Credit reports: Another barrier to affordable housing

by Andrew Neuhauser, managing attorney

Most of us are familiar with the idea behind credit reports and credit scores. These tools help lenders decide whether or not to extend credit or provide an applicant with a loan. Having the ability to see open lines of credit and past payment history makes sense as part of this business transaction. And if an applicant is denied credit, they are told what factors led to this decision.

But what you may not know is that landlords are increasingly using credit reports to screen potential tenants. And this practice is further exacerbating the housing crisis facing so many of our neighbors.

First, credit reports are only as accurate as the data in the reports. Last year, the Federal Trade Commission (FTC) and the Consumer Financial Protection Bureau (CFPB) settled claims against TransUnion and TruthFinder related to the accuracy of their credit reports. In 2020, the FTC settled similar claims against AppFolio

While the Fair Credit Reporting Act allows tenants to dispute an incorrect entry on a credit report, landlords usually ignore the dispute and reject the tenant's application. After all, why take the risk, right? So, a tenant's only hope is that the data in the report is 100% accurate.

But even if the data is accurate, it can be interpreted in a number of ways. For example, maybe the applicant got behind on bills, due to a short period of unemployment. Is that really a risk for a future landlord?

Or maybe the report shows a past eviction action. But it provides no additional details. For example, perhaps a landlord filed an eviction as a means of retaliation against the tenant's request for repairs. And perhaps the tenant even won at the trial. Details like these are not included in the report.

Simply put, credit reports fail to tell the whole story, the human story! And to make matters worse, landlords are increasingly relying on a credit reporting agency's algorithmic scoring when making decisions to approve or deny the application. And for landlords who do not use the algorithmic scoring, they usually pick a potential tenant with a clearly-good rental history over one with a not-great-on-the-surface rental history.

Finally, using credit reports creates additional burdens for would-be tenants because it costs money to pull them. But this isn't a cost that the landlord absorbs as part of doing business. Instead, the landlord will typically charge an application fee, anywhere from $20 to as much as $75 or more per person. These application fees themselves can become a barrier to securing housing. In today’s market, nearly 68% of tenants report they were required to pay for an application to rent. And for the applicants whom the landlord does not choose, it is money down the drain.

While the FTC and CFPB have been increasingly aggressive in going after credit reporting agencies, there is room for additional work to assist tenants. Landlords could be fined - either through the administrative process or through local laws - for not providing a copy of the credit report when they deny a tenant’s application. Having this information can help would-be tenants address any errors on the report they paid to have pulled. Application fees can be capped or refundable. The information permitted to be in tenant screening reports can be more limited. And, as discussed previously in Big Ideas, processes can be implemented to expunge older eviction records that continue to haunt tenants.

There may not be clear and simple solutions to address the housing crisis facing our nation. But let’s be clear about this one thing, current policies and practices are having a detrimental impact on the very families who can afford it least. And for industries that provide such a vital commodity as housing, it’s critical to have a human touch.

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