

Legal Ease

Getting Rid of Drug Dealers

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Recently landlords have had to deal more often with tenants who use drugs in, and sell drugs out of, their apartments. Managers want to evict these tenants as quickly and inexpensively as possible, and do not want to commence a court action unless there is a strong likelihood that they will be successful. There are several types of actions which landlords can institute, and various evidentiary tips which can be utilized to improve the chances of winning.



Most often landlords will serve the tenant with a thirty-day notice to quit for cause or nuisance. The notice is based upon language in subsidized leases which prohibits the tenant from engaging in or permitting others to engage in unlawful activities in the unit or in common areas, including the possession, use or sale of illegal drugs. After the thirty days expire, the landlord commences an eviction action in court. The problem with following this procedure is that it takes a minimum of two to four months from start to finish.

To keep the situation under control while the eviction action is proceeding, landlords can sometimes seek a preliminary injunction. This would be appropriate where there are very serious or ongoing disturbances, such as traffic to and from an apartment at all hours of the night. In the injunction the judge may order, for example, that the tenant not interfere with the quiet enjoyment of other tenants, or that a certain non-tenant stay off the premises. Obtaining the injunction may also be an alternate method of evicting

the tenant, since the landlord can request an execution if the injunction is violated.

In Massachusetts there are two other methods which landlords can employ. The expedited procedure under Massachusetts General Laws Chapter 139, section 19 can be used in situations where the police entered an apartment, found drugs, and charged the tenant or another individual with drug

possession or trafficking. This procedure can sometimes result in the tenant being evicted in as little as three weeks after the drug bust.

If a non-resident is coming onto a property and causing problems, such as selling drugs in the common areas of an apartment complex, the public trespass statute, Massachusetts General Laws Chapter 121B, may be used. The landlord brings a quick action for an injunction in which the judge is asked to order the outsider to stay off the property. The penalties for violating such an order include up to two years in jail.

One issue which arises in drug cases involves being able to present reliable evidence in court, particularly since tenants are often not willing to testify against other tenants. In these types of situations police reports can be especially helpful, and police officers can be subpoenaed to testify as to anything they have observed. Sometimes the manager, another employee, or members of community groups or neighbors who are not tenants can testify. In addition, groups of tenants may be encouraged to band together to testify against a

particular drug dealer. In other situations, if the manager has had conversations with the tenant, the tenant may have made admissions which can be used as evidence.

A common circumstance is where the drug dealer is not the tenant, but is a friend or relative of the tenant. The tenant may deny knowledge of drug dealing and argue to be allowed to keep the apartment. What can the landlord do in such a situation?

The landlord's challenge is to demonstrate to the court that the tenant must have known about the drug activity. This can be done in a number of ways. First, show that the manager had previously warned the tenant of suspected illegal activity in the apart-

ment, or had informed the tenant of complaints from other residents of traffic to the apartment at all hours of the day and night. Second, prove that any drugs or drug paraphernalia were found in plain view or in common areas such as the living room or kitchen.

Third, demonstrate that the friend or relative was living in the apartment on a regular basis, as opposed to just visiting for a day or two. Finally, introduce evidence to show that the drug dealing was not just one isolated incident, but was a continuing activity which occurred every day or night. By working hard on proving the case, a landlord can greatly increase the chances of obtaining a favorable judgment.