

Reasonable Application Standards for Tenants and Subtenants

By Clifford E. Fried

Landlords look at many different factors in deciding whether or not to approve a tenant or subtenant. To protect the property owner's interest in collecting full rent in a timely fashion, economic factors are most relevant. However, in order to protect other tenants in the building from someone that may be violent or a nuisance, other factors come into play as well.

Here is a list of some of the more regular application standards that have been adopted by California landlords:

1. *No Eviction History.* An applicant must have no history of being evicted. The filing of an unlawful detainer action anywhere against the tenant is grounds for rejecting the applicant. Even where the previous landlord failed to obtain a judgment for possession against the tenant, the mere filing of a court proceeding against the tenant is a sign of a potential problem tenant. Of course, new laws that hide unlawful detainer filings from the public will make it difficult to discover very recent evictions.

2. *Clean Tenancy Record.* An applicant should have a good rental history. In the alternative, prior home ownership is acceptable. Landlords shouldn't have to "break in" kids that are leaving home and renting for the first time. Check with as many prior landlords as possible regarding the applicant. Always ask previous landlords "would you rent to this tenant again?" Prior landlords must be willing to rent to the applicant again and there should be near-perfect payment histories. Reject applicants with short term tenancies.

3. *Sufficient Income.* The monthly gross income of the applicant should be at least three times the monthly rent. So far, this income standard requirement has been upheld by the courts. Avoid trust fund applicants or people that live off of the interest of their investments - trust funds can become depleted and interest rates can fall. Previous experience also indicates that they tend to be more irresponsible when it comes to other people's property.

4. *Adequate Employment History.* Landlords should avoid renting to applicants that have not held a job with a local company for at least two years. You want to rent to long-term employees. They tend to make more stable and responsible tenants. Verify employment by calling the employer and asking lots of questions about the applicant. But, keep in mind that

employers should only be asked to verify information that has been provided by the applicant. Do not expect them to volunteer information to you. For example, you can ask about the applicant's personality and work habits, but should only verify income and employment specifics. If you get an answering machine instead of a receptionist, be suspicious -- many applicants list their friends as their employers.

5. *Good Credit History.* Chances are that an applicant with a poor credit history will have you as their next creditor. Reject applicants with too many unpaid debts, debts that are in collection and bill payments that are more than 60 days old.

6. *You Must Like Your Tenant.* More important than any of the foregoing factors is that you like and trust the applicant. Sometimes no level of income or adequacy of credit can substitute for trust. There are no guidelines here. Let your life experiences with people guide you here. If you are uneasy about the applicant, reject him or her. However, be careful not to reject an applicant based upon sex, color, race, religion, ancestry, national origin, disability or the like. Rejection of the applicant on any of these grounds could subject you to a claim of unlawful discrimination.

No matter what practices you use in screening apartment applicants, there is always one factor that you must follow to the letter: **YOU MUST APPLY EXACTLY THE SAME CRITERIA TO EVERY APPLICANT, NO MATTER WHAT.** Your failure to do so could subject you to a claim of unlawful discrimination.

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