

Tips on Selecting a Tenant

A Fact Sheet for Owners of Rental Properties

Looking for a new tenant?

Tenant selection is probably the most important thing that rental property owners do. Even if you have just one rental unit, Massachusetts law stipulates that you have the same responsibilities as someone who owns hundreds of units. It also says that you are subject to the same penalties if you fail to comply with state regulations. Getting rid of a bad tenant can also be very difficult and very costly. A few simple steps can save you untold time and expenses.

Here's how.

The first thing to remember is that being a landlord is a business. Choosing a friend is a personal decision, based on how much you like someone. Choosing a tenant is a business decision, based on determining whether an applicant meets certain standards in a manner that complies with federal and state housing laws. Confusing the two can sometimes be a bad mistake for a rental property owner.

All good tenants share certain characteristics:

- **They pay the rent fully and on time.** This means two things. First, they should have a regular source of funds that allows them to be able to pay their rent, along with meeting their other expenses. It is illegal to discriminate against an applicant based on the fact that his or her source of funds is Transitional Assistance (“welfare”), the Housing Choice Voucher Program (“Section 8”) or the Massachusetts Rental Voucher Program. Second, they, or someone who co-signs for them on your lease or rental agreement, should have a history of prompt and complete rental payment.
- **They keep their house or apartment clean and do not cause damage.** If you don’t determine this by checking their references before you rent to them, you will find out after they move in – often to your regret.
- **They do not disturb other tenants or neighbors.** A good tenant is quiet and considerate of others.
- **They are honest with you.** This includes not lying on the rental application.
- **They do not engage in any illegal activities.** This applies to all members of their household. (One of the advantages of being a member of one of the local landlords associations is that their newsletters feature a list of persons recently arrested for drug violations.)
- **They abide by the terms of the tenancy.**

If your choice is based on the above criteria, you should be able to find the right tenant. Never make the mistake of assuming that, because you and an applicant share the same friends, or because you both come from a similar background, that individual shares your values. This assumption can lead you to a disastrous tenancy and may well place you in violation of the Fair Housing Laws.

The Fair Housing Laws.

There are a number of fair housing laws, both federal and state, that apply to tenant selection in Massachusetts. The “protected categories” against which it is illegal to discriminate include: race, color, national origin, sex, disability, familial status, ancestry, age, marital status, the presence of children in the household, veteran status, sexual preference, genetic information and whether someone’s income comes from public assistance or that individual is on a housing subsidy program. Placing a discriminatory ad or even inquiring into someone’s status can also be a violation of the fair housing laws.



Except for discrimination based on race (for which there are no exceptions), there are certain exemptions from the fair housing laws that may apply to owners of single-family or two-family dwellings in some instances. Owners of two- or three-family homes in which someone resides whose well-being might be adversely affected by the presence of children because of age or ill health are exempted from the Massachusetts fair housing laws that apply to tenants with children. It is worth noting that the Massachusetts Lead Paint Laws otherwise prohibit refusal to rent to a family with children because of the presence of lead paint. The fact that you are the owner of a two-family house in which you also reside does not excuse you from this requirement unless the house was built after 1978 or the rental unit is otherwise in compliance with the lead paint laws.

It is important to remember that the fair housing laws do not *require* you to rent to someone just because he or she is a member of a protected category. The laws simply state that you cannot discriminate *against* that person *because* he or she is a member of that category. Since none of these categories have anything to do with whether someone will be a good tenant, all you need to do to comply is to treat everyone fairly and uniformly and choose your tenant based good business practices.

How to Find the Right Tenant.

Advertise. Spend the money to place a good ad in the local newspapers. Put up flyers at local merchants. Schools, churches and housing agencies often provide free listing of available apartments. Use online sites such as Craig's List (www.craigslist.org).

Bilingual Application and Release Form. Be sure that everyone who applies for your apartment completes an application form that *lists every address that they have lived at*, the dates they were there and their landlords' names. It must also include a *signed release* that gives you permission to check references. Make clear to the applicant that any misrepresentation on the application will automatically disqualify him or her as a potential tenant. Be sure that applicants list everyone who will be living in the apartment. (Note that the State Sanitary Code, copies of which are available through the Massachusetts Department of Health, sets standards for the maximum number of people who can live in an apartment of a particular size.) Sample rental application forms can be obtained from the Massachusetts Rental Housing Association, your local landlords associations, or may be found (along with more detailed information on tenant screening) in "Property Management for Massachusetts Rental Owners," which is available through HAPHousing.

Check References. Talk to *every* landlord that the applicant has rented from – not just the most recent. Unfortunately, landlords will sometimes lie to get rid of a bad tenant, or conversely, may give a bad reference to a good tenant for personal reasons.

Make the criteria listed above into "objective" questions that the former landlord can comfortably and clearly answer. "*Did the tenant always pay the rent fully and on time?*" "*Was it ever late?*" "*Were there ever any complaints about noise?*" "*Did the police ever have to be called?*" "*Was there any damage found when the tenant moved out of your apartment, and if so, how much?*" "*Would you rent to that tenant again?*" Landlords are almost always comfortable giving answers to strictly factual questions about the behavior of their former tenants.

Look for gaps in the applicant's rental history or for a pattern of many tenancies of short duration.

Be sure that you are talking to a landlord when you check references. Tenants who know that previous landlords will give them an unfavorable reference will sometimes give you the name of a friend or relative who will pretend to be a former landlord when you call.

Remember that it is not your responsibility to prove that someone will be a bad tenant; it is your applicant's job to supply you with the information necessary for you to determine that he or she will be a good tenant.

Run a Credit Check. Once you have determined the one or two top candidates by thoroughly checking their references, it's time to run a credit check. There are both local and internet-based companies that, for a modest fee, will provide landlords with a profile on prospective tenants that



includes their credit reports, whether they have been evicted and whether they have been arrested for drugs. The data is usually drawn from a national database, so it is not just limited to actions in local courts. You must obtain a signed release from a prospective tenant to be able to run a credit check on him or her, and you must properly notify that individual if you reject his or her application based on the credit report. Running a credit check should never take the place of a thorough review of the applicant's references, but it can provide you with information that may not be otherwise available.

Make the Decision. Now you have the information you need to choose the right tenant. Remember that it's a business decision. If you make the decision fairly and even-handedly, based on sound business principles, you will not only satisfy the law – you should also have a tenant you can count on.

One last point: Now that you have found a tenant, be sure that you both sign a lease or rental agreement that clearly spells out the terms of the tenancy. Tenancies based on verbal agreements almost always result in trouble for one party or the other.

Using a Property Manager. Some landlords prefer to pay a property manager to perform tenant screening and other management tasks. If you are considering hiring a property manager, first check with your fellow rental property owners to be sure that he or she is someone who will use proper care during the selection process.

For Additional Help. There are other screening techniques, such as home visits and the like, too numerous to include here. HAPHousing can provide technical assistance to local landlords. Along with workshops and individual consultation, HAPHousing provides reference materials to rental property owners free or at cost.