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Itemizing Deductions from the Security Deposit The Dreaded Move-out

After every move-out, all property managers go through the same worry and dread over itemizing any deductions from the security deposit on behalf of the outgoing tenants. In about half or more of our move-outs, there is usually something for which the tenant is responsible. This could be as little as burned out light bulbs, or as big as a complete make-over. Some states have certain formulas for carpet replacement or paint. At some point, the grayest term in the world comes up – *Normal Wear and Tear*. In some instances, a lot of damage to the home can be traced back to the uneducated owner and perhaps, the property manager who did not educate him/her. It reminds me of the halftime speech you hear from football coaches. Try to imagine it in a loud football coach tone. “This is where all that hard work and effort you put in months ago pays off!”

PRICING

When you dig into the root of a bad move-out, circle back to the beginning of that owner relation-

ship. Did you “buy” the listing? In REALTOR® terms, that is telling an owner whatever they want to hear to get the business, sometimes including an unrealistic price. When pricing a home for rent, you want to establish the fair market rate with an owner, but at the same time illustrate the benefits of coming down a notch on their initial pricing. Lower-priced homes rent more quickly, they can create a tenant frenzy with multiple applications, and they produce motivated tenants ready to illustrate to you why you should rent to them.

ADVERTISING AND SCREENING

We tell owners that a big share of the heavy lifting is done up front by good advertising and solid tenant screening. Our goal is simple – find a good tenant. The “how” of that is the difficult part.

STRONG LEASES

Is your tenant selection and screening criteria as good as it can be? Or do you see the end result of bad pricing, which equals no applications, and then end up in taking the first applicant with a pulse? It’s a chain reaction started from the beginning in working with a new owner. If your tenant screening is solid, you are laying the foundation for reviewing the best applicants, and finding that right tenant.

Once you have a strong applicant, a big part of maintaining your home is having strong lease agreements in place to include move-out addendums or any other follow up paperwork. The good idea fairy is definitely welcome in this phase of leasing. Anything that seems like a good idea, put it on paper and get it signed by all parties. It could save you big time later on. Example: We make the tenants professionally clean the carpets upon move-out and present us the receipt. Rug Doctor

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rentals do not fly. If you have this in writing, you will see the positive end result upon move-out, or you have a signed document as evidence stating the tenant will be charged if they do not clean the carpets as agreed.

WRITTEN MOVE-OUT PROCEDURES

Do you have written move-out procedures? Can you confirm that your outgoing tenant received those instructions? If you can indicate to a tenant that “according to the move-out instructions you were sent, the light bulbs were to be replaced. We show you did receive the instructions and they were posted to your tenant portal.” Not only can it be a catch-all document, it can prepare the tenant for potential penalties if they don’t allow showings and illustrate potential charges for damage to the home.

PREPARE FOR COURT NOW

When the tenant vacates, are your in-house procedures in such good order that you would be proud to present them to a judge the minute the move-out is completed? This is important because we all go through this part of a move-out in a routine fashion and then kick ourselves six months later when responding to an attorney's demand letter. If you take the attitude that this is homework that you do for a judge to turn into the courts tomorrow, it will enable you to finalize the move-out inspection. Document everything with over-the-top evidence.

SEVERAL FORMS OF PROOF

We feel it's important to have at least two or three layers of evidence, and take good color photos – more is better. Good color pictures - more is better. Be sure the camera is adequate and the issues being documented on paper are illustrated on film. Video is now becoming the new digital photography. If pictures are worth 1,000 words, video is worth 10,000 words! Video is now admissible in a lot of court rooms. It will deter litigation by showing an attention to detail that pictures do not pick up. Video will illustrate the situation at hand better and faster than any other medium. Simply get an inexpensive video camera (or smart phone) – take videos – and post them to your company YouTube channel as private videos. It's easy and they stay there forever. Hint – you can also charge the owner for this as you just added a very valuable service.

DEALING WITH AN UPSET TENANT

If you do end up dealing with a tenant who feels the itemized deductions are not fair, do your absolute best to NOT irritate them any more by responding in a defensive mode. Fully understand their concerns, and politely illustrate your position with as much evidence as possible. Think of those 100 photos and the 10-minute move-out video you took! Think in advance that all of your correspondence to the tenant will be reviewed by an attorney and a judge. If you send those items over to the tenant to review, will that help in convincing the tenant those charges were justified? In most cases, this is all that is needed. Keep in mind, this tenant is also your next internet reviewer, who will enjoy bashing your company online with no real justification. Try to work with them up front and they will appreciate the responsiveness.

DO EVERYTHING IN WRITING

When working on any issue over the outgoing tenant's security deposit, it would be wise to inform your outgoing tenant that you or your staff will not talk about the details surrounding the security deposit over the phone. Too many bad things happen when an upset tenant calls in or you get ambushed by a phone call. Emotions run high and sometimes you or your staff can only take so much brow beating and may say something that would be regrettable later on. This will also

eliminate the "he said – she said" game that tenants might play, along with establishing a pattern of documented evidence that will play in your favor later on. Emails or letters work best and will assist in documenting the entire history. As mentioned before, establish your mindset that all of your correspondence will be reviewed by a judge. If the tone of your correspondence comes across as arrogant or heavy handed, this will not help your cause. Owners will also see this.

OFFER TO RESOLVE THE DISPUTE

Should the tenant still feel that they are being wronged, we have found a third-party mediator who comes to our office and listens to both parties' positions, which is very, very beneficial. This can be done at a small cost to the tenant and the owner. If it gets this far, we have seen owners take the hard line holding firm on all accounting. Since this is their battle – they have to assist in the cost. The decision from the third-party is binding. Consider it self-appointed mediation at a fraction of the cost of going to court.

AVOID THE COURTROOM AT ALL COSTS

This point needs to be constantly hovering over your thought process the entire time you are dealing with tenants. If it costs YOU or your owner a little bit to concede a point – give in! We have seen disputes over \$200 turn into \$10,000 in attorney's fees. The only winners in that regard are the attorneys involved.

The dread from dealing with security deposits stems from the same emotion that causes one to fear public speaking. It's the lack of preparedness and confidence. If you feel your systems are in place to give you all the evidence you would ever need, that will easily prepare you for any security deposit challenge with even the most difficult of tenants. 📁

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