

A Little Knowledge is Dangerous – Test Your Resident Managers! – Part II **by Marvin Fleschman, CAPS**

As mentioned in last month's article, I believe three-fourths of the resident managers are a lawsuit waiting to happen. The results of your manager's lack of knowledge can lose your building for you.

Below is a continuation of questions. Test your resident manager – the new information he may receive may just save you a lawsuit, headaches and money.

19. Can I reject applicants who are illegal aliens?
20. Can I refuse to rent to Section 8 tenants?
21. An applicant has a criminal history showing a conviction for embezzlement. Can I reject his application?
22. A tenant vacated their apartment, left no forwarding address and left their dog, a dish of water and a bag of dry dog food. Can I take the dog to the pound?
23. I have an applicant who can't qualify because of low income. He has a very wealthy uncle who is willing to provide any assurance I want. Can I refuse to accept a co-signer?
24. I don't allow children to play in the driveway or parking area because of the danger of getting hit by a car or damaging cars. I also don't let them play in the courtyard because of noise. Is this okay?
25. I told a tenant he can't have a satellite dish on the roof. He says I can't restrict his right to receive satellite if installed by a license professional. Must I allow this?
26. A minority applicant got irate when I turned him down because of low income. He said he always paid his bills and had good credit to prove it and threatened to sue for discrimination. I refused to be intimidated and turned him down. Was I wrong?
27. A tenant has a creepy boyfriend who doesn't work and seems to be staying with her a lot. She says he isn't living there. What should I do?
28. An elderly woman who has been a long time tenant now says she needs a dog for a companion. I do not allow pets in my building. Can I tell her no?
29. I rejected an application from a married couple because they were a 16 year old boy and a 15 year old girl and they are too young to enter into a contract. Don't they have to be 18 years or older to sign a rental agreement?
30. A screen door has been broken for the third time by my tenant. I got mad and threw it in the trash. The tenant said I had to replace it or he wouldn't pay rent because the Housing Department habitability definition requires screens on windows and doors. Is he right?
31. I do not want to accept cash from tenants as the neighborhood is high crime. My tenant says its US currency and I have to accept it. Can I have a "no-cash" policy?
32. Rent control only allows me to increase my rents 5% per year. During the bad times, I couldn't raise the rents for five years and now I want to raise it those five years times the 5% this year to make up for the past. Can I do this?

Answers:

19. Asking applicants to provide documentation of their citizenship or immigration status does not violate Fair Housing Act if the requirement is uniformly applied (everyone must be treated the same). We are not to be concerned with enforcing INS laws. The reason we turn down an illegal is because if they were deported, or if an applicant on a student visa can't stay to fulfill the lease term, they would be unable to fulfill their lease requirements. Rejection solely for nationality or ancestry is discrimination.
20. Yes. We are allowed to refuse to "participate in a government program.
21. We only have the right to reject criminals convicted of drug-related crimes, violent crimes or crimes involving a gun; a person who might pose a threat to the health and safety of other tenants on our property.

22. No. The dog must be treated like abandoned property, kept safe and in good condition for 18 days. You can keep the dog at home or put the dog in a kennel hoping the expense will be paid by the tenant later. Then, if no response, valued at less than \$300, keep the dog, give it away or turn it over to the humane society.
23. If a tenant doesn't qualify on their own, we don't have to accept a co-signer. If you do, have the co-signer meet specific criteria of income.
24. I don't allow **ANYONE** to play in the driveway or parking area because of the danger of getting hit by a car or damaging cars. I also don't let **ANYONE** play in the courtyard because of this noise. (Use the word **ANYONE** instead of children.)
25. Landlords can restrict placement of satellite dishes in common areas of the building. Tenants have the right to place satellite dishes in areas that they rent and are not allowed to bolt or drill holes in the walls without the landlord's permission.
26. Any applicant who doesn't meet your established Tenant Selection Criteria standards that you apply to ALL tenants can be rejected.
27. A stranger who seems to be living with an existing tenant must fill out the same application and go through the same screening everyone else did. Time is of the essence; if you continue to accept rent, your inaction says you accept the "guest" as a tenant. (**Editor's Note: Also, DO NOT accept any form of payment from the stranger.**)
28. Dogs and all pets are not protected from discrimination; therefore, you can limit pets any way you decide. You can accept some dogs and not others, i.e. accept dogs under 25 pounds, some breeds and not others. Service animals that help the disabled are NOT pets and MUST be allowed.
29. Not always. California recognizes minors who are married, on active military duty, or by court order to be "emancipated," able to enter into contracts.
30. No. A screen door is not a habitability requirement for an apartment.
31. You can require the rent not be paid in cash if you have wording in your rental agreement that says something to the effect, "For the safety of the manager, all payments are to be made by check, cashier's check or money order; no cash shall be accepted."
32. No. You must take the 5% allowable rent increase EACH year or lose it.

*Marvin Fleschman is a Property Management Consultant and Advocate who advises and represents apartment owners, management companies and investors. His expertise is management operations, expense reduction, management training, LA Inspection Ordinance (pre- & post-inspection problems), and Fair Housing & Discrimination (pre- & post-law suits). He may be contacted at (818)704-7179. **The information contained in this test is not intended as legal advice. Always consult with an attorney or an appropriate government agency if you have a particular problem or question.***