

Summary of Stern, Naomi, "Early Lease Termination by Battered Tenants," Domestic Violence Report, February/March 2005.

In the United States, some legal action has sought to classify policies that disadvantage battered women as discrimination on the basis of sex, illegal under the federal Fair Housing Act, 42 U.S.C. §§ 3601 et seq. Related cases include: *United States ex rel. Alvera v. C.B.M. Group, Inc.*, No. CV 01-857-PA (D. Or. 2001) (favorable consent decree); *Warren v. Ypsilanti Housing Commission* (E.D. Mich. filed 2002, settled favorably 2003); *Raney v. Crawford/Katica, Inc.*, (W.D. Wash. filed 2004); *Winsor v. Regency Property Management, Inc.*, (Wis. Cir. Ct. 7, 1995) (Case No. 94 CV 2349).

Other advocacy efforts are taking place at the local level. Oregon and Washington have state laws allowing for early lease termination due to domestic violence (Or. Rev. Stat. § 80.453 (2003); Wash. Rev. Code § 59.18.575 (2004); Wash. Rev. Code Ann. §59.18.352 (2004)). Naomi Stern, the staff attorney for the United States-based National Law Center on Homelessness & Poverty Domestic Violence Program, describes these laws:

"In both states, a victim must notify the landlord within 90 days of the violent incident leading to her decision. Upon notification of domestic violence, the landlord must release the tenant from her lease obligations without penalty. Both statutes contain "proof" requirements to establish the occurrence of domestic violence, which resulted in part from compromise with landlord groups and/or housing providers. The Washington proof requirements are quite broad and include both court orders of protection and a tenant's reporting of the violence to a 'qualified third party,' which may include a law enforcement officer, court employee, clergy member, attorney, social worker, mental health professional, licensed counselor, or advocate at an agency for domestic violence survivors."

Source: Stern, Naomi, "Early Lease Termination by Battered Tenants," Domestic Violence Report, February/March 2005.

Kansas, Massachusetts, and New York City have similar legislation pending (H.B. 2864, 80th Leg. (Kan. 2004); H.B. 707, 163d Gen. Ct. (Mass. 2003); Intro. 305 of 2004 (New York City Council 2004).

In areas with no statutory lease exception for victims of domestic violence, attorneys must help victims negotiate with landlords on a case-by-case basis. Ms. Stern suggests several steps attorneys should take to prepare for such negotiation:

- Examine applicable state and local laws
- Examine the tenant's lease
- Obtain physical documentation of the abuse
- Help the victim set up the meeting with her landlord
- Document communication between the landlord and the tenant

When negotiating with the landlord, Ms. Stern suggests that attorneys appeal to the landlord's common sense. Attorneys should explain the immediate safety issues related to domestic violence so the landlord can understand why it was urgent that the victim leave. Documentation of the abuse can be essential for the success of this tactic, but it is important to consider the confidentiality needs of the victim. Attorneys may convince the landlord to agree to a formal mutual lease termination by the landlord and tenant, which will avoid any violation of the lease by the tenant. Finding alternative tenants is another option, and other guests at battered women's shelters may be looking for such an option.

In the event that litigation becomes necessary, attorneys should investigate the lease terms for possible illegal clauses or breaches by the landlord which would allow for early lease termination unrelated to domestic violence. Constructive eviction, based on a breach of the tenant's quiet

enjoyment of the property, is another option. Ms. Stern's article describes one such case in Minnesota:

"A tenant had obtained an order of protection against her batterer. She then called the police to report later incidents of violence, threats, and destruction of property. Because she still did not feel safe, she gave notice to her landlord under a state statute, claiming the property was not 'fit for its intended use,' i.e., quiet enjoyment. After the tenant met with the landlord, the landlord refused to end her tenancy. In an action under the statute, the local court found that the landlord constructively evicted the tenant. The court ordered the landlord to release the tenant from the lease immediately." Plaintiff v. Country Village Apartments, C8-02-14178 (Minn. Dist. Ct. 1st Dist. July 8, 2002)

Compiled from: Stern, Naomi, "Early Lease Termination by Battered Tenants," Domestic Violence Report, February/March 2005. For ordering information, please visit <http://www.civresearchinstitute.com/vi2.html>.

For additional information about assisting victims who are public housing tenants: Martin, Emily J. and Stern, Naomi S. "[Domestic Violence and Public and Subsidized Housing: Addressing the Needs of Battered Tenants through Local Housing Policy](#)," Clearinghouse REVIEW Journal of Poverty Law and Policy, January-February 2005

This document was created with Win2PDF available at <http://www.daneprairie.com>.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.