

PROBLEM TENANTS*

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- I. Tenant Rights and Landlord Responsibilities: Subject to statutory requirements, lease will govern relationship between landlord and tenant
 - A. Tenant Rights
 - Habitability
 - Notification requirements to landlord regarding habitability problems
 - 15-day “grace period” on late fees on rent
 - Keeping property free from damage
 - Normal wear and tear versus *beyond* normal wear and tear
 - Allowing entry of landlord
 - Allowing tenant to obtain cable or satellite TV
 - No award of legal fees when enforcing rental agreement
 - B. Landlord Responsibilities
 - No discrimination

* The information and suggestions presented at this seminar is subject to constant change and, therefore, should serve only as a foundation for further investigation and study. All information and procedures contained or used in conjunction with this seminar should be carefully reviewed and should serve only as a guide for use in specific situations.

- Habitability
- Payment of electricity in common areas
- Can only increase rent in certain circumstances
- Acceptance of general assistance vouchers required
- Informing tenants of potentiality of lead-based paints
- Radon testing (2012)
- Smoke detectors
- No unfair rental agreements
- Must provide residential energy efficiency disclosure statement

II. Risk Management and Matters of Health and Safety

- Incorporate business
- Comply with the law, including health code, fire code and building code
- Adopt risk management plan that:
 - Provides for routine inspections of the property that identifies and repairs any problem areas or hazards that could lead to personal injury or property damage
 - Provides for routine inspections of property for compliance with health code, fire code and building code
 - Applies fair housing and discrimination laws equally to all tenants and prospective tenants
 - Employees to use safe work practices
 - Prohibits tenants from keeping dogs (except guide or other handicap service dogs) on the property.
 - Landlord-tenant trainings with employees
 - Screens potential tenants with criminal background checks

- Appropriate and necessary amounts of insurance
 - General Liability
 - Casualty
 - Umbrella policies

III. Nuisances: any material impediment, activity, or behavior that interferes with use of the property by the owner or other tenants

- May terminate tenancy if tenant at will on 7 days' notice when:
 - The tenant, the tenant's family or an invitee of the tenant caused or permitted a nuisance within the premises, has caused or permitted an invitee to cause the dwelling unit to become unfit for human habitation or has violated or permitted a violation of the law regarding the tenancy
- Lease provision to address termination of tenancy due to nuisance

IV. Property Damage

- Distinguish between normal wear and tear and *beyond* normal wear and tear
 - Beyond wear and tear: keep security deposit and sue for any additional amount needed for repair
- May terminate tenancy on 7 days' notice if damage is substantial

V. Holdover Tenants

- Tenant and landlord responsibilities governed by the terms of the prior lease
 - Exception: duties or omissions clearly intended to be effective only during the period of the original lease
- Subject to lease terms and equitable considerations, landlord may unilaterally hold tenant to another term
 - Conduct by landlord may result in waiver of election to hold tenant to another term

- Length of term depends on how rent is computed, with maximum being year-to-year
- Subject to lease terms, acceptance of rent by tenant may result in new a new term
- If term not extended, may require that tenant pay landlord an amount equal to the value of tenant's continued occupation of premises
 - Special damages also a possibility
- If term not extended, probably best to formally terminate occupancy (i.e., written notice to vacate) and commence FED action
 - Subject to lease terms or if a tenant is at will, landlord's acceptance of rent after termination notice may void the notice

VI. Illegal Immigrants

- 8 U.S.C. § 1324(a)(1)(A)(iv)
- Social security cards only get landlords so far
- Possible Fair Housing Act violation