

## **STUCK IN THE MIDDLE: MANAGING DISPUTES BETWEEN TENANTS**

Tenants have disputes with other tenants. Addressing these disputes is one of the most difficult challenges faced by managers. Managers often feel stuck in the middle. THS provides clients with daily assistance to resolve complaints and lifestyle disagreements between neighbors. We know that you don't need to be stuck in the middle between tenants playing psychologist, priest, or mediator. Landlords can effectively and consistently address tenant versus tenant disputes with well thought out policies, solid lease language, trained onsite teams, and consistent enforcement.

Lack of clear lease enforcement policies leads to confusion and inaction when it comes to tenant disputes. A typical noise situation will be discussed to illustrate the issues. For example, your new tenant in #101 has twice complained to you that the tenant above her in #201 is noisy during quiet hours (slamming doors and running the bathroom exhaust fan). The manager calls THS to discuss the situation, and get advice about how to handle the dispute. The first question we ask the manager is "what is your lease enforcement policy". All too often the answer is "I don't know, or I'm not sure". Because there is no policy, the onsite team member doesn't know how to proceed.

The best policies are useless without proper and continuous training. Many of our clients have lease enforcement policies (protocols), especially bigger management clients. "What is your policy?" "That's standard 412.4 in the management company handbook."

However, often these policies are confusing. Further, the policies have been drafted to be a one size fits all for regional or national portfolios, and don't consider state nuances. But most importantly, other than being told where to find the policy, frequently onsite teams have not been trained on the policies, and thus have no idea how to apply them to the specific tenant dispute at issue.

Proper training requires testing your onsite teams to make sure that they will properly respond to tenant disputes. While tenant disputes are virtually endless, several tenant dispute scenarios occur frequently. Some of the most common disputes involve noise, children, animals, odors and smoking. If any one of these common disputes arise, do your onsite teams know how to respond? Training also involves compiling tenant disputes to evaluate responses and consistency of responses. Because of fair housing concerns, landlords should respond to the same kind of tenant dispute the same way one hundred percent of the time.

Fortunately, if you are a THS client, we can help you with training. We have a compilation of every situation that your teams have called about. We also send out monthly Client Service Statements. By reviewing the monthly statement, you know what your onsite teams are calling us about. Once you know this, you can evaluate why they are calling. Are they calling because there is no policy? Are they calling because they haven't been adequately trained on how to handle tenant disputes? Are your teams consistently handling tenant disputes? In

short, THS already provides you with the information you need to evaluate policies and training needs.

Policies should start with a comprehensive evaluation of lease violations and tenant disputes. Once violations and disputes have been evaluated, you can determine your responses, i.e. develop your policies with respect to specific dispute scenarios. We recommend that less severe violations have less severe responses. A landlord should always know what the response is to a specific violation. In other words, if a tenant does X, then you should do Y. Your responses are usually limited to investigation, no action letter, verbal warning, written warning, eviction related legal demands, offer to relocate, offer to release from lease. No action letters, verbal warnings, and warning letters should be standardized. Letters should be based on a template, and verbal warnings based on a standard script.

Most tenant disputes require investigation and documentation before any other step can be taken. Returning to our noise complaint example, many of our clients would investigate whether the tenant in #201 was making noise prior to responding. Given the availability of courtesy patrols in many cases and the availability of decibel meter applications on smartphones, many noise-related complaints can be easily corroborated. Some clients would also ask the complaining tenant (#101) some questions to eliminate or determine improper motives for the complaint. How long has it been going on? How frequently? Is this the only issue with #201?

How you want to handle a tenant's complaint against another tenant during the investigative phase is a policy decision. Responding to a complaint by firing out a warning letter is certainly an efficient way to handle and document. However, if #101's complaint is groundless and was made in bad faith or #101 is hyper-sensitive to noise, such a policy may only result in escalating the dispute between the two tenants. Launching a full out investigation will result in a fully informed response, but is time-consuming and inefficient. The proper policy is probably somewhere in the middle. Again, policies can only be formulated and evaluated based on reviewing tenant disputes.

Once a tenant dispute has escalated, a sound policy should require one-on-one conversations with the tenants. Frequently, tenants involved in a dispute just want somebody to listen to their side of the story. By holding these conversations, you may discover information that will allow you to propose a solution or help the tenants compromise. During these conversations, you should always ask the tenants what would be a satisfactory resolution to the problem. The tenants might already agree on an acceptable outcome, or one tenant's satisfactory outcome may be acceptable to the other tenant and you.

In reviewing tenant disputes to formulate your policies, you should evaluate whether the dispute or issue is addressed by your lease documents. Most tenant disputes are covered by existing lease language. For example, nearly one hundred percent of leases prohibit a tenant from disturbing other tenants. However, if the conduct is not covered by your lease, unless the conduct amounts to a statutory substantial violation, you may not have any recourse against the offending tenant. For example, we handle many tenant disputes regarding photos and videos. Because everyone has a video camera in their pocket, disputes between tenants involving the taking of

pictures and video have increased. Also, few leases cover making false complaints against other tenants.

Your policy should also inform complaining tenants that they must be willing to testify in court. You can't win an eviction trial without evidence. If the only evidence is a tenant's testimony, and the tenant is unwilling to testify against the other tenant, then you have no evidence. You should have a standard form letter explaining this to the complaining tenant who is insistent that you act against the offending tenant, but who is unwilling to testify. If the complaining tenant is willing to testify, you should also explain that this means accepting service of a subpoena. If a tenant is willing to testify and the tenant's testimony is the only evidence, eviction may still not be warranted due to a low probability of success. Accordingly, you should have a form letter explaining that the tenant's testimony alone in most cases is insufficient to prevail in court and that the court will require corroborating evidence such as the testimony of staff, courtesy patrol, or law enforcement, or videos, photos, or recordings.

Some tenant disputes can only be resolved by separating the tenants. Separation is achieved by transferring one or both tenants or allowing one or both tenants to break their leases without penalty. Transferring and lease releases involve many financial factors both for the tenants and for the community. Accordingly, the policies governing these options should be well thought out. These options should not be haphazardly offered to address tenant disputes. Rather, when they will be deployed to resolve tenant disputes should be carefully evaluated. Keep in mind that tenants have been known to falsely complain to force relocation or lease release. The transfer and lease release process should also be governed by specific protocols. For example, every lease release should require the tenant to sign a release barring future suit against the community, specify what amounts the released tenant owes or will owe through release and that the released tenant remains liable for any physical damages to the unit.

Inconsistent handling of tenant disputes has a negative impact on your community, tenant retention, and leaves the onsite team feeling stressed and uncertain. Inconsistent practices can also leave you exposed to potential fair housing claims. With best practices, landlords should never feel stuck in the middle. You don't take sides; you follow the protocol. Solid policies are the necessary foundation to provide your onsite teams with the tools needed to consistently and confidently manage tenant complaints and disputes, decrease time spent on addressing complaints, and potentially increase tenant goodwill. Training, testing, and monitoring should be mandatory. The best policies are useless if they aren't being carried out. Without monitoring, you have no idea of whether policies are being properly executed, need to be revised, or can be improved. We know if your teams are on the right track. Specifically, if your teams can rattle off your lease enforcement policies when they call about a situation, you have policies and your teams have been trained.