



Testimony

on

The Tenant Fair Chance Act

Presented Before:

The City Council Committee on Consumer Affairs

Presented By:

MFY Legal Services, Inc.

February 1, 2010

Good afternoon members of the Committee. Thank you for inviting MFY Legal Services to this hearing and giving us this opportunity to share with you our support for the Tenant Fair Chance Act.

My name is C.J. Masimore and I am a staff attorney for the Neighborhood Preservation Project at MFY. This project is made possible by grants from the New York State Division of Housing and Community Renewal and the New York City Department of Housing Preservation and Development. MFY is a nonprofit legal services organization that serves low income New Yorkers by providing advice, informal advocacy, and full representation. The Neighborhood Preservation Project aims to preserve affordable housing in New York City and protect the dwindling housing stock on which low-income and marginalized populations depend.

MFY strongly urges the passage of the Tenant Fair Chance Act, which will protect tenants from abuses that occur through the use of tenant screening reports. The New York State Office of Court Administration sells electronic data about Housing Court to tenant screening companies. These companies create tenant screening reports that include rudimentary information about a case which can be inaccurate, incomplete, or misleading. They then sell these reports to landlords who use them to routinely deny applicants who have been named in a Housing Court proceeding, regardless of the reason or the outcome. As a result, qualified tenants are prevented from obtaining apartments in New York City's competitive rental market.

My former client, Jeffrey, is currently at risk of losing an affordable housing apartment he obtained through a lottery because of one such tenant screening report. In 2007, Jeffrey and his mother lived together in a New York City Housing Authority apartment. In October 2007, Jeffrey's mother passed away. Over the next few months, Jeffrey attempted to get the lease transferred into his name. Instead of putting the lease in his name, NYCHA brought a licensee

holdover proceeding against him. In Housing Court, NYCHA conceded that Jeffrey was legally entitled to succeed to his mother's tenancy, put his name on the lease, and voluntarily discontinued the case.

Jeffrey contacted me earlier this week to inform me that he and his fiancé had been selected in an affordable housing lottery for a building in West Chelsea. However, a tenant screening report revealed that he had been subject to a landlord/tenant proceeding, and his application was put on hold. Jeffrey was not brought to Housing Court through any fault of his own. No judgment was entered against him. Once in court, his landlord voluntarily discontinued the case against him. Now, a tenant screening report otherwise known as the "blacklist" jeopardizes the scarce affordable housing he has found for his young family.

In addition to unjustly punishing tenants who are sued through no fault of their own, tenant screening reports have a chilling effect on a tenant's right to withhold rent to obtain needed repairs. I recently spoke with Stephen, a senior citizen who lives in rent regulated housing, over MFY's housing assistance line. The wood surrounding one of Stephen's windows is rotten, resulting in a constant stream of cold air into his apartment. He has repeatedly asked the landlord to repair the window and HPD has placed multiple violations on the apartment, yet the landlord has refused to make this vital repair. To keep the cold air out, Stephen has piled boxes against the window and he tried to cover up the window to block the wind. Because of the prevalence of these tenant screening reports, he is actively discouraged from withholding his rent to force the landlord to make the repair. Even if he were successful in court and awarded a 90% abatement, the "blacklist" would report that the landlord received a judgment against him, thereby endangering his ability to rent a different apartment in the future.

MFY strongly urges the passage of the Tenant Fair Chance Act. This Act provides significant needed protections to tenants from the harms presented by tenant screening reports. My client Jeffrey lamented that though he diligently monitors his credit report, he was not aware of the existence of the tenant screening report until he was contacted by his prospective new landlord. Jeffrey's story is not unique among MFY clients. § 20-808 of the Tenant Fair Chance Act would require users of tenant screening reports to disclose to tenants like Jeffrey the name and address of the consumer reporting agency that issued the report.

While this Act does not protect tenants from all the harms presented by tenant screening reports, it is a good starting point. It allows tenants to obtain a copy of tenant screening reports and dispute any inaccurate or misleading information. It also requires that a sign be posted to notify tenants their right to repair and correct inaccurate data, and penalizes abusers of the Act. MFY Legal Services welcomes the tenant protections created under the Act and strongly recommends that the City Council enact this law.