

Mind Your Business
Tia's Tips for Better Rental Management
Stay on the right side of the law

Recent reports of frustrated rental owners harassing their renters for payment or sending others to do likewise is resulting in some bad press for our business. While most of us are experiencing some reduction of income and control over our rental properties, this does not give anyone license to break the law. Let's review our obligations, shall we?

ORS 90.130 Obligation of good faith. Every duty under this chapter and every act which must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performance or enforcement.

ORS 90.100(19). "Good faith" means honesty in fact in the conduct of the transaction concerned.

So, how can that be interpreted? From the perspective of a non-attorney, I take it to mean that regardless of what my renters do or don't do, I'm required to operate within the guidelines of the law or face the consequences.

Do I understand the frustration? Absolutely, I feel it myself with two renters in arrears who are still employed full time. Does this mean I can use my understandable frustration to harass or discriminate? Absolutely not. If for no other reason than your own self-interest, consider the consequences. Under Oregon's landlord-tenant and anti-discrimination laws, you could incur substantial penalties if found guilty (not including the attorney's fees you would have to pay to defend yourself and possibly the other party's attorney's fees as well).

Housing providers must treat each renter fairly without regard for membership in a protected class. With reports of rental owners selectively enforcing rules only on renters who aren't paying, this is a big concern. Read and re-read ORS 659A which prohibits unlawful discrimination in housing related transactions related to an individual's membership in a protected class.

Protected classes include: race, color, national origin, religion, sex, familial status (families with children), disability, marital status, source of income, sexual orientation and gender identity. Victims of domestic violence, sexual assault or stalking, and active-duty military have additional protections under the law.

Discriminatory acts can include housing providers who, "Make any distinction, discrimination or restriction against a (renter) in the price, terms, conditions or privileges relating to the...rental or occupancy of real property or in the furnishing of any facilities or services in connection therewith...Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of the person having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section...Assist, induce, incite or coerce another person to commit an act or engage in a practice that violates this section. (excerpted from ORS Chapter 659A)

This is in addition to renter's rights and remedies specified in ORS Chapter 90, beginning at 90.360 and extending through 90.390. These rights and associated remedies cover landlord noncompliance with the rental agreement or failure to maintain the property, willful diminution of essential services, unlawful ouster, retaliation and discrimination. Each section specifies a financial remedy for renters and provides protection from eviction based on the landlord's noncompliance. Many of the penalties for unlawful actions are equal to twice the monthly rent or twice the renter's actual damages. Currently, under the mandates of HB 4401, retaliation penalties have been increased to three times the monthly rent – even more incentive to be sure you are abiding strictly by the law.

Come on people, times are tough, but you're only going to make things worse if you let your emotions get the better of you, and you're going to make all housing providers look bad.

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