

**Rent Requirements, Treat All Equally and Fairly.
This Probably Never Happened To You, But...
(#146)**

The applicant for #3, a minority-woman-with-child, was declined. Not because of her race, not because of her sex, and not because of the child. She was declined because of her marginally bad credit.

Of course, that's not how she saw it. She was suspicious that it was because of her race, sex, or motherhood, and she took her complaint to Dept. of Fair Employment and Housing (DFEH). And so starts a paper-work nightmare for us. We now have to prove that our refusal to rent to her was not based on some form of illegal discrimination.

But we are ready, and we will prevail, because we have a very clear statement of rental criteria, which we follow to the letter. Our rental requirements are posted in our rental office, and a copy of these requirements is given to each-and-every potential applicant before the showing and application process begins. We talk to them about our requirements. We do everything possible to "stick-to-the-script", so that we are as certain as we can be that we are treating each potential applicant the same, judging each by the same, lawful standards.

Of course we are discriminating...in the lawful sense of the word. We are setting standards, and as our market improves (i.e., fewer vacancies) we raise our standards. But again, we are treating all who walk in, on any given day, just the same as the person who walked in before or after. And we can prove it. And DFEH will expect us to be able to prove it.

As part of their research into such a complaint, they will want to see applications on your other tenants, all present tenants, and for such past tenants as you may have records. They will look to see the sort of person you routinely accept. They will want to be darned sure that you have not accepted other applicants who had similar credit to this complainant (and who may not have been a minority or had children). So you just need to be equally sure that you have been consistent, even-handed in your application approval process. If you have selected similar or lesser qualified applicants in the past, you had better be able to establish that those were from a protected category, or that the market conditions have altered, and that the person you ultimately selected this time clearly met your posted standards. "Gut Feeling" may be useful in your selection process, but we highly recommend that you be able to back up your selection decisions with verifiable data. It has worked well for us.

If you would like a copy of our Rent Requirements, please e-mail me at the address below.

Dear Readers: This article is the 146th in a series based on the lessons we have learned the hard way. The contents of these articles are merely opinions of the writer. They are not intended as specific legal advice and should not be relied upon for that purpose. Our practice is in constant refinement as we adjust the way we operate to an ever- changing rental market. I always appreciate your questions, comments, suggestions, and solutions. Contact C. Finley Beven, CPM, CCAM, JD. Fin.Beven@bevenandbrock.com