How to Deal with Extended Absence or Abandonment in Section 8

I recently received a call from a client asking how long should a resident be considered a tenant if they are only there 6 months a year. What is a reasonable amount of time before you determine that this tenant has been gone for a while? Is it 2 weeks, 4 weeks...what is the limit you are willing to set? Obviously if that tenant is serving in the armed forces...you need to be a lenient as reasonably possible. Whatever the situation, we need to be consistent across the board when it comes to your affordable housing property.

Guidelines should be established for the extended absence or abandonment of a unit. If abandonment of a rental unit is not addressed by state or local law, owners should establish a rule for declaring a unit abandoned. Rules regarding abandonment must be consistent with state and local law regarding nonpayment of rent, specify the actions that the owner will take to contact the tenant, and describe the handling and disposition or any tenant possessions left in the unit.

Some questions that still need to be answered are: Would subsidy be paid until the date of the move-out? Or should a termination of assistance happen sooner? If a termination, what termination code would be used? Is a new one needed? HUD Policy and industry input will have to decide on this one.

Some industry folk’s think HUD should establish the rules – not the Owners because they cannot consistently enforce rules that are established by the owners. However this is what HUD says in the HUD Handbook 4350.3 Rev. 1, Chg. 3, Chapter 6 (Leasing), page 6-19.

HUD states: As part of a property’s house rules, owners may establish rules specifying when tenants give up their right to occupancy because of their extended absence or abandonment of the unit. Under these rules, owners may initiate action to terminate tenancy in response to an extended absence or abandonment of the unit by the tenant or individual listed on the lease for that unit.

NOTE: Abandonment is distinguished from an absence from the unit by the tenant’s failure to pay the rent due for the unit and failure to acknowledge or respond to notices from the owner regarding the overdue rent.
a. Owner discretion. The decision to establish rules regarding extended absence or abandonment of a unit as part of a property’s house rules rests solely with the owner.

b. Requirements and guidelines. If owners elect to establish such rules, they must be consistent with the requirements and guidelines listed below:

(1) Rules regarding extended absence and abandonment must be consistent with state and local law.

(2) Guidelines for rules regarding extended absence from a unit. Owners may establish a house rule defining extended absence as the tenant being absent from the unit for longer than 60 continuous days, or for longer than 180 continuous days for medical reasons. Owners may allow exceptions for extenuating circumstances.

(3) Guidelines for abandonment of a unit. If abandonment of a rental unit is not addressed by state or local law, owners may establish a rule for declaring a unit abandoned. Rules regarding abandonment must be consistent with state and local law regarding nonpayment of rent, specify the actions that the owner will take to contact the tenant, and describe the handling and disposition or any tenant possessions left in the unit.

How do you handle extended absence or abandonment in your affordable housing community? What do you think is a reasonable amount of time? Please feel free to share your opinion and or thoughts!