

Prima Facie Elements of a Discriminatory Eviction

Introduction

The purpose of this job aid is to help fair housing practitioners determine if all of the elements exist to accept and investigate complaints alleging an eviction in violation of the Fair Housing Act. After intake is complete, the case is handed off to a fair housing investigator who will determine if discrimination more than likely occurred, leading to a “cause” determination of discrimination.

Collecting and Documenting Evidence

A fair housing investigator must collect and document evidence that supports or refutes each of the following elements of a prima facie case (PFC). During intake, the fair housing practitioner should advise the complainant to save and preserve any electronic or physical evidence documenting the eviction and discrimination. Types of evidence will vary depending on the type of case. In cases where a discriminatory eviction is alleged and there is no direct evidence of an illegal bias, the following elements of proof must be considered. If these elements are established, the intent to discriminate may be inferred.

Prima Facie Elements

If the complainant alleges a discriminatory eviction, the following PFC elements must be considered:

1. The complainant is a member of a [protected class](#).¹
2. The complainant was the respondent's tenant at the time of the alleged harm.
3. The respondent acted to terminate the complainant's tenancy, including, but not limited to:
 - initiating an eviction
 - sending a notice to vacate or terminate tenancy
 - refusing to renew the complainant's lease
 - filing an eviction or other action to terminate the tenancy in court
4. The respondent did not take similar action against a tenant of a different protected class.

¹ Also consider protected classes recognized by your state or local jurisdictions.