

Housing Rights **ADVOCATE**

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HUD Charges Landlord With Discrimination

The U.S. Department of Housing and Urban Development charged a Wichita Falls landlord with violating the Fair Housing Act by publishing advertisements that discriminate against families with children. HUD alleges landlord Kay Rios posted a classified ad in the local American Classifieds newspaper that read "no drugs, no pets, no children."

The Fair Housing Act prohibits landlords

from discriminating based on race, color, religion, national origin, sex, disability and familial status. This includes publishing print, broadcast, or internet advertisements that indicate a preference or otherwise discriminates against families with children.

"Families with children have every legal right to rent a home as do those without children," said John Trasviña, HUD's Assis-

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Mediation Resolves Illegal Lockout

In September, Virginia Garcia, a resident of Ashbury Parke Apartments, was surprised to receive a past due notice. Garcia knew she had paid her rent on time because she had her money order receipt signed by management. Thinking it was a simple mistake, Garcia didn't worry further about the notice.

A few days later, she arrived home to find that her front door lock had been changed. When she went to the office to sort out the error, Garcia, who speaks Spanish, was told that if she didn't pay her rent, she could not have a new key. When Garcia insisted that her rent had been paid, management threatened to call the police if she didn't leave the office.

Lawful Lockouts

Landlords must follow a strict procedure when changing the door locks of a tenant, and the tenant must be given a new key whether or not any delinquent rent

is paid. A lockout is not an eviction. A landlord cannot legally, permanently lock out a tenant without going through the eviction process.

In short, the lockout law says:

1. The lease must include written notice of the landlord's right to exercise a lockout.
2. The tenant must be behind on rent.
3. The landlord must give advance, written notice to the tenant.
4. The tenant does not have to pay any money to regain entry into the rental unit.
5. The landlord must give the tenant a key upon request.

A new Texas law effective September 1, 2009, prohibits owners of low-income housing tax credit properties from locking out or threatening to lock out a tenant for nonpayment of rent.

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Battling Bed Bugs

While they don't carry or transmit disease, bed bugs are a menace. They can spread throughout an entire building by crawling through small spaces. And because bed bugs feed on human blood, the cleanliness of the environment has little to do with infestations.

If you notice bed bugs in your home, send a letter by certified or registered mail to the landlord. Include a description of the problem; a statement that the problem is a threat to health or safety; and a request that treatment begin in a reasonable amount of time (seven days is considered to be reasonable in most cases).

Bed bugs are difficult to treat and often require multiple treatments by a professional pest control company. Do not attempt to treat with pesticides on your own. This may cause the bed bugs to spread and become more difficult to manage. Be patient and cooperative during the process. Always allow a professional pest control company access to your unit for treatment. Without having access, the problem cannot be solved.

Nonchemical methods such as vacuuming, washing bedding at a high temperature, and sealing up hiding places also help manage bed bugs. For more prevention tips, contact the ATC telephone counseling line at 512-474-1961.

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Fair Housing Case Updates

In all settled cases reported here, the respondent, unless otherwise noted, denies the allegations of discrimination made by the complainant and the parties have agreed to resolve the case prior to a trial on the merits.

Willie Hill and Gloria Valichkofsky v. Fort Branch at Truman's Landing

After management removed the handi-capped parking signs from the resident parking area, two tenants contacted the ATC Fair Housing Program with the same problem. Willie Hill and Gloria Valichkofsky cannot walk long distances due to their disabilities. With the signs removed, the tenants had trouble finding parking near their apartments. Fair Housing Program staff Morgan Morrison and Robert Hood helped Hill and Valichkofsky make a Request for Reasonable Accommodation. After receiving the request, the manager promptly installed reserved parking signs so each tenant has a designated space near her apartment entrance.

ATC v. Carrington at Parmer Park

The ATC Fair Housing Program conducted

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tant Secretary for Fair Housing and Equal Opportunity. "This case should remind every landlord that the Fair Housing Act is very clear — it's against the law to deny a person or family housing in this country simply because they have children."

In June 2008, the Austin Tenants' Council filed a complaint with HUD alleging Rios violated the Fair Housing Act. After completing its investigation in September 2009, HUD issued a determination that reasonable cause exists that a discrimina-

an accessibility audit of Carrington at Parmer Park, a newly built apartment complex in North Austin. While touring the property, volunteer testers found features out of compliance with the design and construction requirements of the Fair Housing Act.

Upon notice of these violations, the apartment complex quickly corrected the design deficiencies and made additional modifications that were not required under the FHA to make the property accessible for all. The property installed removable base cabinets in certain units to allow wheelchair access at the kitchen sink; lowered the latch on the trash facilities; installed a ramp to improve access to one of the buildings; and changed a door-knob to a lever handle to make the door easier to open.

To volunteer as a fair housing tester, contact ATC fair housing testing coordinator Morgan Morrison at 474-7007 x 104 or morgan@housing-rights.org.

To learn more about your rights under fair housing laws, contact ATC at 474-1961.

tory housing practice had occurred.

The HUD charge will be heard in federal district court. If the judge finds that discrimination has occurred, he or she may award damages to ATC for its loss as a result of the discrimination. The judge may order injunctive relief and other equitable relief to deter further discrimination as well as payment of attorney fees. Punitive damages may also be awarded to ATC.

To read the full text of this complaint, visit the press room/press releases on HUD's website, www.hud.gov.

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Gaining Reentry

After management refused to provide a new key, the tenant contacted ATC housing specialist Cruz Garcia, who had given a renters' rights presentation at the apartment complex a few months earlier. After receiving a telephone call from ATC's Garcia about proper lockout procedures, management allowed the tenant back into her apartment with no more problems.

A tenant can get assistance from the justice of the peace court by requesting an order called a writ of reentry. The tenant will need to specify both in writing and orally as to how the landlord violated the law. As soon as the landlord is served with the writ of reentry, the landlord will need to immediately comply with the order or otherwise face the risk of being arrested and in contempt of court. The constable is allowed to use reasonable force in executing a writ of reentry.

Tenant Remedies

If a landlord doesn't follow the lawful procedure for changing a tenant's door locks — either by not giving advance notice or not giving the tenant a new key when requested — the tenant has several options. The tenant may:

- Recover possession of the premises or terminate the lease contract; and
- Recover from the landlord a civil penalty of one month's rent plus \$1,000, actual damages, court costs, and reasonable attorney's fees less any delinquent rent or other sums for which the tenant is liable to the landlord.

If a landlord locks out a tenant and will not give the tenant a key unless the tenant pays delinquent rent, a tenant may recover an additional civil penalty of one month's rent from the landlord in a court action.

Mediación Resuelve Bloqueo Ilegal

En Septiembre, Virginia García, una residente de los Apartamentos Ashbury Parke, se sorprendió al recibir un aviso por pago atrasado. García estaba segura que había pagado la renta a tiempo porque tenía el comprobante de recibo firmado por la administración. Pensando que era un simple error, García no volvió a preocuparse por el aviso.

Unos días después, al llegar a su casa encontró que a la puerta del frente le habían cambiado la cerradura. Cuando fue a la oficina para aclarar el error, le dijeron a García, quien habla español, que si no pagaba la renta no recibiría la nueva llave. Cuando García insistió en que había pagado la renta, la administración la amenazó con llamar a la policía si no se iba de la oficina.

Bloqueos Legales

Los propietarios deben seguir un procedimiento estricto al cambiar la cerradura de un inquilino por pago atrasado, y se le debe entregar la nueva llave al inquilino pague o no su renta atrasada. El bloqueo no es un desalojo. Legalmente, el propietario no puede dejar permanentemente afuera al inquilino sin pasar por el proceso de desalojo.

En breve, la ley de bloqueo dice:

1. El contrato debe incluir por escrito el derecho del propietario a bloquear la entrada.
2. El inquilino debe estar atrasado en el pago de la renta.
3. El propietario debe dar preaviso escrito al inquilino.
4. El inquilino no tiene que pagar dinero para poder volver a entrar en su unidad de renta.
5. El propietario debe darle la nueva llave cuando el inquilino la pida.

Volver a Entrar

Después que la administración se negó a darle la nueva llave, la inquilina se comunicó con Cruz García, especialista de vivienda en ATC, quien había dado una presentación sobre derechos de inquilinos en el complejo de apartamentos hacía unos meses. Después de recibir una llamada telefónica de García de ATC sobre procedimientos adecuados para el bloqueo, la administración permitió a la inquilina volver a su apartamento sin más problemas.

Los inquilinos pueden recibir asistencia en las cortes de juez de paz, solicitando una

orden judicial de reentrada. El inquilino deberá especificar por escrito y oralmente la manera en que el propietario violó la ley. Cuando el propietario recibe la orden judicial de reentrada deberá cumplir inmediatamente o arriesgar ser arrestado por desacato a la justicia. Los agentes policiales pueden usar fuerza razonable para ejecutar una orden judicial de reentrada.

Recursos del Inquilino

Si el propietario no sigue el procedimiento legal para cambiar la cerradura de un inquilino, el inquilino tiene varias opciones. El inquilino podrá:

- Recuperar posesión de la vivienda o cancelar contrato de alquiler; y
- Recibir del propietario una multa civil de un mes de renta más: 1,000 dólares, indemnización por daños directos, costos judiciales y gastos razonables de abogado, menos toda renta atrasada u otras sumas que el inquilino deba al propietario.

Si el propietario bloquea la entrada al inquilino y no le da una nueva llave si éste no paga la renta atrasada, el inquilino podría cobrar del dueño otro mes de renta más por multa civil en una acción judicial.

Lucha Contra las Chinchas de Cama

Aunque no portan ni transmiten enfermedades, las chinchas son un peligro. Se pueden extender por todo un edificio a través de pequeños espacios. Y como las chinchas se alimentan de sangre humana, la limpieza del ambiente no tiene incidencia en la infestación.

Si usted nota chinchas en su vivienda, envíe carta certificada o registrada al propietario. Incluya la descripción del problema,

explique que es una amenaza para la salud o seguridad, y pida se trate el problema en un tiempo prudencial (siete días es considerado razonable en la mayoría de los casos).

Las chinchas son difíciles de tratar y suelen requerir múltiples tratamientos por compañía profesional de fumigación. No intente tratarlas por su cuenta con pesticidas. Esto podría causar que las chinchas

se expandan y se hagan más difícil de exterminar. Sea paciente y coopere durante el proceso. Siempre permita el acceso de la compañía profesional de control de plagas que trate su unidad. Sin acceso, el problema no podrá solucionarse.

Métodos no químicos como usar la aspiradora, lavar sábanas a alta temperatura y sellar lugares de escondite también ayudan a tratar el problema. Para más consejos de prevención, comuníquese con la línea de asesoría telefónica de ATC: 512-474-1961.

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This service is certified as a lawyer referral service as required by the State of Texas under Chapter 952, Occupations Code.

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The Austin Tenants' Council, as a subrecipient of the City of Austin, is committed to compliance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended. Reasonable modifications and equal access to communications will be provided upon request. Please call 512-474-1961 (voice) or Relay Texas at 1-800-735-2989 (TDD) for assistance. The City does not discriminate on the basis of disability in the admission or access to, or treatment or employment in its programs and activities. Dolores Gonzalez has been designated as the City's Section 504/ADA Coordinator. Her office is located at 505 Barton Springs Road, Suite 600. If you have any questions or complaints regarding your Section 504/ADA rights, please call the Section 504/ADA Coordinator at 974-3256 (voice) or 974-2445 (TTY). This publication is available in alternative formats. Please call 512-474-1961 (voice) or Relay Texas at 1-800-735-2989 (TDD) for assistance.

Fair Housing Program / Programa de Vivienda Justa This program helps any person in the Austin metropolitan area who has been discriminated against in the rental, sale, financing, or appraisal of housing. FHP investigates complaints and coordinates legal services to assist victims of discrimination when their rights under state and federal fair housing laws have been violated. Este programa ayuda a cualquier persona en el area metropolitana de Austin que se ha enfrentado con discriminación en la renta, compra, financiamiento, o evaluación de vivienda. El FHP investiga las quejas y coordina servicios legales para las victimas de discriminación cuando sus derechos están violados bajo las leyes estatales y federales de vivienda justa. Call / llame al 474-7007.

Telephone Counseling / Consejos por Telefono Trained counselors answer tenant-landlord questions and make appropriate referrals. However, ATC offers no legal advice. Consejeros contestan preguntas acerca de inquilinos-propietarios y hacen referencias necesarias. Sin embargo, ATC no ofrece consejos legales. Call / llame al 474-1961.

In-House Counseling / Consejos en la Oficina Counseling information and materials are provided to clients in need of more in-depth assistance. Se provee información y materiales a los clientes que necesitan mayor información. Call for an appointment / llame para una cita al 474-7007.

Crisis Intervention / Intervencion Crisis Counselors mediate on behalf of tenants to resolve emergencies that threaten their housing. Consejeros median en nombre del inquilino a resolver una emergencia que amenass su vivienda. Call / llame al 474-1961.

Rental Repair Assistance / Ayuda con Reparaciones en su Vivenda The Renters' Rights Assistance Program helps low-income renters enforce their rights for repairs through advocacy and mediation. El Programa de Asistencia con los Derechos de Inquilinos ayuda a los inquilinos de bajo ingreso da fuerza a sus derechos para reparaciones por medio de negociación y mediación. Call / llame al 474-7007.

Lease Forms / Contratos ATC sells lease packets and brochures describing landlord and tenant rights and responsibilities to landlords for a small fee. ATC vende paquetes de contratos y folletos, por una cuota nominal, describiendo los derechos y las responsabilidades del propietario y del inquilino. Call for more information / llame para mayor información al 474-7007.

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