

Refusing to Rent to Section 8 Recipients

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Issue

Can a private landlord refuse to rent to tenants who receive federally-funded rental assistance under the Section 8 housing choice voucher program (i.e., Section 8)? This report updates OLR Report [98-R-0892](#).

Summary

Except under certain conditions, a private landlord may not refuse to rent to a tenant solely because the tenant receives Section 8 rental assistance. Under the state's statutory prohibition against discriminatory housing practices, it is illegal to discriminate against a tenant on the basis of, among other things, their source of income, as long as their income is lawful ([CGS § 46a-64c\(a\)\(2\)](#)). By law, "lawful sources of income" includes income derived from housing and other sources of public assistance ([CGS § 46a-63\(3\)](#)).

The prohibition does not apply, in germane part, to: (1) one- or two-family, owner-occupied rentals and (2) a landlord's refusal to rent to an individual because he or she has insufficient income (i.e., the insufficient income exception) ([CGS § 46a-64c\(b\)\(1\)](#)). By law, Section 8 rental assistance is limited to people with low- and very low-incomes and covers only a portion of the rent, thus requiring a tenant to pay the landlord the difference. A landlord could refuse to rent to a Section 8 recipient under this exception, but cannot use it to justify a blanket rejection of all Section 8 recipients.

The statute does not define “insufficient income.” However, the Connecticut Supreme Court has interpreted the term in light of the legislature’s intent to ensure that, under [CGS § 46a-64c\(a\)\(2\)](#), Section 8 assistance recipients have access to housing while also allowing landlords to reject potential tenants under the insufficient income exception in [CGS § 46a-64c\(b\)\(1\)](#) .

In *Commission on Human Rights and Opportunities v. Sullivan Associates*, 250 Conn. 763 (1999), the court specifically held that a landlord’s refusal to rent to an individual under the insufficient income exception must be based on a “tenant’s own ability to meet his or her personal rent obligations for that part of the rental not covered by Section 8 rental assistance payments and to cover other obligations reasonably associated with the tenancy.”

The court did not provide a specific methodology for determining whether a prospective tenant’s income is sufficient, but did provide guidance. It stated that a landlord does have some discretion, but he or she can only consider the tenant’s expenses that the landlord would be obligated to pay if the tenant did not pay them (e.g., the portion of the rent tenant owes after Section 8 payments, utilities, common charges, and foreseeable damages that exceed a security deposit). The landlord may not consider expenses that are unrelated to the tenancy, such as food, clothing, or transportation costs.

The court also held a landlord must consistently apply any income requirements to Section 8 recipients and non-Section 8 recipients. Furthermore, such requirements must not have a disparate impact on Section 8 tenants (*Id.* at 789-792).

Although a landlord may not reject an applicant because he or she is a Section 8 recipient, nothing in state or federal law prevents a landlord from rejecting him or her based on other non-discriminatory criteria, such as poor rental history, references, or credit.

JSH:cmg