



## Smoked Out of Your Apartment? Suggestions for Renters Bothered by Other Renters' Smoke

### Physics of smoke

Anyone who's taken high school physics may remember that gases expand to fill a space. In addition to small particles, cigarette smoke contains a number of gases. An apartment is not like a sealed box. Between each apartment unit and the adjacent unit are many spaces around pipes and electrical conduits and between walls and floors or ceilings. As the gases in cigarette smoke expand they move into these spaces and into units where tenants do not smoke.

The path smoke takes through a building is unpredictable. Generally it will move into units above the one in which it was generated. However, research conducted in typical Minnesota apartment buildings shows that it may move into adjacent units on the same floor or even into units below. Treating a building to reduce the movement of smoke is time consuming, disruptive to tenants, and expensive. Treatments cannot eliminate the movement of smoke among units although they can reduce it.

### Renter's experience with others' smoke

Almost half of the respondents in a survey of Minnesota renters stated that smoke comes into their apartment unit from somewhere outside the unit. Of these, over a third said that smoke bothers them "a lot" or "so much I'm thinking of moving." Apartment owners interviewed in a separate study confirmed these perceptions, stating that tobacco smoke is the second most common source of objectionable odors in multifamily buildings in Minnesota. Renters were reluctant to complain about this problem: only about 17% of those affected by smoke from outside their unit told the landlord or manager about the problem.

### Supply and demand

Obviously these problems would be solved if the supply of smoke-free apartment units was equal to the demand for them. It isn't. Nearly half of those renting apartments in Minnesota would prefer to live in smoke-free units and many of these would pay more rent for this privilege, but only a very small percentage of renters (around 2%) enjoy this privilege. If tenants do not let owners and managers know that they find smoke objectionable, owners will have little incentive to provide smoke-free buildings.

### Informing your landlord

So the first thing to do if you have a persistent problem with smoke moving into your unit is to inform your landlord of your problem. This requires tact and firmness and an ability to stick to the issue. You'll have better luck if you approach this as a problem of building design rather than a personal vendetta against the person or persons generating the smoke. Although you may want to discuss the problem with your manager informally at first, you should state your complaint in writing and keep copies of any correspondence and notes of telephone conversations with him or her. These may come in handy should your landlord decide to retaliate against you by evicting you or should you decide to take him or her to court.

Try to be specific about the problem. When do you smell smoke: all the time, only in the evening, every Saturday morning, only when you turn your bathroom or kitchen fan on? Can you tell whether the smoke is coming in under your main door or through some other channel? The more information you can provide, the easier it will be for your landlord to resolve the problem. If you have a problem like asthma that is made worse by your exposure to smoke, get a letter from your doctor to your landlord and keep a copy of it.

### What do you want?

Make your wishes clear. Just whining about the problem won't get you very far. Offer suggestions that you think might help the situation. You might ask your landlord to

- ask the person generating the smoke to smoke outside.
- hire a consulting engineer to assess the problem and make changes to solve it. (This could be costly, and may reduce but not eliminate the movement of the smoke.)
- make changes to the building or its systems by doing such things as caulking and fillings spaces between your apartment and others and adjusting fans in your apartment and the apartment from which the smoke is moving.
- allow you to move to another apartment or another building that the landlord owns.
- permit you to break your lease without penalty or with a small penalty.
- make the building smoke-free, a process that can take time, however.

### Changes to your apartment

You cannot make changes to your apartment without written consent of your landlord. Doing this without permission could cost you your damage deposit and your reputation as a good tenant.

### Should you sue?

There is nothing in Minnesota or federal statutes that explicitly guarantees a renter an apartment free of unwanted tobacco smoke. However, some tenants have pursued other legal avenues. Not enough case law exists to suggest how the court will view your case. In addition, lawsuits are not cheap, and it may take a long time to resolve the problem. However, if you do decide to sue, select an attorney with extensive knowledge in landlord-tenant law.

### Educating owners

Many landlords are the victims of myths: almost all renters smoke; smoke-free rentals are economically risky and present major enforcement problems; and adopting a smoke-free policy places owners at risk of a civil rights suit. Live Smoke Free is attempting to combat these misperceptions by providing the results of research studies. These studies are available on or linked from the web site of the Association for Nonsmokers-Minnesota: [www.ansrmn.org](http://www.ansrmn.org).