

## ASK THE ADMINISTRATOR

### *Avoiding the Pitfalls of Housing Court*

*Here are some ideas to assist owners in their efforts to navigate through Housing Court:*

1. In order to have your case heard as quickly as possible, you need to be prepared. Make sure you bring all papers as requested by your attorney. Make sure that the documents are originals or certified copies. If you do not have the required papers, then advise your attorney well in advance of any court dates.
2. Do not wait until the last day or so before your court date to go to any New York City or State agency to obtain certified copies of documents, such as your deed or DHCR records.
3. Make sure to bring the signed lease and any extensions.
4. Make sure to bring a rent statement that is both up to date and starts with a zero balance, no matter how far back you have to go to get to zero. Make sure your statement itemizes each and every charge, starting with unpaid rent and any other charges such as late fees, a/c fees, etc. Please note that it is not unusual for Housing Court judges to remove late fees from monies owed to owners. And only a reasonable late fee as stated in the very first lease will be entertained. Only with a non-stabilized lease can you change and increase late fees upon a renewal.
5. Make sure to have any necessary witness either in court or available to be in court on very short notice on your trial date. You never know if a case scheduled for trial will go out for trial, but rest assured that it will if you aren't prepared.
6. At the very least, dress business casual. You can't get into trouble for wearing a tie and jacket or a suit; wearing jeans and a tee-shirt or polo shirt is not appropriate. You should always act and appear professional. Your demeanor and tone when speaking to any Court personnel should be professional as well. Follow the instructions of ALL court personnel, including the judge. Every court employee from clerk to court officer is entitled to be respected. Being angry or belligerent will not help your case, it can only hurt.
7. Make sure you have checked to see if the building and the particular apartment has violations; you can check online through the [nyc.gov website](http://nyc.gov).
8. Never ignore violations. You may find yourself brought to court in what is known as an HP action for the correction of violations. Once in court, the tenants and the City will demand not only immediate repairs but fines as well.
9. Don't wait until you get to court to work out repairs. Once you are aware of any violations, immediately contact the tenant to gain access to review the alleged problems and then arrange a specific date to return with the proper workmen to repair the problems. Please note it is cheaper in both time and money to replace the batteries (even though the tenant is responsible) in the required smoke/carbon monoxide detector than get a violation for a non-working detector and having to come to Court. My advice is that once a year, your superintendent should visit all of your apartments and have the batteries replaced. Or, I also highly recommend replacing all smoke/carbon monoxide detectors with updated detectors with 10-year battery life spans.
  - a) You now know they work and if you live in the building that is quite important. Or you will find out, as often happens, the detectors have been lost or removed by the tenant.
  - b) By having the batteries replaced you won't be getting any of those violations and it will allow you to fix, replace or reinstall any detectors.
  - c) If you live in the building, the life you save in the event of a fire may be your own or a family member. While on this subject, please speak to RSA's Insurance Agency to make sure your building's insurance coverage has both replacement value as well as up to code coverage. Ask about lead coverage as well.
  - d) The inspection allows the super to interact with the tenants and to observe and see if any other repairs are needed. An unreported leaking sink wastes much water and your money.
  - e) It allows your superintendent to observe the general condition of the apartment. Many times, elderly tenants need assistance or your tenant is a hoarder, or has other issues. Without being in the apartment, you would not know.
  - f) Attending to your apartments and doing repairs immediately tells the tenants that you are attentive and care about your building and usually pays off. Judges will punish you if you don't!

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- g) If your tenant won't cooperate (as many don't), have your attorney move immediately to gain access to inspect and do repairs. Judges will not accept oral requests. Everything should be in writing. Use no less than certified mail return receipt requested and send the same notice by certificate of mailing. If the tenant will not sign for the certified mail the certificate of mailing is your proof that the tenant received the mailed demand. By law, anything deemed mailed is deemed received.
- h) When you do make arrangements with the tenant, always have definite agreed upon dates for review to determine what craftsmen are needed and for the subsequent repairs. You are not required to make repairs after normal business hours. If you don't make arrangements for specific dates of access, the tenant may not cooperate or may not be available when you are available.
- i) Speak to your tenants on a regular basis or perhaps have your superintendent speak to your tenants to ask about repairs. I would favor using your managing

agent. Make sure your tenants know how they are to advise you of needed repairs.

Always be prepared when you go to Housing Court. Following these basic steps will keep you from experiencing many of the Housing Court pitfalls. If tenants know you are ready they act differently.

Have all your documents on hand at each court appearance to avoid adjournments which can be more than a month. Lastly, when you return to your office, make sure you keep all important documents in a fireproof safe or fireproof filing cabinet. Remember, water is just as damaging to paper as fire! ■



Article provided by Howard Stern, Esq., Administrator of the RSA Legal Plan for small property owners, who is solely responsible for its content.

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