RE: HB 1272 -- Opposed

Mr. Chairman and Members of the Committee,

My name is Scott Kautzman and I reside in Bismarck and I manage properties in Bismarck, Mandan, Steele, and Center North Dakota. Thank you for considering my testimony today.

I am testifying in opposition of HB 1272 as written. I have been a property manager/landlord for 27 years and I have never seen the industry in such conflict than in the last 3-5 years. Tenants do not honor leases, they leave places filthy, and then they demand their deposits back. If we refuse, they threaten lawsuits and social media and public shaming. They can do all these things because property managers cannot fight back for fear of retribution, especially on social media. If we do, we are falsely sued for discrimination by organizations such as High Plains Fair Housing. We, as property managers, cannot have open communications because tenants and organizations are looking for their quick dollar. Hence that is the reason most property managers will not communicate publicly, especially on social media.

North Dakota laws already provide reasonable protection for North Dakotans that rent. In the North Dakota landlord / tenant's rights handbook, it has been long established that tenants should do a move in and move out inspections with the landlord and document all of the damages including normal wear and tear so not to be charged with it at the end of the lease.

The fact of the matter is, that in the last 3-5 years tenants have not held up their end of the contractual agreement and have left places damages and unclean. I would venture to say that 40% of tenants don't follow the move out instructions given by landlords and property managers. I would venture to guess the number is the same or higher that leave personal property and trash in the rental and don't clean the property when exiting. Once tenants get the final bill, they are shocked, but let me tell you, those charges are not inflated. Those costs are what it takes to get a property back to be rent ready. Labor is not free.

Cleaning labor and expenses add up quickly especially when you must spend hours cleaning appliances, wiping down splatters on walls, and ceilings, etc.. Fixing tenant caused damages often include, but not limited to, broken door, damaged walls, removing abundant screws, bolts, etc. from walls and patching those areas. Not to mention the damages to flooring etc. from improper cleaning, lack of cleaning, lack of care, and abuse.

Why do I mention all of these things?

It's because of how this legislation is written. It requires the leasing agent to know at the time of move out what these items will cost to rectify. Not to be disrespectful to the leasing agents, but they have no idea what the cost of materials are. They do not complete these fixes day in and day out, they do not purchase materials or hire contractors. To ask or expect leasing agents to "agree" to charges at move out is absolutely flawed and absurd to think that is possible.

If there are any change that are needed in the current statute it's to change the 30 days to 60 days. To find, secure, and to get the work completed in thirty days is nearly impossible. Most of the time it's unattainable due to the necessity of hiring contractors.

Today we have tenants who sign leases to a property that is shown and rented as is do to their personal choice. Once they get into the property, they want improvements such as new flooring, walls painted, or there is a chip in the bathtub they want a new bathtub. These things are not doable based on the fact that money doesn't grow on trees and they rented an apartment as shown for the agreed upon rent rate. Our tenants are never charged for these items as we have a move in and move out walkthrough policy, if the tenants marked the damages on their walkthrough, they are not charged. Additionally, we follow the current laws regarding normal wear and tear.

I also take great concern with the suggested revision that the landlord cannot re-enter the apartment until the final inspection once notice is given. I would like to understand why not? A notice could be given the day of move in or anytime after that. To tell a landlord just because notice was given they can't access the apartment is unthinkable. In addition, to think that the landlord and tenant are going to agree on the move in or out inspections and the costs associated with the items is like living in a fairy tale.

While I understand that some landlords may make it impossible to do a final walk out, I feel that our policy of sending a move out check list with instructions on how to schedule a move out walk thru a minimal of one week in advance during normal working hours is an acceptable solution. However, we have ran into issues with tenants not willing to do these during normal working hours. Unfortunately, we don't have staffing available with short or no notice, and on weekends or evenings for move outs. In the past this has never been an issue as when people rent from us, they are shown the property during workings hours and they understand that move outs are done during working hours. To say that landlords and tenants are mutually going to agree on a time is plausible I believe it should be done during normal working hours for the safety of all involved. For tenants or landlords to be late to a scheduled meeting is normal in this industry. More often than not our leasing agents are early or on time and usually are waiting for delayed tenants or prospective tenants.

This is a poorly written bill trying to address a perceived issue that is really not an issue. I believe that tenants have choices in who they rent from and the condition that they return the unit in. I believe, how this bill is worded, you are looking for a lot of conflicts and issues. Tenants know that they need to schedule a move out inspection. Their failure to schedule them accordingly and timely should not be put on the landlords to bend over backwards. Landlords shouldn't be required to wait and not do anything because tenants don't show or communicate. Landlords should be able to access there properties according to there leases whether a move out notice has been garnered or not.

If this bills goes thru as is, property managers will have no option but to publish a list of all possible charges, minimum fees and include that as part of leases. These price lists will not be case by case, it will be one price fits all. If we are forced to publish these lists, you will know right away that the price may be much higher than the actual work that is being done and fixed today.

I ask that you oppose this bill and put the onus back onto the tenants. They must properly do a move in and move inspections with there landlord and document that property before and after with pictures and to keep those in the tenants possession. Landlords already take plenty of pictures as we are aware of what is required to prove excessive wear and tear and damages.

Previous testimony stated landlords don't call tenants back. I would have to disagree but in the end of the day, if a landlord can not get a hold of a tenant, cannot leave a message, tenant has changed their phone number, if the tenant has disabled SMS texting and emails from the landlord, who is ultimately to be blamed? I would state that landlords do there best to communicate with tenants. Tenants have not successfully brought suit against a landlord for non-communication, because the landlords have written evidence of all attempts to communicate, while tenants refuse to receive those communications.

Some say, without a final walk through they are left defenseless. I would say the complete opposite. They have the ability to document the state of the property. They have the ability to take photos and video. They have the ability to refute actual damages beyond normal wear and tear. They just choose not to do so.

Landlords, property owners, and management company do NOT have deep pockets. Most are small investors or investor groups looking for long term diversity. I personally only work with one attorney for evictions, so to say we have a vast number of ND lawyers on retainer is incorrect. The correct answer would be that the lawyers understand that you cannot win a suit when you have caused the damages, when you left a place unclean, when you didn't follow your lease obligations, and when you failed to follow the move out guidelines of your property manager.

HB 1272 how it is written will lead to a lot of disagreements and legal challenges as words matter. Words such as "mutually agreeable", "reasonable estimate, as agreed", and "mandatory", etc.

HB 1272 as written, will make renting more expensive in North Dakota. The onus should be on the tenant to properly document the condition of the apartment on move in and move out, nothing is preventing them from documenting and providing their side of the story if needed in a future judicial hearing. Tenants have choices who they sign leases with.

Please Mr Chairman, and members of the committee, please do NOT pass HB 1272 as written.

Sincerely,

Scott Kautzman