

HOUSING JUSTICE

National Housing Law Project

Newsletter March 2010

Helping Survivors Address Credit and Rental History

This article addresses two issues that domestic violence survivors often encounter when applying for housing: negative credit and tenancy history. It examines rights of survivors who have been denied housing due to information contained in a credit or tenancy history report. It also discusses some of the steps that survivors can take to address negative credit and tenancy history.

Poor Credit History

Poor credit history presents a major obstacle to survivors face in securing rental housing. A survivor may have negative credit history because the abuser ran up credit cards that were in the survivor's name, because the abuser defaulted on loans on which the survivor was a co-signer, or because the survivor could not keep up with bills once she left the abuser.

Many landlords consider credit reports in determining whether to rent to applicants. Credit bureaus compile these reports. They contain information on what credit the survivor owes and the amount that is due. They also contain a summary of how many times any account has been delinquent by 30, 60, and 90 days and the dates of the most recent and severe delinquencies. Additionally, they list any accounts that have been turned over to collections agencies or for which there are court judgments against the survivor. Information about the survivor's accounts can be reported for only seven years from the date that she failed to pay a debt, although bankruptcies can remain on

the survivor's credit report for ten years.

Before a survivor begins looking for housing, she should order copies of her credit report from the three main credit bureaus, closely review the reports, and determine whether there are any mistakes. The three credit bureaus, known as Equifax, Experian, and Trans Union, must provide a free credit report every 12 months. However, these free reports typically do not include the numerical credit score, and the survivor may have to pay a fee to obtain her score. Under the federal Fair Credit Reporting Act (FCRA), the survivor has a right to correct any erroneous information in the reports. The survivor can do so by sending a dispute letter to each credit bureau reporting incorrect information. Credit bureaus must investigate the complaint and correct erroneous information. If the investigation does not resolve the dispute, the survivor may add a brief statement to future reports explaining her situation. Survivors should be wary of credit repair agencies that offer to "fix" the survivor's credit report for a fee, as these agencies rarely provide services beyond what the survivor or an advocate can do free of cost.

If a landlord takes an adverse action against a survivor based partly or entirely on negative information from a credit bureau, the FCRA requires the landlord to provide the survivor with an adverse action notice. Examples of adverse actions include refusing to rent to the survivor, requiring a co-signer on the lease, or requiring a larger deposit than might be required for another applicant. The adverse action notice must include:

- The name, address, and telephone number of

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the credit bureau that supplied the report; and

- A notice of the right to dispute the accuracy of the information the credit bureau provided, and the right to a free report from the credit bureau upon request within 60 days.

In addition to the federal FCRA, several states have laws that provide additional protections for housing applicants. For example, Washington limits credit check fees to the actual costs the landlord incurred in using a tenant screening service. California requires that if the landlord obtains the applicant's credit report, he must give a copy of the report to the applicant if she requests it. Advocates should examine their state's laws to determine whether their clients have specific rights regarding landlords' use of their credit history.

If the survivor knows that she has negative credit history, there are steps she can take to improve her chances of getting housing. If the survivor paid her rent on time at her prior residence, she can provide prospective landlords with a copy of the rent ledger, a letter from her former landlord, cancelled checks, money orders, or receipts demonstrating on-time payment. The survivor may also consider writing a letter explaining the circumstances surrounding the negative credit, such as divorce, financial abuse by the batterer, or inability to work due to injury or illness, and stating that those circumstances are unlikely to recur. The letter should document any increases or stabilization in the survivor's income resulting from a new job, public benefits, or other income streams. Finally, the survivor should contact a variety of properties to determine their requirements regarding credit history, as some properties (particularly smaller property owners) have more flexible policies than others. If all else fails, the survivor should consider offering to have a co-signer on the lease, such as a parent or sibling, or offering to pay a higher security deposit.

Poor Tenancy History

Many survivors may have difficulty finding housing due to past evictions stemming from do-

mestic violence. This section explains some of the rights that survivors have regarding their tenancy history during the housing application process.

Landlords frequently obtain reports on prior unlawful detainer actions before renting to prospective tenants. These reports are compiled by the three major credit bureaus and by tenant-screening agencies. The reports are based on publicly available court records and often contain incomplete or inaccurate information.

As with credit reports, a landlord who denies an applicant housing based on information in a tenancy history report must furnish the contact information for the agency that generated the report. If a survivor believes that the information in the report regarding her involvement in an unlawful detainer action is incorrect, she has a right to dispute the accuracy of the report. Tenant screening and credit reporting agencies are required to investigate the matter free of charge and to make appropriate corrections "within a reasonable time."

Because it is likely that prospective landlords will find out about unlawful detainer actions, survivors should be prepared to explain the circumstances of the action and demonstrate that those circumstances are unlikely to recur. If the eviction suit was filed in error or was eventually dismissed, survivors should obtain a letter from the prior landlord to this effect. Survivors should also provide prospective landlords with copies of any documents, such as court records or settlement agreements that show that the information contained in the tenancy history report is incomplete or inaccurate. Letters of recommendation from former landlords, neighbors, and service providers could also prove helpful. If the abuser was responsible for causing the disturbances or criminal activity that resulted in the eviction, the survivor should emphasize that she no longer lives with the abuser. Finally, the survivor should contact several different properties to determine their requirements regarding tenancy history, as some properties are more lenient than others. As a last resort, the survivor may consider offering to pay a higher security deposit. ■

Domestic Violence Census Finds Increased Demand for Shelter

On March 8, 2010, the National Network to End Domestic Violence released its annual National Census of Domestic Violence Services. In total, 1,648 out of 1,980 identified local domestic violence programs in the United States and its territories participated in the census. The census contains several findings regarding housing needs of domestic violence survivors.

The census found that on September 15, 2009, 65,321 adults and children nationwide sought services from domestic violence programs. Of those individuals, more than 32,000 received emergency shelter or transitional housing from a domestic violence program. Of those served, 32% were living in emergency shelter and 18% were living in transitional housing. Of the domestic violence programs surveyed, 74% provided emergency shelter, and 35% provided transitional housing. Additionally, 44% of the programs provided advocacy for survivors related to housing or landlords.

Unfortunately, the census found that more than 9,280 requests for services went unmet because of limited resources. The census noted that the recession has severely hindered programs' ability to provide the same level of services to victims that have been provided in the past. Of the unmet requests for services, 5,537 were for emergency shelter or transitional housing.

The census also noted that funding cuts and economic hardship have forced programs to reduce their services and, in some instances, close their doors. In Missouri, for example, a shelter reported that it will be closing after 17 years of service due to lack of funding.

Several programs reported that funding shortages have been compounded by an increased demand for services. Of the programs surveyed, 65% reported that job loss by the abuser contributed to an increased demand for services. Additionally, 67% reported that job loss by the survivor contributed to an increased demand for services. For instance, 68% of programs reported that lack of jobs has led to an increase in the number of victims

unable to exit shelters or transitional housing.

In response to the increased demand for shelter, some programs reported that they are extending emergency shelter stays, setting up cots, and turning offices into bedrooms. One advocate in Wisconsin reported that while most clients used to be able to leave emergency shelter after 30 days, most clients are now staying beyond 60 days because they cannot find affordable housing. However, extending emergency shelter stays means that there are fewer beds available for other survivors.

Several programs commented that the shortage of affordable housing has impacted their work. A Pennsylvania advocate reported that a client with two children would not be able to afford housing after leaving shelter despite having a minimum-wage job. As one Ohio advocate noted, many working clients have wages that are so low or unsteady that they constantly risk eviction and homelessness. The census reports that many survivors and their children are homeless, living in their cars or camping in parks. Further, 41% of programs reported that home foreclosures or evictions have contributed to an increased demand for services. ■

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