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Open House

NEWSLETTER OF THE FAIR HOUSING COUNCIL
OF MONTGOMERY COUNTY

SUMMER 2006 ISSUE XXV

WANTED: INFORMED TENANTS

Once a year the Fair Housing Council publishes a special “Housing Provider” newsletter, providing information to landlords and property managers. This is the first issue written for TENANTS - a group making up 27% of the households in Montgomery County.

Although renters comprise a large segment of the population, there are very few organizations

specifically devoted to providing information and assistance to tenants. The need for this information is great - and so we’re trying to help fill the void.

This newsletter will not be limited to the Fair Housing Act (i.e. protection from discriminatory treatment on the basis of a protected class) but will also include the basic facts that tenants consistently ask for concerning their rights un-

der landlord tenant law. Judging from the number of calls we log every day, it is long overdue!

Since renters may be transient and landlord-tenant laws can differ markedly between states, many tenants are confused and uninformed about things like security deposits, reasonable repairs or the proper eviction process. Lack of information creates situations which are ripe for abuse by predatory landlords.

The Problem of “Predatory” Landlords

At the Council, we often get troubling complaints from renters who appear to have become victims of “predatory” landlords. Although difficult to label precisely, predatory landlords are those who engage in unfair business practices and prey on people who are vulnerable. The people often taken advantage of include new immigrants, students, unsophisticated renters, or people in a housing crisis. Sometimes these groups are in a protected class such as race or ethnicity, and the actions of the landlord are a violation of the Fair Housing Act, as well as contravening landlord tenant laws.

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Predatory Landlords (continued from page 1)



The people being victimized are often poor, lack knowledge, and are terrified of losing their housing if they complain about the leaky roof, the unsafe railing, the lack of heat in the winter, the door that doesn't lock, or the mold problem causing their kid's illness. We have heard of landlords who take pictures of undocumented tenants and then threaten to report them to the immigration authorities if they dare complain about anything!

Like predatory lenders, predatory landlords are more easily described by their practices, rather than by any specific definition. Here is a sample of some of the abusive practices from our case files:

- ***A landlord accepts an application fee plus first month's rent of \$650 on the condition that the prospective tenant find a co-signor. Within 3 days, the tenant produces 2 potential co-signors – both of which are rejected by the landlord. The tenant is not allowed to move in - and demands the \$650 returned. The landlord tells the person "I'll get back to you on that". The landlord does not return calls. After 4 months, the \$650 still has not been returned.***
- ***A tenant moves into an apartment after first helping the vacating tenant move out and then cleans the apartment completely. After 2 years the tenant gives proper written notice, cleans the apartment, and moves out, leaving the apartment in better shape than when he moved in. In spite of this, the landlord demands that the tenant re-paint the entire apartment, re-sand the woodwork & floors and make other renovations. When the tenant refuses, the landlord sues him in court for \$3500 for "repairs".***
- ***A tenant moves out after giving written notice, leaving a forwarding address and requests the return of the security deposit. The leasing company claims they never received the notice and refuses to return the security deposit. The tenant finds out from other tenants that the leasing company has a policy of NEVER returning security deposits and that if a tenant presses the issue, they will claim that the tenant never gave proper notice and still owes rent for "months left on the lease".***
- ***A tenant who has lived in her apartment for several months repeatedly asks for a copy of her lease. Finally, after seeking assistance from a social service agency the landlord's agent sends a copy of the lease. The \$1100 security deposit the tenant paid in cash (they promised to "mail her a receipt") is listed as "\$0.00". The tenant has no proof that she ever paid the security deposit.***

These are a few of the most egregious complaints that we have received. In order to stop being victimized tenants must: 1) Become informed of their rights as tenants; 2) Document attempts made to resolve a repair, payment, or lease violation; 3) Call the local code office to report and document significant health and safety issues that are not addressed by the landlord; and 4) Be prepared to present or defend a claim in District Court if there is an unresolved issue with your landlord.

HOW TO SPOT A PREDATORY LANDLORD

Unfortunately, predatory landlords sometimes seem more obvious after the fact than before. They will seem like nice, friendly, helpful people— especially BEFORE you hand over your hard-earned money. So, how will you know? Here are some warning signs that may indicate you are headed for trouble:

- * You don't get time to actually READ the lease. After you sign, you are not given a copy of the lease itself— you are told "I'll give it to you later". **A good landlord wants you to read AND understand everything that is included in the lease— BEFORE you sign.**
- * You do not get receipts for cash payments. The landlord promises to mail you one "later". **A good landlord always gives you a receipt when you pay in cash.**
- * The lease "waives" the landlord's responsibility to make major repairs - you are told that you must accept the premises "as is" or the lease assigns responsibility for major repairs to the tenant. **A good landlord knows he/she is bound by the "implied warranty of habitability" to keep the premises safe, sanitary, and code-compliant at all times.**
- * The lease is riddled with onerous lease terms and conditions - all of which serve the interests of the landlord and not the tenant. There may be exorbitant late fees, cleaning fees, etc. **A good landlord gives a lease without exorbitant fees and illegal terms and conditions.**
- * Things never seem to get fixed. Before you move in, the landlord assured you that repairs were taken care of right away. AFTER you move in, it's a different story. You get lots of promises— but no action. **A good landlord makes repairs promptly— especially major things which impact the tenant's basic use of the property.**
- * You are charged for things that are not your responsibility when you move out. **A good landlord charges tenants ONLY for damages done by the tenant beyond normal wear & tear—all else is solely the responsibility of the landlord.**
- * You have reason to believe that the landlord has been in your apartment when you are away - without notifying you. **A good landlord respects your privacy - only entering for an emergency or with prior notification.**





EVICITION PROCESS

A tenant may be evicted for cause, including non-payment of rent, material lease violations, or refusal to vacate at the end of a lease. To evict, a landlord must first give tenant written notice to vacate. If the tenant does not move out, then the landlord can file a complaint in District Court. The tenant receives a summons from the court stating the date, time, and place of the hearing. *A tenant must show up at court - or a default judgment may be entered against them.* If the judge rules in the landlord's favor, a Judgment for Possession will be issued. This means that the tenant must vacate the premises within 21 days. A landlord may NOT change locks, shut off utilities or forcibly evict a tenant without going through the court process.

A security deposit is money that belongs to the tenant

SECURITY DEPOSITS

A security deposit is money belonging to the tenant deposited with the landlord to protect the landlord financially IF the tenant causes damage (beyond normal wear & tear) or moves out still owing rent. A deposit equal to 2 months rent may be held by the landlord; after the 1st year only one month should be retained. At lease end, the tenant must give proper notice and leave a forwarding address. The landlord must return the deposit within 30 days or send a letter itemizing the deductions for damages/rent etc. If the landlord fails to do this, the tenant may sue for twice the amount of the deposit.

“WARRANTY OF HABITABILITY”

The Pennsylvania Supreme Court has ruled that tenants have a right to a safe & sanitary place to live - it's called the “IMPLIED WARRANTY OF HABITABILITY”. It says the landlord is responsible for fixing serious problems such as a leaking roof, non-working heating, refrigeration, plumbing or gas facilities, vermin infestation, faulty electrical, and structural hazards. A landlord may NOT rent a property that is not habitable. This duty may not be “waived” in the lease. The Warranty does not require the landlord to make cosmetic repairs that do not pose serious health/safety problems.

WAGE GARNISHMENT

Landlords who have won a monetary judgment in District Court, Philadelphia Municipal Court or the Court of Common Pleas against tenants for unpaid rent or damages now find it easier to file a request for the attachment of wages, salaries, or commissions of tenants. The PA Supreme Court has set up guidelines for the Prothonotary to garnish wages to satisfy a judgment on behalf of a creditor landlord. A hearing is required and there are some circumstances (i.e. for very low income) that must be considered before wages can be taken to satisfy the judgment.



REPAIR ISSUES



A landlord must fix serious problems that are a threat to health or safety of tenants. The first step is for the tenant to talk to the landlord about the problem. If that does not work then try these steps: 1) Notify landlord in writing about the problem and tell him what you intend to do if it is not fixed; 2) Give the landlord a reasonable time to correct problem - the more serious the problem the faster it should be fixed! If the landlord refuses to fix a serious problem, you may be able to move out and ask for your security deposit, pay for the repair yourself & deduct the cost from the rent, or withhold rent in an interest bearing escrow account. **WARNING: These remedies have risks - consult an attorney for advice before acting upon them.**

RENT INCREASES

Many tenants are surprised to learn that there is NO rent control in Pennsylvania. This means that there is no limit to the amount of rent increase that a landlord can charge you as long you are given “proper notice”. If you have a yearly lease, the proper notice requirement will be stipulated in your lease. If you have an oral lease or a monthly lease, the landlord must give at least 30 days notice in writing before raising the rent. After receiving proper notification you must pay the increase or move out.



ASK THE MAGISTERIAL DISTRICT JUDGE!



Judge John Durkin addresses landlords at April 27th Landlord Reception co-sponsored by the Fair Housing Council Of Montgomery County.

“A lot of tenants think that the notice to vacate that the landlord puts on the door is the actual eviction notice from the court—but it’s not.”



Note: District Justice John Durkin of Pottstown was a popular speaker at the First Annual Landlord Reception on April 27th. Now we are asking him to answer questions from tenants. Justice Durkin hears an average of 5500 cases per year in his courtroom— one of the busiest district courts in Montgomery County. He has been a DJ in Pottstown since 1997.

FHCMC: What are some of the most common misconceptions that tenants have about landlord- tenant law?

Judge Durkin: Well, understanding the eviction process is a big problem. A lot of tenants think that the notice to vacate that the landlord puts on their door is the actual eviction notice from the court—but it’s not. That notice is just the note from the landlord telling them to leave by a certain date. The landlord **MUST** go through the legal process first- file in a complaint in district court, then the tenant is delivered a summons from the court, fol-

lowed by the court hearing, the judgment. That process usually takes 30 days or better. Even after a judgment is entered against the tenant by the DJ, they still cannot be evicted for 21 days.

FHCMC: Tenants who are frustrated with a landlord who doesn’t make repairs often just withhold rent to force the landlord to act. And sometimes they end up evicted. What should they have done?

Judge Durkin: The tenant should have opened an interest bearing escrow account in both the tenant’s AND the landlord’s names. They should NOT just put the money in an account somewhere. They have to withhold the rent legally.

FHCMC: What is the most common error that tenants make in proving their case in court?

Judge Durkin: Lack of documentation - it’s the same as for land-

lords. It’s all verbal. They can’t prove they made the calls to the landlord about a repair because nothing was in writing - how can they prove they tried to communicate? It’s important to send the landlord a LETTER about the problem and visa versa for the landlord complaining about lease violations.

FHCMC: One of the most recurring complaints is about the non-return of security deposits. Assuming there was proper notice and no damage, what must tenants do to get their deposit back?

Judge Durkin: Three things: 1) Give notice in writing; 2) Do a “Walk Through” with the landlord before you leave; and 3) Leave a forwarding address. The landlord must return the deposit within 30 days or send you a an itemized letter explaining why they are not returning the security deposit.

SOME TIPS ABOUT DISTRICT COURT

Sometimes tenants find themselves in District Court - often representing themselves as a defendant against a landlord's eviction complaint OR sometimes a tenant is a plaintiff (the person bringing the complaint) against the landlord. The following are a few key tips you need to know:

- You don't need a lawyer to represent you in Court—although you may have one if you wish.
- Show up for a scheduled court date on time. If you don't and there is no one to tell your side, a judgment may be entered against you.
- Bring written **PROOF** to back up what you are claiming! Bring copies of letters, receipts, photos, notices you received, and your lease .
- Landlords and tenants are required to do what the judge orders but decisions may be appealed within 10 days (evictions) or 30 days (monetary judgments). Also you may have to post a bond for the amount in dispute or pay it to the court during appeal.
- Plaintiffs pay a filing fee. If you prevail, you may request the judge to order the other side to pay the legal fees and court costs you incurred.

Note: This is only general information about the court process. Call your local district court and/or an attorney for more detailed information on filing a claim and/or preparing to represent yourself in court.

ARE YOU A GOOD TENANT?

Good landlords want to rent to good tenants. They reasonably expect that as long as they maintain the property, keep it code compliant, pay the taxes, they can make a living off their investment.

A landlord wants tenants who pay the rent on time, don't damage the property, and get along with the other tenants.

- Rent -This is the core of the relationship. The landlord has no obligation to house people for free. If you do not pay rent, you can be evicted.
- Damage - Landlords have a duty to make sure the property is habitable - to make repairs when needed. The tenant has an obligation to help keep it that way - i.e. to not damage the property beyond "normal wear & tear" use.
- Nuisance Issues - Tenants must respect the rights of others - no loud music, parties, arguments, trash pileups. Annoying fellow tenants is a major reason that people cite for moving...So, are you the tenant that other people are always complaining to the landlord about? If so - change your behavior!

Disclaimer: The Fair Housing Council of Montgomery County provides public information for housing consumers and providers but not legal advice. Legal advice is provided by licensed attorneys in the Commonwealth of PA. Nothing contained in this publication should be construed as legal advice.



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In This Issue...

Information for tenants

* 2006 Fair Housing Poster Contest Winners *



“Fair Housing is For Everyone!” is the theme of the winning poster by Xandria Schaeffer (center) of Elkins Park School. Her rainbow design will be made into the official 2006 T-Shirt of the Fair Housing Council. Alongside are the 2 finalists from Elkins Park School: Ugen Nguyen (left) and Quadirah Locus.