

**Landlord Prevails In Discrimination Suit!  
Rental Policies Must Be Clearly Stated,  
Allowing Equal Treatment To All**

New Jersey: An appellate court agrees a landlord did not discriminate against a prospective Section 8 tenant whose rental application was rejected based on credit history.

The prospective tenant applied for an apartment at the apartment complex where Section 8 tenants were accepted. The man was confined to a wheelchair and wanted to rent a particular ground floor apartment at the complex that had a concrete ramp for wheelchair access.

The prospective tenant sued the landlord under the state's Law Against Discrimination, claiming his application was rejected because he received Section 8 assistance.

The man received \$556 a month in social security benefits, and Section 8 agreed to pay \$774 of the \$915 monthly rent at the complex. He told the landlord about his poor credit history and discussed the possibility of his sister cosigning the lease. The sister agreed initially to cosign but subsequently withdrew the offer.

The apartment complex obtains credit checks on all applicants as part of its written policy. The complex imposes minimum income requirements on all applicants and conducts criminal background checks on tenants who pass the credit check portion of the application process.

The complex excludes Section 8 applicants from the minimum income requirements because it, along with other Section 8 providers, may not discriminate against applicants based on their source of income. It does not exempt Section 8 applicants from the credit history and criminal background portions of the application under its policy.

It is apartment complex's policy to deny a tenant's rental applications if the applicant has a poor credit history. The prospective tenant's credit report and history indicated numerous unpaid collections and obligations, including nearly \$2,300 owed to a prior landlord who evicted him.

The prospective tenant said his credit problems were a result of his disability and loss of employment. He indicated he is now receiving SSI and SSD benefits and has begun resolving credit problems.

The apartment complex denied his application based on his poor credit history. The prospective tenant sued the landlord under the state's Law Against Discrimination, claiming his application was rejected because he received Section 8 assistance.

The trial court ruled in favor of the landlord and held the prospective tenant's application was properly rejected due to his lack of creditworthiness, not because he received Sec. 8 assistance. The tenant appealed.

One appeal, the tenant argued the trial judge improperly concluded that the landlord could consider "a legitimate assessment of creditworthiness as a valid reason to reject a prospective Sec. 8 tenant's application under the Law Against Discrimination statutes." He also claimed on appeal he proved the landlord's reason for denying him the apartment-his poor credit history-was a pretext for discrimination.

He further argued the landlord should not be able to deny an application based solely on poor "creditworthiness" where Section 8 has guaranteed payment of a substantial portion of his rent.

The appellate court affirms the trial court's decision that the landlord did not discriminate against the prospective tenants by denying his application based on his credit history.

The appellate court agrees the landlord did not discriminate against the prospective tenant because the landlord relied upon the applicant's creditworthiness as criteria for Sec. 8 tenants. The landlord did not discriminate against him by denying his application because of his poor credit history.

Since the tenant failed to prove the landlord's reliance upon his credit history as the deciding factor in determining whether to rent to him was, in fact, a pretext for discrimination against him,

the prospective tenant cannot prevail against the landlord. Thus, the lower court's decision was proper.

***Lesson: The landlord prevailed because the landlord properly evaluated the prospective tenant using set, non-discriminatory factors in deciding not to rent an apartment to him. Landlords who follow their policies and treat every applicant and tenant the same will prevail in cases like this one.***

*Landlord Law Report is written by a practicing landlord-tenant attorney and contains quick-reading highlights of recent federal and state court decisions on fair housing, premises liability, rent control, lease enforcement, drug use, eviction, handicapped accessibility, building security, lead paint/asbestos, and Section 8 tenants, plus summaries of HUD rulings. Each issue is filled with advice on how multifamily property owners and managers can be better prepared to protect themselves from expensive and time-consuming litigation.*

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