Court of Appeals Rules Landlords Can Be Liable for Tenants’ Discriminatory Conduct

Thursday, March 21, 2019

Just when landlords and their insurers thought that their obligations couldn’t get broader, the Second Circuit Court of Appeals ruled the federal Fair Housing Act’s anti-discrimination requirement extends to every part of the housing relationship, including discrimination by another tenant (not by the landlord) that occurs after the sale or rental transaction is completed. *Francis v. Kings Park Manor, Inc.*, 15-cv-1823 (2d Cir. Mar. 4, 2019).

Plaintiff (an African-American male) was subjected to a hostile environment in the form of having racial and religious slurs directed toward him, photographing his apartment, and threatening to kill him. He reported the threatening and harassing conduct to the police, which eventually arrested the offending neighbor (who pleaded guilty to harassment). Because he had complained regularly to the landlord, who took no action, Plaintiff filed a lawsuit. The lower court dismissed the action, finding that the landlord had no duty to intervene in a neighbor-to-neighbor dispute. However, the Second Circuit reversed, holding the landlord liable for failing to address repeated reports of tenant-on-tenant harassment. The Court compared a landlord’s ability to stop tenant-on-tenant harassment to that of an employer taking prompt remedial action to stop employee-on-employee racial harassment. In so ruling, the Court ignored the fact that employment is presumptively terminable at will, while tenants have written leases assuring them of certain property rights.

The takeaway is clear—Landlords cannot ignore complaints of neighbor harassment or discrimination and should preserve the right to address in rental agreements. Also, while the offending tenant might be liable for its misconduct, the likelihood of collecting upon a successful cross-claim depends on the offending neighbor’s assets, a questionable proposition.

Jackson Lewis P.C. © 2019

*Source URL: https://www.natlawreview.com/article/court-appeals-rules-landlords-can-be-liable-tenants-discriminatory-conduct*