ORCA TALES

August 2013 | **Tenant Background Investigations** | **Volume 20 Issue 8**

How does a 10-Day Notice work?

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A 10-day notice is a notice to the tenant to comply with some requirement of the rental agreement or rules and regulations. The notice must state three things: first, the section of the lease, rules and regulations, or statute that the tenant has violated (i.e. payment of utilities or quiet enjoyment for the other tenants); second, the specific conduct of the tenant receiving the notice that violated the rental agreement or rule (i.e. having loud parties or an unauthorized occupant); and third, what actions the tenant must take to come back into compliance.

Once given, the tenant has 10 full days with which to comply, so any violations in that 10 day period can't be used to trigger the violation. If the notice is for payment of utilities or deposit, the tenant has 10 days to tender the money to the management. If the notice is for noise or loud parties, the tenant can continue making the noise or having the loud parties for the 10 days. It is only if the rule has not been complied with after the period in the notice that the management can begin eviction procedures.

If the notice is for loud parties or noise complaints, have the tenants making the noise complaint keep a log during the 10 days because if the tenant continues the noise during the period of the notice after they have been specifically told to stop, it shows bad faith on the tenant's part which the court will take into consideration during any later eviction.

A 10-day notice has a lifespan of 60 days. If the violation does occur within 60 days of the service of the notice, that second violation allows the landlord to begin the eviction action. If the violation is after 60 days from the date of the first notice, you must serve a new 10-day notice.

You can serve multiple 10-day notices on the same day for different rule violations, and it is generally a better idea to use a separate 10-day notice to address each rule violation rather than a single 10-day notice which lists multiple rule violations.

The general rule is that you cannot accept the rent after you know of a violation of the 10-day notice. For more specific instructions, please contact the office.

Remember, you can count the weekends and court holidays for any 10 day or 20 day notice.

LANDLORDS, EVICTION AND POLICE:

By Seattle Neighborhood Group

Landlords sometimes have the misconception that law enforcement agencies can evict tenants involved in illegal activity. In fact, only the landlord has the authority to evict. Police do not. The police may arrest people for *criminal* activity. But arrest, by itself, has no bearing on a tenant's right to possess your property.

Eviction, on the other hand, is a *civil* process. The landlord sues the tenant for possession of the property. Note the differences in level of proof required: Victory in civil court requires "a preponderance of evidence." The scales must tip, even slightly, in your favor, (at least 51%). Criminal conviction requires proof "beyond a reasonable doubt," a much tougher standard. Therefore, you may find yourself in a position where you have enough evidence to evict your tenants, but the police do not have enough evidence to *arrest* them. **Furthermore, even if police arrest your tenants and a court convicts them, you still must evict them through a separate process -- or, upon release, they have the right to return to and reoccupy your property.**

Many landlords are surprised to discover the degree of power they have to close drug rentals and eliminate their threat to the neighborhood. It's surprising, but the person with the most power to stop the impact of an individual "drug house" operation in a neighborhood is the property owner/landlord. Ultimately, the landlord can remove all tenants in a unit. Police cannot.

The only time law enforcement may get involved in an eviction is to enforce the outcome of civil proceedings. **Contact your local police precinct** or **Sheriff's Office** for information about officers **standing by while you serve notice** and to **preserve the peace during physical evictions.** Also, if evicted tenants return, then law enforcement becomes involved because the ex-tenants are now **trespassing, a criminal offense.** Otherwise, law enforcement cannot get directly involved in the civil eviction process. However, the police may be able to provide information or other support appropriate to the situation, such as testifying at the trial or providing records of search warrant results.

Again, **criminal arrest and civil eviction are unrelated.** The only connection is the possibility of subpoenaing an arresting officer or using conviction records as evidence in an eviction trial. No matter how serious a crime your tenants have committed, eviction remains your responsibility

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-S.V.

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Hidden Pitfalls: Interview and Employment Application Questions

By: Julia R. Dippold, Island HR Solutions, Phone: (607) 351-4276

It is generally understood that questions relating to age, disability, genetic information, national origin, pregnancy, race/color, religion, sex and etc. are unlawful. Most diligent hiring managers are aware that any question asked of an applicant (by an interviewer or on an application) should be job-related. The pitfall lies in the definition of job-related. A hiring manager must ensure that any question being asked of an applicant is specific to the job they are applying for. With every question asked, the employer must be able to demonstrate a job-related necessity for asking the question.

Often, questions may not appear discriminatory. A hiring manager may ask a series of applicants what their education or experience levels are (intending to screen out those without a college education), or may ask if they are able to lift 50 pounds with or without accommodation. On the surface, these questions are fine. However, if the position available does not require a college degree, then you have created a disparate impact. In other words, you have unintentionally screened out a disproportionately high percentage of candidates covered under a protected status (such as those mentioned in the first sentence of the article). Common practices that may be challenged under a disparate impact claim include written tests, height and weight requirements, educational requirements and subjective procedures (such as interviews).

So how do you avoid inadvertent discrimination? Use a standard set of interview questions, but make sure they are tailored to each position you are hiring for. Interview questions for an administrative position won't all be the same as those for a line worker. An interview for a management position would require further review. Above all, ensure that you can show a job-related necessity for asking each question.

(Some information for this article was obtained from a Society For Human Resource Management article, "Guidelines On Interview and Employment Application Questions.")

This article is intended as information, and is not a substitute for legal or other professional advice.

Six Mistakes To Avoid In Selling Your Business

By Williams & Nulle, PLLC

Most entrepreneurs eventually think about selling their businesses, whether as a prelude to retirement or to pursue other activities. In doing so, they often underestimate the effort required for a satisfactory outcome and overestimate the value and salability of their enterprises. If you're contemplating selling, here are some common mistakes to avoid.

1. Overestimating the value of your business.
Your price should be based on the fair market value of the business in its current form. Buyers won't care about the work you've put into building your business or your unique vision for its future.

2. Failing to account for the nature and make-up of your business.
The values of most businesses proceed from a mixture of variables. If your business includes significant equipment, real estate, intellectual property, or other such assets, their values should be separately established before being factored into the overall price. If you're selling a service or professional firm, much of its value may depend on the experience and skills of your managers and employees. In such a case, the price may vary according to the expected retention of key individuals.

3. Failing to base your sale price upon independent appraisals.
Even if you think you know the value of your business, you should obtain two or more outside appraisals from professionals familiar with your industry. If the appraisals conflict with your opinion, they'll provide a much-needed reality check. If they confirm your opinion, they'll become a useful sales tool.

4. Not hiring a professional business broker to handle the sale.
Owners are often too personally invested (and/or eager to sell) to effectively negotiate sales of their businesses. A broker familiar with your type of business will know what issues are important to buyers and what characteristics to emphasize or de-emphasize, without becoming emotionally involved.

5. Neglecting to work with the buyer to ensure a smooth transition.
Nobody likes being thrust into unfamiliar circumstances without preparation. Notifying your managers, employees, and customers in advance and doing all you can to allay their concerns will serve your own best interests, as well as being the honorable thing to do. Discontent on the part of any of the affected parties could result in conflicts, reduced revenue for the buyer, withheld sale payments, and litigation.

6. Being unwilling to help finance the sale.
If you're unwilling to take back a note, your sale price is limited to the buyer's cash and ability to obtain outside financing. At best this could limit the number of potential buyers, and at worst it could limit your sale proceeds. (Conversely, if you finance too much of the sale price, you'll increase the risk of default.)

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