THE LEASE SAYS ONE THING. REALITY SAYS ANOTHER.

When Permission, Practice and Conduct Complicate the Written Agreement

The lease is the starting point — but it may not tell the whole story.

Before enforcing a lease provision, consider what the housing provider knew, permitted, accepted and communicated during the tenancy.

1 START WITH THE LEASE.



Identify the written rule. Then determine what actually happened:

- What did the owner know?
- What was permitted?
- Was there an objection?
- What was communicated to the tenant?

2 FIRST ASK IF IT'S ENFORCEABLE.



Before debating waiver, make sure the provision is lawful, material and enforceable. State law generally requires notice and an opportunity to cure a curable violation before the tenancy can be terminated, and local law may add further requirements.

3 WRITTEN APPROVAL DOESN'T ALWAYS END THE ANALYSIS.



Words and conduct can sometimes affect enforcement of a contractual requirement. But waiver isn't presumed simply because an owner failed to object immediately.

4 ACCEPTING RENT CAN MATTER.



Accepting rent with knowledge of an existing violation may affect the owner's ability to terminate based on that breach. But it isn't automatic. The lease, notices, reservation of rights, applicable law and the owner's other conduct all matter.

5 PRIOR TOLERANCE ISN'T IRRELEVANT.



If an owner knew about conduct and permitted it to continue, that history may become important when enforcement begins later. Prior tolerance doesn't necessarily mean permanent permission — but don't ignore it.

BEFORE SERVING A LEASE-VIOLATION NOTICE, PULL THE FILE.

- ☑ The lease and amendments
- ☑ Emails and text messages
- ☑ Prior warnings or notices
- ☑ Management notes
- ☑ Payment history
- ☑ Prior permissions or approvals
- ☑ Any reservation-of-rights communications
- ☑ Applicable local rules

REAL-WORLD EXAMPLE: THE BICYCLE



THE LEASE PROHIBITS STORAGE IN A COMMON AREA.

For years, the owner knows a tenant keeps a bicycle in a designated corner of the garage and allows it to continue. A new manager arrives and decides to enforce the lease.

The written restriction still matters — but so does the history.

Before serving a notice, determine what was previously permitted, by whom, for how long, and whether prior conduct affects enforcement.

THE TAKEAWAY



The lease tells you the rule. The history tells you whether enforcing it is straightforward.

Before serving a lease-violation notice, review what the owner knew, permitted, communicated and previously accepted.

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