

Rosenberg Corey

From: Jeff Bennett <bennett@warrenallen.com>
Sent: Monday, May 01, 2017 3:29 PM
To: Sen Gelser; Sen.AlanOlsen@state.or.us; Sen.MichaelDembrow@state.or.us; Sen Knopp; Sen MonnesAnderson; SHS Exhibits
Subject: HB 2004 Will Be a Travesty For Everyone

Dear Senators:

I represent many landlords, large and small. I've specialized in landlord/tenant law, in excess of 25 years.

Never in my career have I had so many clients come to me to talk about selling their rental homes and getting out of the business, due to the potential enactment of a new law (HB 2004).

As an investor, poised to invest in real estate, I will not invest in Oregon real estate due to the onerous direction in which the landlord/tenant laws are proceeding. To me, the return on the enormous amount of risk landlords take on is no longer worth the cost of the investment. (I spent all of my most recent investment dollars on real estate in states other than Oregon.)

Despite what tenants' advocates are proselytizing, the use of No Cause Notices is *rarely* without cause. The limited number of scenarios in which landlords' actions have created media blitzes are the exception to the rule. The *vast* majority of No Cause Notices are served upon tenants whose misconduct is hard to prove. These scenarios include, without limitation, the following:

A tenant is smoking in his unit and bothering other tenants. Other tenants are "sure" that it's this tenant who is smoking, but there's not enough evidence to support an eviction action.

A tenant is making noise in his unit and bothering other tenants. Other tenants are "sure" that it's this tenant who is making noise, but there's not enough evidence to support an eviction action.

A tenant is harassing and intimidating other tenants. Other tenants have told the landlord that it's this tenant who is harassing and intimidating them, but they're too scared to testify in an eviction action, so the landlord can't prevail.

A tenant is dealing drugs out of his unit. Other tenants are "sure" that it's this tenant who is doing so, and have seen the drug deals take place, but there's not enough evidence to support an eviction action.

The foregoing list could go on for many pages.

The tenants' advocates' argument that For Cause Notices are an effective substitute for No Cause Notices is wholly without merit. A For Cause Notice for any of the foregoing scenarios *does not* terminate the tenancy of the offending tenant. Instead, a For Cause Notice for any of the foregoing scenarios merely provides to the landlord a potential opportunity to later serve a 10 Day Repeat Violation Notice. Then, if the landlord files an FED (eviction action) based upon the 10 Day Notice, the landlord must prove by a preponderance of the evidence that the misconduct described in *both* the For Cause and 10 Day Notices has taken place. That proof is often challenging to procure, and is rarely sufficient to support an eviction action. (Witnesses disappear, memories fade, witnesses are reluctant to testify, facts are difficult to prove....)

Lest you think that bad tenants manifest their bad proclivities in the first six months of their tenancy, please note that

long term tenants can be just as bad. If the six month honeymoon concept espoused by tenants' advocates were accurate, marriages that survived six months would never result in divorce.

If HB 2004 passes, I can almost guarantee you that landlords will be unable to remove bad tenants with an acceptable level of frequency. In any type of plex, that will likely mean that neighboring tenants are going to suffer. In other words, a "yes" vote on the elimination of No Cause Notices is going to cause good tenants to have to live next to bad tenants, due to the way the system works. Imagine living next door to a smoking, noise making, drug dealing tenant, whom the landlord is unable to remove due to the way the law will function, *in the real world*, if HB 2004 passes.

Finally, I've been doing this long enough to have lived through the eras in which the media blitz was about bad tenants. Media trends and political winds come and go. HB 2004 plays into a short term, isolated trend that will inevitably end, leaving only the devastating aftermath of a new law that does nothing more than reward bad tenants for being bad, whilst eliminating landlords' desires to invest in the very properties in which tenants reside. The current, short lived trend forgets the myriad of landlords who lost fortunes and went bankrupt in the Great Recession, the landlords whose life savings were destroyed by tenant-caused property damage, the landlords whose retirement incomes were lost to non-paying tenants, and so many other negative situations.

If you intend to make good tenants' lives potentially more miserable, and drive many landlords out of the market (thereby eliminating their rentals from the available rental inventory), a yes vote on HB 2004 will accomplish such a poor objective.

Thank you for consideration.

Respectfully Yours,

Jeffrey S. Bennett
Attorney at Law
Warren Allen LLP
850 NE 122nd Avenue
Portland, OR 97230
Phone: (503) 255-8795
Fax: (503) 255-8836
E-mail: Bennett@warrenallen.com

Visit us online at:
www.warrenallen.com