Fair Housing Tip of the Month

Tip #7: Hostile Environment

“My tenant complains to me that her neighbor makes racist comments to her and disparages her for her mental health disability. My tenant is demanding that I stop the neighbor from harassing her. What can I do? What does the law require me to do? What kind of accommodation is possible?”

The law says: Implied in all lease agreements is a covenant of quiet enjoyment, under which the landlord impliedly agrees that a tenant shall have quiet enjoyment and possession of the premises. This implied covenant applies, not only to the landlord’s actions, but also to the actions of neighbors or other tenants. If a tenant’s quiet enjoyment is violated, the tenant may sue for damages. Generally, the law says that the offensive tenant behavior becomes a violation of quiet enjoyment when it unreasonably interferes with use and enjoyment of the premises. The behavior must be more than casual or isolated. It must be “sufficiently severe or pervasive” to alter the conditions of the housing arrangement. Fair housing laws recognize that harassment based on race or disabilities by one tenant against another is a form of discrimination that can create a hostile housing environment. Fair housing laws protect tenants from this kind of discrimination, whether from the landlord or other tenants. While at least one court has found that tenants may not bring a claim against a landlord for a hostile housing environment when harassed by another tenant, fair housing laws require that landlords take action reasonably calculated to end the harassment.

What to do: If a tenant with a disability is being harassed, she is not being afforded quiet enjoyment of her premises and is being discriminated against in violation of fair housing laws. Once you become aware of the harassment, you must make a “reasonable response” calculated to stop the harassment. Your first step should include investigating the matter, and, if warranted, issuing a warning to the tenant engaging in offensive behavior. If the harassment continues, you should consider pursuing injunctive relief to enjoin the behavior, or commencing eviction proceedings against the harassing tenant.

Fair Housing: It’s the Law: You must take reasonable affirmative steps to end the offensive behavior when one tenant is harassing another tenant with a disability, which should include an investigation and warning to the offending tenant.

2 Id. at 839-40; see also Petroleum Collections, Inc. v. Swords, 122 Cal. Rptr. 114, 116-17 (1975).
3 Id. at 840.
4 See Honce v. Vigil, 1 F.3d 1085, 1090 (10th Cir. 1993).
5 Id. (citing Hicks v. Gates Rubber Co., 833 F.2d 1406, 1413-14 (10th Cir. 1987)).
7 42 U.S.C. § 3617.
8 Id. at 845.
9 Id.
10 Id.