.

Q. A tenant whose child suffers from asthma claims that a doctor has advised the removal of all carpeting in her apartment in order to alleviate the symptoms of the illness. We're being asked to install hardwood floors at great expense. Must we oblige? We've offered to let the tenant terminate her lease without penalty.

A. It is generally true that residents with a disabling condition are entitled to reasonable accommodations under the fair housing laws. However, it must be shown that what the tenant is requesting will be an effective way of addressing the medical problem. In this particular case, recent research has questioned the assumption that carpet removal is advisable. One study, albeit funded by carpet manufacturers, suggests that carpeting is in fact beneficial since dust trapped in a carpet is not circulating in room air, where children can breathe it in. Another study of inner city children with asthma found that when allergen sources are removed from their homes through improved cleaning practices and elimination of tobacco smoke, asthmatic children will do better, no matter what kind of product is on the floor. The landlord can also take the position that the cost of replacing the carpeting with hardwood flooring is prohibitive. There's no assurance that the tenant will relent, but the opportunity to cancel the lease should be viewed as an acceptable alternative.

Q. Are we allowed to convert existing security deposits into rent payments?

A. Yes, at least in the case of tenants who consent to the conversion. A letter could be sent advising each tenant of your plan to apply the deposit, including accrued interest, to the next rent payment become due after you received a countersigned copy of the letter. The tenants should be more than willing to give themselves an unexpected rent holiday.

Q. I need to document a deduction from a departed tenant's security deposit to cover the cost of repairs but may not have receipts from the contractors within the 30-day period during which the tenant must be given verification of the deduction. What do you suggest?

A. Under the applicable statutory provisions, evidence of the cost of repairs may also be furnished in the form of estimates, bills or invoices which the contractors ought to be able to supply.

Q. A group of tenants is keeping their apartment in deplorable condition, with trash and food strewn about. Both they and their parents, who co-signed the lease, have ignored our complaints. Is there an expedited way to have them evicted?

A. No, but given that the tenants are violating their duty under the State Sanitary Code to keep the apartment clean, the landlord should consider asking the local health department to conduct an inspection. The issuance of a citation against the tenants would be very helpful if they don't comply and the landlord decides to pursue an eviction.

Q. A local town official is asking for the names and birthdates of our tenants. Am I obligated to comply?

A. Under the state voter registration law, every landlord of an apartment complex with more than eight dwelling units must upon request provide to the city or town a statement, signed under the penalties of perjury, listing the name and date of birth of every person three years of age or older on January 1 residing in the complex as of such date. There should be no penalty for non-compliance to the extent that the information is not available; Massachusetts landlords are prohibited under the fair housing law from asking for the birthdate of any adult rental applicant.

Remember – the hotline is not designed to take the place of an attorney who can provide detailed advice and counseling. We welcome your inquiries at 617-573-5822.



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