

## **Using “Gut Instinct” as Part of the Tenant Selection Process**

**by Jan Leasure**

Is a “gut check” part of your tenant screening process? Is it the main part? I know lots of landlords who make tenant placement decisions solely on how they feel about the applicant after meeting him/her for the first time. Many have great track records. However, many others have ended up in court, evicting a tenant about whom they felt great at first blush. And a few of them have found themselves the subject of a fair housing lawsuit, attempting to defend their method for making a decision as to who gets the keys to the castle.

A friend of mine, an attorney, learned the hard way about using first impressions for tenant selection. He and his wife, move-up buyers, had purchased their second home. They decided to keep the first home as a rental. They thought it would be a great way to pay for college for their three-year old in fifteen years. They proceeded to advertise the property for rent, and they happened to be at the property sprucing up the yard when an interested couple came by to view the property. The attorney and his wife struck up an instant friendship with the prospective tenants, even going to dinner with them that night. To his credit, the attorney did ask the applicants to fill out an application to rent, and he did order a credit report. The credit report showed a bankruptcy and a few other credit issues in the past several years. The applicant explained to the attorney that he had had a business that failed, but asserted that he was back on his feet. When my friend, the attorney, called me to ask me my opinion of the situation, I pointed out the risk he was taking by renting to someone with previous credit issues. The attorney assured me that the applicant had convinced him that he was not a financial risk, and that he really liked the couple. Besides, he reasoned, “I can go to court cheaply.” “But do you want to have to?” I countered. My friend assured me that his gut was telling him that he was making the right decision. And his decision was fine . . . for about fourteen months. But the tenant then fell behind in the rent. His friendliness faded, and his demeanor became confrontational and defiant. My friend, the attorney, found prophetic his statement about going to court. He had to evict the tenants to regain possession of his house.

While a lengthy discussion of good tenant screening practices is beyond the scope of this article, diligent landlords should, at the very least, be doing a credit check, verifying employment and income, and researching the applicant’s rental history by talking to past landlords. As mentioned above, this will not only promotes good tenant selection, it will also help a landlord defend him/herself if/when accused of a fair housing violation. If a landlord makes a housing decision based on feelings alone, even though those feelings may not have been based on race, religion, sex, familial status, or one of the other protected classes, defense may be difficult.

A little closer look at some landlords’ use of “gut instinct” as a tenant screening tool reveals that, in actuality, those landlords are using some very concrete criteria without realizing it. For example, a landlord might actually be making a decision based on the personal appearance of the applicant. By “personal appearance,” I don’t mean race or apparent racial features. I mean the applicant’s tidiness, for example. If the applicant’s clothes are rumpled or disheveled, his/her hair tousled or uncombed, and his/her shoes are scuffed, the landlord may subconsciously draw the conclusion that the property may

be maintained the same way. The same conclusion may be reached if the applicant's car needs to be washed, or if it is littered with fast food wrappers.

Casual conversation with the applicant may also contribute to the gut reaction of the landlord. For example, some applicants may "bad-mouth" their prior landlords. While a few landlords do mistreat tenants, the applicants' comments may also indicate an inability to get along with the landlord or to work out differences. Applicants' references to what is legal and what is not may indicate past difficulties with the landlord-tenant relationship. An applicant who mentions his/her attorney in the conversation may be trying to subtly intimidate the landlord by intimating that the applicant has an attorney on retainer who will come to his defense in case of disagreement.

Gut instinct may also play a role in a landlord's decision to place (or not to place) a tenant when the applicant is in a hurry. When tenants are in a hurry to complete the application, to give the landlord a "holding deposit," and to take possession before all the proper paperwork is executed or all fees are paid, it can make a landlord suspicious. If the applicant is pushy about moving in, the landlord may get the nagging feeling that something is not quite right.

Any landlord who has the gut feeling that something is wrong about the tenant or his application should listen to his/her feelings. Then the landlord should set about reviewing the application, talking to past landlords, verifying employment and reviewing credit to unearth the concrete reasons that the uneasy feeling is rational. What most landlords find, when employing this procedure, is that there are valid reasons for that "gut feeling" that something is not what it seems on the surface. For the best results, listen to your gut, and then do your homework!

*Jan Leasure has been a landlord for over twenty years and is President of California Landlord Solutions. She may be reached at (831) 655-7844 or by visiting [www.californialandlordsolutions.com](http://www.californialandlordsolutions.com).*