

Tenants' Rights in Massachusetts
MCLE Basic Benefits Training Series
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Tenant Screening

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Overview

Tenant screening often used in discriminatory ways to exclude good tenants who should pass tenant screening based upon relevant criteria;

Tenant screening rejections can be difficult to overcome but not impossible!

Make reasonable accommodation requests when this makes sense! (See Discrimination Presentation)

Tenant screening comes in different forms

- Rental history and landlord references
- Tenant screening reports
- Credit reports
- Criminal record information
- Court information

Why do landlords use automated credit and tenant screening reports?

- Streamline the process
- Reduce interactions with rejected applicants
- Select tenants who will pay the rent

Landlords use to just rely on references

- Landlord meets with applicant/tenant, shows them the apartment
- Landlord talks to prior landlords
- This has almost been completely replaced by using rental agents who use credit report and tenant screening services

Automated Tenant Screening Reports

- Landlord or rental broker buys reports from private companies like SafeRent, RentGrow, Yardi, that create a tenant screening report often with a pass/deny recommendation:

Screening Report - [REDACTED]

[REDACTED] Apartments

Property Screening Result

Application Result: Decline

Applicant Information

NAME: [REDACTED]

SSN: [REDACTED]

DOB: [REDACTED]

CURRENT ADDRESS: [REDACTED]

Individual Result

Decline

Additional Information

Reasons for Result

- Limited period of Employment History
- Insufficient Income to Support Rent
- Limited Credit Experience
- Minor Level of Collection Items

Additional Applicant Information

Residence History

This applicant has rented or owned.

TIME AT CURRENT ADDRESS: 4 years 0 months

Employment/Income

PRIMARY INCOME: \$1100 per month

PROPOSED RENT: \$1595

RENT/INCOME: 145%

TIME AT CURRENT JOB: 0 years 0 months

What's wrong with tenant screening reports?

- Sometimes they are inaccurate and it can take time to correct errors, but there is a process.
- They use irrelevant information as basis for denials, such as credit card debts, but no way to appeal irrelevant accurate information.
- They do not include past rent payments or utility payments that show that the applicant paid.
- Landlords deny based on reports and it may be impossible to know why.

Tenant Screening Reports & Vouchers

- Income to Rent ratio tests on reports often do not consider that an applicant has a voucher or housing subsidy.
- Will lead to denial because the rent will be higher than income!
- Landlords often use online application process that is hard to use and no clear way for tenants to show that they have a subsidy or voucher.

Landlords often just use Credit Scores or Automated Tenant Reports

- Very common to hear from rental brokers:
“Don’t apply if your credit score is below 650”
- Credit reports will be more nuanced and show ontime, late or in collection credit card and car payments **but usually don’t include rent payments, utilities, or cell phones.**

Criminal Information

- Landlords can get **CORI** or criminal record information with applicant's permission.
- Automated Tenant Screening reports may include CORI.
- Landlords may obtain CORI directly from state if they are certified.
- If a tenant's application is denied because of CORI, the landlord must give them a copy of their CORI **prior to denial**.

Court Records

- Landlords access publicly available court records and often will deny an application for any court involvement.
- **New law will allow tenants to seal their eviction record.**

New Eviction Sealing Law

On August 6, 2024, the Governor signed into law The Affordable Homes Act

Section 52 provides that tenants can petition the court to seal their records at different times depending on the type of case and the outcome.

These provisions go into effect on May 5, 2025

Section 28 also provides that it is illegal for a consumer reporting agency to include information in their reports about sealed eviction record

When can tenants petition to seal an eviction record

- **After winning a case** - immediate after case ends
- **After a case is dismissed** - Immediately after case ends
- **No-fault eviction case** - Immediately after case ends
- **Non-payment case where tenant has satisfied the judgment by paying the amount owed** - As soon as tenant has satisfied
- **Non-payment case where tenant has not paid the amount owed because of a financial hardship** - 4 years after case ends with no non-payment cases during the 4 years (debt is not forgiven)
- **Fault-eviction case** - 7 years after case end, with no fault-evictions during the 7 years

There may be no denial letter and no clear way to ask that the denial be overturned

- **But APPEAL anyway!**
- **Reach out quickly.** Some management companies will hold unit while appeal is pending.
- If this is a Housing Authority and publicly funded unit you may have specific appeal rights. See upcoming [Legal Tactics: Finding Public and Subsidized Housing](#)
- Larger property managers more likely to enter into dialogue and often more open to considering an appeal.

What requirements are there for landlords and agents if they access an automated report and deny a tenant housing

They must send you a letter saying:

- what was the reasons for the denial,
- the source of the information, and
- how to correct the information

Sample Denial Letter

Dear:

Your application for an apartment at XXXXXXXXXXXXXXXXXXXXXXXX has been rejected for the reason(s) listed below.

- Unsatisfactory landlord history
- History of behavior which if repeated would substantially interfere with the rights of other tenants
- Providing false or inaccurate information in your application
- Failure to provide information which we have requested in order to complete processing your

application

Unsatisfactory Credit/ Criminal Report

Other: _____

The consumer reporting agency that did your background checks was: XXXXXXXXXXXXXXXXXXXXXXXX and can be reached at: Consumer Relations PO Box 1234, AnyCity, CA 90000. By phone: (888) 123-1234 XXXXXXXXXXXXXXXXXXXXXXXX LLC may also have obtained information on you from one or more of the consumer reporting agencies listed below. XXXXXXXXXXXXXXXXXXXXXXXX LLC and the other agencies only provided information about your credit history. They took no part in making the decision, nor can they explain why the decision was made.

For Arrest, Conviction or Rental History on Credit Report contact:

(X): XXXXXXXXXXXXXXXXXXXXXXXX LLC

Attn. PO Box 1234, AnyCity, CA 90000. By phone: (888) 123-1234

For Retail Credit History contact:

(X) Experian Consumer Assistance, PO Box 2002, Allen, TX 75002, (888) 397-3742 www.experian.com

(X) Trans Union, PO Box 1000, Baldwin Place, Chester, PA 19022, (800) 888-4213 www.transunion.com

Strategies for Challenging Denials

- 1) Appeal denials even if no appeal rights stated in the denial!
- 2) Reach out quickly. Use sample appeal letters attached.
- 3) Dispute errors and explain any credit issues or court cases.
- 4) If tenant now has a subsidy, more income or new benefits that changes their ability to pay rent, communicate that.
- 5) If prior nonpayment or tenancy issues can be tied to disability ask for a reasonable accommodation.
- 6) Check with the landlord to see if a CORI report was obtained and make sure it is accurate.
- 7) Get reference letters from religious and community leaders, employers or supervisors
- 8) Public and subsidized housing applicants have have specific appeal rights. Stay tuned for updated materials from MLRI.

Be Strategic in Your Housing Search

- **Anticipate issues:** Review credit reports, CORI and court involvement before applying for housing.
- **Review credit report:** See if there are errors or if it has someone else's information because of identity theft or misidentification.
- **Target the housing search:** Many small landlords solely use credit scores and it is challenging to appeal denials.
- **Check management companies:** Sometimes they will not screen out applicants with no credit scores.
- **Check Craigslist:** Sometimes landlords advertise Section 8/Voucher friendly apartments

Sample Letters

Sample Appeal Letter

[REDACTED] | Leasing Manager
[REDACTED]
[REDACTED]

Dear [REDACTED]

I'm writing to you request an appeal of the denial of my application for tenancy at [REDACTED]. I have always been a good tenant to landlord [REDACTED]. I rented from him over 15 years. He moved me from [REDACTED] St. in [REDACTED] to [REDACTED] in [REDACTED] where I lived for 11 years.

The only record of an eviction was because the landlord wanted the unit for a family member. I entered into an agreement to move as I understood he wanted to use my apartment for his nephew.

At that time I tried to move quickly as I could I was delayed through no fault of my own, because of the difficulty in locating a new apartment that would accept Sec. 8. It was a very stressful time for my children, my dog, and myself. I had to board my dog for 99 days at \$35 per day, something they normally don't do for so long. But I explained to them my situation.

My belongings had to go into storage that cost a couple thousand dollars. I paid my rent and moved out without owing any rent. I maintained the unit well.

There is also a reference in your denial note to some kind of criminal activity at [REDACTED]. That is some kind of error or confusion, since I never lived at that address or visited there.

Please review this letter carefully. Thank you for your time

Sincerely,

First Denial of Appeal

August 26, 2021

RE: Appeal Hearing Decision for [REDACTED]
[REDACTED]

Dear Ms. [REDACTED]:

On July 22, 2021, your application for an apartment at [REDACTED] was rejected due to poor credit history. We received your request for an Appeal.

MANAGEMENT'S REVIEW

The Leasing Manager, [REDACTED] processed Ms. [REDACTED]'s application. Credit, Criminal and Landlord screening is conducted through [REDACTED]. A score is indicated in conclusion of the screening which reflects an approve or deny comment. [REDACTED]'s screening came back with a deny based on unsatisfactory credit history as well as a landlord tenant court record. The Leasing Manager does not receive the detailed credit information at the time of running the applicant screening. The score is the result of running the screening and the report that is produced at the property will indicate areas of concern that have affected the overall score.

Ms. [REDACTED], Director of Affordable Housing for [REDACTED] reviewed the reasons for rejecting Ms. [REDACTED]'s application. The landlord record consists of an agreement for possession only, filed by the Plaintiff, [REDACTED]. The credit report indicated (24) total tradelines that consisted of multiple charge offs as well as 41 times delinquent 30 days, 34 times delinquent 60 days and 183 times delinquent 90 plus days.

APPLICANT'S RESPONSE

Ms. [REDACTED] presented an appeal letter, explaining the circumstances surrounding the landlord court record by Mr. [REDACTED]. She explained that the landlord wanted the apartment she was living in for a family member and requested that she move. Ms. [REDACTED] detailed the difficulty she had securing a new apartment which resulted in an extension, through no fault of her own.

As a landlord, we examine an applicant's payment history, to determine how an applicant pays their debt in a timely manner. If the payment history reflects late payments and or charge offs, the overall [REDACTED] score is decreased.

Based on the information provided by [REDACTED] regarding your credit history the original decision to reject your application for housing at [REDACTED] is upheld.

Example of an Approval after Second Appeal

Dear Ms. [REDACTED]

I would like to thank you for supplying the documentation requested.

Based on the additional information you provided regarding your credit history, previous landlord reference and personal reference, the original decision to reject your application for housing at [REDACTED] has been overturned.

Someone from the [REDACTED] will reach out to you regarding the next steps to complete the application process.

If you should have any questions about this appeal decision, please feel free to contact me at [REDACTED]

Facing Unfair Denials

Contact

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