

Mind Your Business – Tia’s Tips for Better Rental Management

By Tia Politi, Lane ROA President

Rental References: Ask me no questions...

I recently received a signed release for a former resident, and contacted the prospective landlord to answer her questions about the tenancy. She had only three: Did the resident pay rent on time? Did the resident owe any money? Did the resident damage the property? The answers were yes, no, and no. She thanked me and concluded the conversation. It is my policy to only answer the questions I am asked, and to never volunteer information. In this case, I wish she had probed more deeply. If she had, she would have been informed that there were no fewer than seven separate neighbor complaints about loud parties during the tenancy, including four police visits documenting loud music, and citations issued for minor in possession and public urination. The tenants had been served a written Warning Notice and a Notice of Termination with Cause. The threat of a 10-day Repeat Violation notice leading to termination finally encouraged them to settle down, but I would be wary of renting to those tenants again.

Screening is basically a risk assessment, and asking the right questions of a reference is essential to evaluating the risk a potential tenant poses to your property. While paying rent on time and taking reasonable care of the property are important things to know, there are many aspects of an applicant’s history that will be equally relevant; it’s incumbent on you to ask the right questions and listen intently to the answers.

First, if the reference is not coming from an agency or management company, verify through public records that the person you are speaking with is the lawful owner or manager of the property. Applicants with poor rental history will often set up unwary landlords with the name and number of a friend posing as the landlord. Most county’s assessment and taxation websites are user-friendly and you will be provided the name and mailing address of the property owner. If you have trouble with the website, call the county assessor of the county in question and they will provide the information. If the property is owned by an LLC, Trust or business entity, the landlord should be able to verify that. Public records will also document how long they have owned the property. Verify that their answer matches the record, and you can have some assurance that you’re speaking to the actual landlord.

I once had a tenant set me up with a false reference, which I discovered after looking up the property information online. The initial screening was done, and the completed screening was sent to me for final approval. I called the “landlord” back with additional questions, and since the tenant had failed to provide the numbers of the street address, innocently asked to verify those numbers. There was a very long pause, the reference started stammering, and then said that she owned many different houses on the same street and couldn’t remember the exact address. I don’t know of any landlord who can’t tell you the exact address of every property they own, and I had already verified that the home was owned by someone else, but it was fun to hear her scramble to cover the lie.

Back to essential questions... The obvious ones include whether rent was paid on time and if they owe any money, but you should ask for more. What were the dates of residency? This can help you spot applicants being less-than-truthful about the length of their tenancy. Were there any complaints from neighbors? If so, what were the nature of the complaints? I once had an angry neighbor call to complain about our tenant parking in front of her house. I asked if he were violating the law in some way, and the answer was no, she just didn't like people parking in front of her house. This was not a legitimate complaint, and not the sort of thing I'm talking about. Were there any violations of the rental agreement? Unauthorized pets or people? Loud parties? Poor care of the interior or exterior of the property? Did they report maintenance issues in a timely fashion? Did they ever unreasonably deny entry to the property? Did the landlord have to serve any notices for noncompliance? Would they re-rent to this person?

Even with a great set of questions, one of the more difficult aspects of a tenant's character to identify through a reference is whether they have a challenging personality (unrelated to a disability). Everyone is nice when they want something from you. Tenants with hostile, aggressive or combative personalities are the most troubling for any landlord, and can be hard to spot during the application process. Unreasonable or ongoing complaints can indicate a person who is impossible to please, and will be a thorn in your side. So ask if the tenant is a complainer. The answer to that question can give you some insight.

Probably the biggest pitfall of getting rental references, is the false-good reference from another landlord. This person knows just how horrible their tenant is and they're only too happy to foist them upon you to save their own hide. This is a despicable practice, and all too common. What questions can you ask that may reveal the truth? Asking if the tenant was easy to work with can be helpful, but the trick is to sense hesitation in the landlord's response to your questions. If a person is telling the truth, there will be little or no hesitation in their responses; if not, most people have to stop and think when they are misrepresenting something, resulting in a noticeable pause when they reply to one or more of your questions. I will sometimes call that out by saying, "Just now you hesitated when you replied. Is there anything I should be concerned about?" If they start stumbling over the answer, you've likely just spotted a lie.

When assessing an applicant's rental history, remember that not all landlords are reasonable. I had an applicant who let us know early on that her current landlady was a difficult and hostile person, which was why she was looking to move. Was she telling us the truth? A quick call confirmed that the landlord was indeed difficult and unreasonable. It's unfortunate that tenants can be at the mercy of an unprofessional landlord who basically holds the key to another home through their reference. While tenants can sue a landlord who damages their reputation or provides a false reference, that isn't a choice that many will choose to make, and it can be hard to prove in court.

You can often get the best information from casual conversation with the landlord by being warm and friendly, mirroring their responses, and getting them comfortable sharing with you. One of the best questions to get there is to ask, "Is there anything I should know about that I haven't asked you?" With talkative references, that will open the floodgates, providing insight into either the tenant, the landlord, or both. Some landlords, however, are unwilling to provide any reference at all for fear of being sued. In

cases where I believe the landlord may be a bit off, or who fails to provide a reference, I encourage applicants to provide copies of their tenant ledger and their security deposit reconciliation. That can tell me a lot about how things went during the tenancy, and offset a questionable landlord reference or no reference. If, for whatever reason, you are unable to verify a reference, it is lawful to deny an applicant for that, within reason. But if I have an applicant who meets most or all of my other criteria and I can verify some other good reference, it wouldn't be a deal-breaker for me that I was unable to verify only one.

If you have suspicion that a prior reference is false and deny an applicant for an inability to verify information, make sure that you scrupulously follow Fair Housing law, and can document your reasons for denial that are unrelated to an applicant's membership in a protected class. Protected classes include: Federal – race, color, national origin, religion, sex, familial status (families with children), and disability; State of Oregon – marital status, source of income (including housing subsidies like Section 8, VASH or Home Forward), sexual orientation, and gender identity; City of Eugene – type of occupation and domestic partnership.

As tenant-advocates press for the statewide elimination of no-cause notices, or forced landlord payment of tenant relocation expenses, it is more urgent than ever to raise your standards of screening to avoid getting stuck with a problem tenant who may be costly to remove. Doing your homework is essential. Asking the right questions and really listening to what is said and what remains unsaid, can make the difference between a great experience, and your worst nightmare.

This column offers general suggestions only and is no substitute for professional legal advice. Please consult an attorney for advice related to your specific situation.