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Sample Non-Renewal Policies (June 2022)

Overview

Tschetter Sulzer strongly recommends that all landlords adopt non-renewal policies (NPRs) to protect themselves against an array of fair housing claims and to ensure the consistent administration of the non-renewal process. NPRs prevent arbitrary decision making by onsite team members based on emotional or personal reasons that frequently are alleged to be discriminatory and thus a violation of fair housing laws.

To assist clients in adopting our recommendation, TS developed generic NPRs to be used as launching point. When reviewing, keep in mind that these NPRs are a starting point and guide for you to develop your own NPRs. While these NPRs do incorporate some of the most common issues reported by clients, no single generic set of NPRs fits all circumstances, portfolios, or client needs. Accordingly, these generic NPRs should not be treated as a finished product ready to be deployed. Nor do the NPRs necessarily reflect the policies of all landlords. For these reasons, we strongly recommend that you work with us in developing and reviewing your final NPR policies.

Non-Renewal Policies

Note: Text in [] is explanatory

Policy Adoption Clause

Effective _____, 20____, Management Co. hereby adopted these resident non-renewal policies. Every community must abide by these policies, and it is the responsibility of each community's <Manager/Business Manager> to enforce these policies. If a resident is not renewed at one community based on these policies, the resident can not live at any other community. Management Co. will not renew a resident lease for any of the following infractions or reasons.

1. Lawsuits or Threatened Lawsuits.

Except for fair housing lawsuits or complaints, we will not renew any resident who sues or threatens to sue the community.

2. Inappropriate Resident Communication.

We will not renew any resident who has <X Number> or more aggressive, rude, or hostile interactions with the onsite team. We will not renew any resident who initiates an excessive number of communications (calls, voice mails, emails or texts).

[Each company decides on what is excessive. This provision is designed to cover the resident who leaves 15 voice mails a night or sends 30 emails a month, etc., unnecessarily tying up onsite and RM time.]

We will not renew any resident who repeatedly fails to follow requested communication channels.

[For example, a resident has an issue, and somehow ends up with the RM's mobile number. The RM solves the problem, but now the resident initiates all communication on every issue with the RM despite being told to contact the onsite team.]

3. Threats & Safety.

We will not renew a resident who has an altercation with the onsite team or another resident that results in the onsite staff or a resident fearing for their safety. This includes a threatening altercation, regardless of whether the resident was arrested or charged, and regardless of whether the altercation became physical.

4. Continually Unhappy & Dissatisfied & Impossible to Satisfy Residents.

We will not renew residents who, in the onsite staff's reasonable judgment, demonstrates ongoing dissatisfaction with the community or the staff in spite of significant efforts to satisfy the resident. This is not to be confused with providing housing that complies with the warranty of habitability (waterproofing and weather protection; unbroken windows and doors; running water and reasonable amounts of hot water; functioning heating facilities; electrical lighting; keeping common areas clean; appropriate extermination response to rodent or vermin infestations; adequate number of garbage receptacles; adequately maintained floors, stairways, and railings; maintaining locks on all exterior doors and windows; and compliance with all applicable building, housing, and health codes).

[This is a key policy, and there can be many measures. You just need to give some thought as to what are objective measures. For example, residents who constantly engage in going over someone's head, i.e. not satisfied with assistant manager's response, go to manager, then to RM, then to VP, etc. Could include residents who file an excessive number of "ticky tack" complaints. For example, complaints that ignore the reality of living in an apartment community. Another example of the legitimacy of complaints is whether you could successfully evict the

resident over the complaint. For example, if Resident A complains about Resident B, but you can't evict (couldn't prove the complaint in court), then the complaint is not legitimate. If you could evict, then it is a legitimate complaint. Based on our experience, this is the policy that everyone wants and needs and therefore should be given the most thought.]

5. Residents Who Receive Excessive Complaints.

We will not renew residents with <X Number> or more complaints regarding the same issue during a 12-month period when the issue has been verified as authentic or legitimate.

[Again, here the key to being "authentic" is whether you could evict or not. If you have verification from onsite staff team members, courtesy patrol, police, or more than one other resident willing to document and testify to the occurrence then you can successfully evict.]

6. Residents with Poor Payment Histories.

We will not renew residents with (X Number) or more late payments.

[This policy can include other bad payment indicators as well. For example, the number of times sent to the attorney. Overall, this policy can easily have objective measures.]

7. Residents who Transfer Due to Problems with Other Residents.

We will not renew residents who have transferred within the last twelve months because of resident issues or complaints, and have had the same or similar complaints made against them since transferring.

[Transfer can be a great tool to solve problems in the short run, but often fails in the long run because they just cause the same problem in the new location. This policy addresses that issue. Some clients like it, others do not.]

8. Service of Non-Monetary Eviction Notices.

We will not renew residents who have been served with more than one three-day demand for compliance or possession for a non-monetary issue in any 12-month period.

[This is a business decision. We suggest that you get feedback from your onsite teams, but the policy tracks with Colorado law, i.e. 2 strikes and you're out (notice to quit for a repeat violation). It goes a little farther, because the violations don't have to be for the same offense. If someone gets served with multiple Demands for Compliance or Possession (regardless of the issue), they may not be the type of resident you want to keep.]

9. Non-Renewal Meetings.

[To make your NRPs as effective as possible, this is a critical part of every NRP and therefore should be a part of every NRP.]

To avoid Fair Housing retaliation claims, all communities must hold monthly non-renewal meetings. The onsite manager is responsible for scheduling non-renewal meetings, or making sure that the subject of resident non-renewals is discussed at monthly community staff meetings. At such meetings, onsite team members shall discuss the non-renewal of any particular resident or residents and the specific policies which have been violated and, when appropriate, make determinations whether particular resident or residents will be renewed. If it is determined that a resident will not be renewed, the onsite manager shall make a written notation to the resident's file of the determination, and the specific policies which have been violated. Two onsite members attending the meeting shall sign (or signify their agreement) with the determination. Even if a non-renewal determination is made well in advance of the expiration of the resident's lease, the community shall not inform the resident of such determination until the standard time for non-renewal notices to be sent to residents. Tax credit properties may never non-renew a resident without good cause. The onsite team shall also take appropriate steps to ensure that any resident with a non-renewal notation in the resident's file is not automatically sent a renewal notice.