

Committee on Industry, Business and Labor

Representative Mike Lefor, Chairman

Testimony Introducing HB1440—Payment of Rent

By

Rep. Mary Schneider, District 21

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Good morning, Chairman Lefor, and members of the Industry, Business and Labor Committee. I'm Representative Mary Schneider from District 21, the Heart of Fargo, and I'm here to introduce HB 1440.

This two-paragraph little bill would simply require that when a residential tenant makes a rent payment to a landlord, it is credited to the payment of rent. If the tenant owes other charges or late fees, the rent check would be first applied to rent, not applied to late fees or other tenant obligations. If the payment covers more than the rent due, it can be applied to whatever else is owed. No problem. If the tenant directs that it be applied to other obligations besides rent, that's fine, too.

So why does it matter that rent paid be first applied to rent owed and not to other charges? Simply put, one of the eight grounds for eviction allowed by North Dakota law is if the renter "fails to pay rent for three days after the rent is due." If a landlord applies a rent check to late fees or other charges first, the landlord creates a deficiency not intended by the renter and gives the appearance that a sum of rent has not been paid, allowing for eviction. This bill, by requiring a rent payment to be applied first to rent would help stabilize housing and prevent unwarranted evictions and possible homelessness for North Dakotans and their families.

Is it unusual to pass such a law? Not at all. Other states and the District of Columbia provide language that accomplishes this, largely to avoid the personal, economic, and legal consequences to tenants.

North Carolina's language, for example, is succinct: "A late fee for a specific late rental payment shall not be deducted from a subsequent rental payment so as to cause the subsequent rental payment to be in default."

Wisconsin put their prohibition in Administrative Code: "Before charging a late rent fee or late rent penalty to a tenant, a landlord shall apply all rent prepayments received from that tenant to offset the amount of rent owed by the tenant."

Our nation's capital just says in its code, "A housing provider shall not deduct any amount of a late fee from a subsequent rent payment."

There are good reasons for implementing this language. Eviction actions and sometimes resulting homelessness can result in spiraling into poverty from court costs and attorney fees, the many expenses with moving and establishing a new household, and the expense of new deposits associated with housing and utilities. Homeless children with interrupted schooling can suffer lifelong setbacks that end up costing the state significant money for special educational needs, mental health needs and behavioral issues. Stable housing is in everyone's interest, and it's in the interests of our state and its communities to prevent unnecessary evictions.

These have been particularly trying times for renters. COVID lay-offs have dropped many middle-income renters into poverty, causing them to delay payments and accumulate late fees. Evictions have exploded and homelessness has the additional effects of exposing families to the virus and spreading it.

This small change in the law could have far-reaching positive effects with minimal consequences to landlords. Late fees and other charges can still be collected through traditional collection means, or through small claims court, up to \$15,000. And this doesn't change any of the grounds for eviction. In a time when it's most needed this is a positive change, and I hope you will support it.