

MSN Real Estate

How landlords get away with it

By Karen Aho of MSN Real Estate
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Just because the law says that your rental home must be up to par doesn't mean it will be. Renters may be surprised to learn that no one's really checking up on the landlord or the apartment. In the end, it's up to tenants to fight for their legal rights.



Something unusual happened in Ohio last summer: A landlord was sent to jail, and for more than just a few days.

This landlord got three months — with 15 years tacked on if he ever re-enters the rental business — in what prosecutors say may set a state precedent by holding a landlord criminally responsible, in this case for a fire caused by faulty, home-rigged wiring in his unit. The outcome of that fire? Five people — an entire family — died, including children ages 7, 6 and 4.

If the punishment seems light, welcome to the tenant's world, say advocates, because the sentence is no surprise: Landlords simply aren't held accountable when they fail to meet health and safety codes.

"We don't live in the Middle Ages. Or do we?" writes tenant lawyer Dave Crow in this blog post. He scoured the Web searching for landlords punished for slum conditions but came up bare. (His law practice also maintains a tenants rights blog.)

"If you kill someone in a car, your feet are held to the fire. If your building burns down because it was a hellhole with no smoke detectors or whatever, it's like, 'oh well,'" Crow says.

Across the country, housing advocates say, irresponsible landlords are allowed to operate under the radar, with little concern about getting caught and no fear of repercussions if they do.

Housing codes may have become strict, but the enforcement of those codes has lagged. As a result, property values suffer. Responsible landlords pay comparatively more. And, most devastating, tenants live with leaky roofs or malfunctioning heaters, with mold or vermin, finding themselves at a loss for where to turn as their requests for repairs repeatedly get put off.

"How do landlords get away with it? Because they can," says Steven Kellman, director of the Tenants Legal Center in San Diego. "The legal burden is on the landlord, but in reality the true burden is on the tenant to enforce these codes."

Hundreds of calls a day for help Monica Myers, office manager at the Arizona Tenants Advocates, says she takes hundreds of calls a day from tenants unable to get landlords to make

needed repairs.

One tenant had a roof gradually caving in, with water seeping into the apartment from the attic. Her landlord told her to fix it herself.

Another tenant asked repeatedly for working locks on the windows. When a man broke in one night, she finally moved, traumatized. Now the landlord is demanding payment for the remainder of the lease term.

"I get that all day long, people who've talked to their landlord and their landlord won't do anything," Myers says. "My big ones are cockroaches, scorpions and mold."

The stories echo throughout tenant-assistance centers everywhere. They are more prevalent in low-income housing, where tenants may lack the reserves to fight or to move, but they strike high earners, too.

Crow says one tenant, paying \$4,000 a month, had a landlord who for years refused to fix the roof. The tenant kept asking — and kept pulling out the buckets when it rained. "It was one of those things that just got worse and worse," he says. "Some people just don't know that they can complain to their housing inspectors."

Many tenants who do complain still find that relief comes slowly or not at all.

"Landlords just tell the city they're working on it, or they'll get to it,"



Kellman says. "Then the city puts their complaint back in rotation and contacts them a month later — 'Yeah, I'm working on it.'"

"The resources are not there," Kellman says. The city inspectors "can't kill a million flies with one swatter."

Even if that particular problem is fixed, what's to keep the landlord from ignoring the next problem? And the next?

In a case settled in a Los Angeles court last year, a landlord who had racked up 2,700 code violations over decades was ordered to pay \$2.3 million to 56 tenants who were living in unsafe conditions.

"Even with 2,700 code violations you had to get the lawyers," Kellman says.

Where are the housing police? By law, rental units everywhere must comply with rigorous city and state housing codes. The problem is that, typically, buildings are inspected only when they are built, change ownership or undergo major renovations requiring a city permit. Damage that's bound to occur over time doesn't get checked out unless a tenant complains.

Furthermore, landlords don't need a license to go into business, as they do to drive a car. No one asks them to read the rules of the road first, and there's no test required. As Kellman jokes, all a landlord needs "is a deed and a pulse."

Nor do tenants have a ready and easy way to identify whether the unit is legal and up to code. An elevator, restaurant or car displays an inspection certificate with a date. But no such ID is required for the places where people live.

As a result, millions of illegal units are rented out, particularly in times of recession, when the need for low-cost housing rises. Many are retrofits that have never been inspected, renter advocates say.

Adam Murray, executive director of the Inner City Law Center in Los Angeles, says that when his office sends a letter outlining the required repairs, landlords comply within a month or two 98% of the time. Some are simply unaware that the law requires them to act.

"There are an enormous number of unsophisticated landlords," Murray says.

In fact, observes Murray, most property owners are good, responsible landlords who do right by their tenants. But not because they are forced to. "It's largely because they step up to the plate," he says. "It's not because there's pressure."

"They recognize that these are people's homes," he says.

Of course, some landlords are simply cheap, and savvy at gaming the system and stalling on repairs until ordered by a court — an act that requires fighting through so many levels of bureaucracy that it rarely happens.

In the case of irresponsible landlords, the system places the responsibility for reporting problems and demanding action squarely in the hands of those who are often the least likely to do so: the tenants themselves.

Tenants don't like to complain Larry Jayson, executive director of Brooklyn Family & Housing Services, sent workers to the lobby of a six-story rental in a nice

neighborhood in Brooklyn, N.Y., to help residents fill out forms to report code violations. The building was filthy and without heat or hot water. Of more than 40 tenants they spoke with, only a half-dozen agreed to participate.

Many were Russian-born, and immigrants are "more afraid of the landlord than anything else," Jayson says. "The landlord has the ability to intimidate them."

Non-immigrants are not immune from the fear of retaliation either, housing experts say. Experienced slumlords may target tenants with little money or poor credit, those for whom it is not easy to move.

And even high-income tenants don't want to make waves. When polite requests go unfulfilled, many give up, fearing retribution. Once the lease is up, in most cases a landlord can raise or change the terms of the rent, or evict a tenant without giving a reason. Suddenly, that cat may not be allowed, or the extra family member might have to go.

"We come from this cultural background of fearing landlords," Crow says. "Tenants are people who often don't complain in time, who want to get along, who are afraid of getting thrown out of their units."

The Los Angeles answer Los Angeles is one of the few cities to recognize this. While investigating poor tenant conditions in the 1990s, officials discovered that relying on tenants to self-enforce just wasn't working.

In 1998, the city started routine enforcements of all rental housing. In the first round of checks, the Systematic Code Enforcement Program identified 1.9 billion deficiencies.



In the first decade, the number of housing inspectors for the city's 800,000 rental units jumped from 14 to 203, and landlords made \$1.6 billion in repairs. The only problem: The property values in those neighborhoods rose, allowing some rental prices to go up.

The program is funded by tenants through a \$3 monthly fee that is tacked on to the rent and passed on to the city.

The idea has received awards for innovation; similar programs are under way or in development elsewhere.

Tenants — it's up to you

"If other cities would adopt that program, it'd be a great idea," says Ken Carlson, a lawyer who offers advice at Caltenantlaw.com. "But landlord/tenant law is all very political; it's the haves versus the have-nots."

Carlson has represented both landlords and tenants for a quarter century. His biggest piece of advice to tenants: vote.

"If 10% of tenants could show up in a bloc and vote, all of tenant law would change in a second," he says. "Politicians would be wooing the tenant vote, promising to correct some of these injustices."

A third of Americans, more than 35 million households, currently rent. The problem, advocates say, is that tenants usually have good reason to be cautious about standing up for themselves. Only two states and a few cities have just-cause eviction laws, which require that landlords provide legal justification for evicting someone. And only a few towns have rent-control laws.

Everywhere else, landlords don't need a reason to evict or raise the rent dramatically.

Bill Deegan, a former real-estate broker who now rents, is striving to create national laws to protect tenants. In 2009, he and a partner founded the American Tenants Association in an effort to help tenants organize, provide a political voice and serve as a clearinghouse for information.

S e e k l o c a l h e l p

In the meantime, tenants need to find local resources. Most important, advocates say, is to find accurate information.

Start with a search online for staffed agencies able to provide personal help. (Watch out for online forums, which can give inaccurate information.) Call your town's housing office and ask to speak to someone who can answer your questions directly. If the landlord acts in a retaliatory manner, remember it is against the law.

Of course, it will be up to you to find a lawyer. And it's difficult to impossible to find a pro bono tenant lawyer.

"If the landlord retaliates, that gives the tenant the right to get compensation," Kellman says. "But you have to take action to turn that right into a reality. Your rights don't jump off the page of the code book and fight for you."